



Appeal Decision

Site visit made on 2 August 2018

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th September 2018

Appeal Ref: APP/J1860/W/18/3197012

Land at (Os 7981 4034), Garrett Bank, Welland WR13 6NF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Andrew White against the decision of Malvern Hills District Council.
 - The application Ref 17/01076/OUT, dated 3 July 2017, was refused by notice dated 13 September 2017.
 - The development proposed is self build single wayside cottage with annex for local extended family with proposed new access, visibility splays and landscape reinstatement works to include new footpath link and adjustment of highway as a community benefit to include financial contribution and transfer of land subject to legal agreements and section 278 agreements between the parties.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters, comprising access, scale, appearance, landscaping and layout, reserved for future consideration. However, illustrative site layout and section drawings, floor plans and elevations have been submitted. I have determined the appeal on that basis.
3. Since the submission of the appeal, the new revised National Planning Policy Framework (July 2018) (the Framework) has been published which replaces the first version published in 2012. The Council and appellant have had the opportunity to comment on this during the appeal process. I have determined the appeal taking account of the new revised version.

Main Issues

4. The main issues are:
 - i) whether or not the proposal would be in a suitable location for a dwelling, having regard to the development plan objectives relating to development strategy and to national policy;
 - ii) the effect of the proposed development on the character and appearance of the surrounding area, including the Malvern Hills Area of Outstanding Natural Beauty (the AONB);
 - iii) the effect of the proposed development on the ecology of the site and surrounding area.

Reasons

Suitability of location

5. Policy SWDP 2 of the South Worcestershire Development Plan (the SWDP) relates to development strategy and settlement hierarchy and states, amongst other things, the principle of focussing most development on the urban areas, where both housing needs and accessibility to lower-cost public services are greatest. It goes on to state that development in the open countryside, defined as land beyond any settlement boundary, will be strictly controlled and limited to specific categories.
6. Having regard to paragraph 79 of the Framework, the proposed dwelling would not be in a clearly isolated location due to its fairly close proximity to other existing properties, albeit that there are fields either side, to the rear and, in part, opposite the site. In respect of paragraph 78 of the Framework, there also seems no reason why the appeal proposal should not support existing services and facilities in Welland in terms of enhancing or maintaining its vitality.
7. Nevertheless, the proposed dwelling would be located outside of the defined settlement boundary and therefore, in planning policy terms, within the open countryside despite the presence of other dwellings further from the village centre to the north of the site. Furthermore, based on the submitted evidence, none of those limited categories of development listed within policy SWDP 2(C) of the SWDP apply to the proposal. The site has also not been allocated for housing in respect of planning policy, albeit referred to by the appellant as having been previously identified for such use in the Council's Strategic Housing Land Availability Assessment. The proposal would therefore conflict with policy SWDP 2 in this respect.
8. Paragraph 103 of the Framework states that planning should actively manage patterns of growth in support of objectives set out in paragraph 102, including that opportunities to promote walking, cycling and public transport use are identified and pursued. Paragraph 103 goes on to state that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. It also states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in both plan-making and decision-making. Policy SWDP 2 is broadly consistent with the Framework in these respects. Furthermore, policy SWDP 4 of the SWDP requires proposals to, amongst other things, demonstrate that they offer genuinely sustainable travel choices.
9. There is currently no footway link all the way from the proposed position of the site access to the limited range of services and facilities in the village, including primary school, village hall, post office, shop, church, and the nearby bus stop. The existing footway stops short of the site such that initial access on foot would be along an unlit section of road. It would therefore not necessarily be a highly safe route for walking and although cycling could be an option, that would be less likely for longer journeys to destinations containing the full range of services and facilities to serve day to day living such as more shops, leisure and health facilities and secondary schools.

10. Therefore, without such a footway link, there would be a likely heavy reliance on car use to access that full range of services and facilities, and most employment destinations were future occupiers to work away from home. The provision for extending the existing footway up to the site's proposed new access would therefore be necessary to reduce this likelihood, notwithstanding my findings in relation to the second and third main issues. Furthermore, although such a link would involve crossing the road, I consider that for pedestrians, the combination of a good degree of visibility along the road in both directions and it being in a 30 miles per hour zone would enable safe crossing.
11. I have had regard to other existing and proposed new developments referred to by the appellant that are or would be outside of the village's settlement boundary and will result in a significant increase in the number of dwellings, particularly in relation to that on the Lawn Farm site. However, the circumstances of those cases are different in that all but one were allowed at a time when the Council was unable to demonstrate a five-year supply of deliverable housing sites (5 year HLS). In the other case, on the Pheasant Inn site, it was at least partially in relation to a SWDP housing allocation site. In respect of the Lawn Farm and Spital Fields proposals, there was also considered to be a social benefit associated with the provision of affordable housing. Furthermore, regardless as to whether or not those developments will be included in any future revisions to the settlement boundary, I have received no indication that this would extend to the appeal site.
12. As well as those other developments in the vicinity of the site, the appellant has also drawn my attention to some other schemes elsewhere, allowed on appeal, and relating to sites outside of settlement boundaries. Several of those relate to other local authority areas and are therefore subject to different policies. Furthermore, I do not have the full details of those cases to enable a full and proper comparison in terms of the relationship to any nearby settlements and the character and appearance of the areas. It is also evident that some were decided in the context of the Council concerned being unable to demonstrate a 5 year HLS. In any case I have determined this appeal on its own merits.
13. For the above reasons, I conclude on this issue that the proposal would conflict with policy SWDP 2 of the SWDP in terms of its location outside of the settlement boundary. However, with the proposed footway in place there would be adequate accessibility on foot and by public transport to the facilities and services of the village and further afield so as to reduce the likelihood of a heavy reliance on car use, in accordance with policy SWDP 4. I have considered these matters further in the planning balance.

Character and appearance

14. The site is located within the AONB. Paragraph 172 of the Framework states, amongst other things, that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.
15. The site is located on one of the approaches into the village, characterised by its pleasant verdant setting provided by road side trees and hedgerows running immediately adjacent to the public highway. I note that it has had past use as part of a mill complex, with some man-made features remaining, and has also been formally used as a landfill site. However, despite those past uses, and

whilst having regard to the appellant's Landscape and Visual Impact Assessment (LVIA), it now has a pleasant open and grassed appearance surrounded by mature vegetation, that does not stand out as being significantly different to other nearby fields, albeit that it is predominantly raised up to a degree due to the underlying landfill.

16. It is separated from dwellings either side by fields and trees whilst on the opposite side of the road is a field and a dwelling set back behind vegetation. Those dwellings to the north of the site are also set back behind mature vegetation and not prominent features of that village approach. The site therefore contributes to a pleasant, verdant and open setting on that approach to the site and village from the north, from where other nearby dwellings are not prominently visible.
17. The proposed new dwelling would be unlikely to be clearly visible from more distant vantage points. However, in the context referred to above, and particularly if positioned fairly close to the road as illustrated on the submitted plans, and regardless of its scale and appearance that are reserved matters, it would inevitably introduce a dominant, discordant and jarring feature within the local landscape. The associated hard surfaces to provide a driveway and parking provision would be likely to further contribute to the dominance of the overall development in that otherwise generally verdant setting. Such hard surfacing would be particularly prominent if constructed at a similar raised level as that of the majority of the existing site, as frontage hedgerow planting would be less likely to provide an effective screen depending on its maintained height.
18. The proposed removal of the existing frontage hedgerow and replacement with a new one set behind the intended vehicular access visibility splay would also draw further attention to the anomalous development of the site due to the uncharacteristic set back of that hedge on this approach to the village, where other properties do not generally have the same. I acknowledge that the existing hedge is not consistently dense and that the proposed one would have the potential achieve that along with additional tree planting. Nevertheless, that existing hedge is sufficiently intact and continuous so as to maintain the local characteristic distinctiveness of being in such close proximity to the road edge.
19. Other proposals elsewhere on the wider site, including measures to improve the grazing for paddock use, reinforced hedgerows, the planting of wildflower seed mixes and some fruit trees, the reinstatement of a smaller version of the previous Garrett's Pool, and repair of the culvert would be likely to have some benefit to the character and appearance of the site. However, especially in light its existing pleasant qualities referred to above, that benefit would not mitigate or outweigh the harm that I have identified would be caused by the introduction of the proposed dwelling. In respect of the grazing quality, I have also received insufficient substantial evidence that this would be enabled only by the proposed development.
20. The provision of the proposed footway on the opposite side of the road would inevitably cause the need for the removal or significant cutting back of the hedgerow on that side of the road. That would not only in itself disrupt the characteristic hedgerow line alongside the road but would be likely to draw

attention to the overall uncharacteristic introduction of housing development along that particular stretch of the road.

21. In respect of this issue, the appellant refers to the nearby Spital Fields development of 24 houses in Marlbank Road which was allowed at appeal despite being within the AONB and outside of the settlement boundary. In that case, my colleague considered that there would be limited harm to the landscape character of that part of the AONB, limited effect upon the character of the village and limited visual effect. However, importantly, there is a location difference between that and the current appeal site, the former being noticeably closer to the centre of the village, immediately adjacent to the settlement boundary. As previously highlighted, that other decision was also made under the different circumstances of the Council being unable to demonstrate a 5 year HLS at that time. I have therefore afforded little weight to this factor.
22. For the above reasons, and having had regard to the LVIA, I conclude on this issue that the proposed development would cause unacceptable harm to the character and appearance of the surrounding area, including the AONB. As such, it would be contrary to policies SWDP 23 and SWDP 25 of the SWDP which together, in respect of this issue, require development, amongst other things, not to have a detrimental impact on the natural beauty of the AONB and to conserve and enhance the special qualities of the landscape; and to be appropriate to, and integrate with, the character of the landscape setting. It would also be contrary to paragraph 172 of the Framework, and also to paragraphs 127 and 170 which amongst other things relate respectively to ensuring that developments are sympathetic to local character, and that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Ecology

23. The appellant has submitted with the appeal an Ecological Scoping Survey dated October 2015 (the ESS) together with a 2016 document primarily highlighting the conclusions of that previous survey. At that time, it was recorded that just common birds were using the site, that there was no evidence of badgers and were no dormice nests in the southern boundary hedge despite some potential for this. Furthermore, there was no record of Great Crested Newts relating to the pond adjacent to the site, with the Marlbank Brook being regarded as a sub-optimal environment. No water voles were recorded as being present either in the latter. I also note that in respect of bats, whilst the existing dilapidated buildings on the site showed no evidence of bat roosts at the time of the survey, they were also recorded as being suitable for roosting bats.
24. From the evidence submitted, and given the amount of time that has elapsed, with the ESS having been conducted nearly three years ago, I cannot however be sufficiently certain that the above findings still represent the situation on the site. In light of the potential for disruption to habitat resulting from the development, I consider that further survey work would be necessary in order to determine whether the proposed development of the site could be achieved without causing unacceptable harm to its ecology.

25. From the submitted evidence it is apparent that there would not be any loss of trees proposed within the area of the site illustrated as being required for the proposed development, in terms of the potential for impact upon bat roosts. It is also apparent that the same land concerned comprises short grass that has either been cut or grazed, its most recent use being stated as a paddock for grazing horses. This would be less likely to provide a good degree of protection to reptiles from predation by birds of prey. In line with the appellant's submissions, I therefore consider it unlikely that reptiles would be present on that grassed area of the site. I also note the proposed removal of the front hedge, to make way for the access visibility splay, would take place outside of bird nesting season. Additionally, that hedge is identified in the ESS as being species poor and would be replaced with a new one, also including some trees. That could be secured by condition to ensure that it would comprise appropriate hedge plant species and density of planting and that it becomes properly established, albeit that it would inevitably take some time to reach maturity. However, these factors do not deflect from my concerns in relation to those other matters relating to the previous survey work not being sufficiently up-to-date.
26. I have also not received any substantive evidence relating to the ecological implications of any necessary removal or cutting back of the hedge and associated trees on the opposite side of the road to make way for the proposed footway. In the absence of such evidence, I cannot be certain that the proposal in that respect would not have a harmful effect on the ecology relating to that roadside vegetation or that no protected species would be affected.
27. I note that the appellant proposes to provide various biodiversity enhancement measures on the site. However, it is unclear as to the extent to which those measures would bring significant additional benefit to the existing site and surroundings, compared with the existing natural provision, including in respect of provision for bat and bird boxes. Furthermore, although it is proposed to provide hibernacula for reptile species using the site for migration, again it is difficult to be certain as to the extent to which that would be beneficial without knowing the extent, if at all, to which reptiles are using the site. As such, I cannot be sufficiently certain that those proposed measures would be enough to outweigh any potentially harmful ecological effects associated with the proposed development.
28. For the above reasons, in the absence of sufficient evidence to the contrary, I conclude on this issue that the proposed development would cause unacceptable harm to the ecology of the site and surrounding area. As such, it would be contrary to policy SWDP 22 of the SWDP and paragraphs 170 and 175 of the Framework which together relate to conserving and enhancing the natural environment.

Planning balance

29. The proposal would have the benefit of adding a bespoke, self-built dwelling, incorporating environmentally sustainable construction features, to the supply, mix and choice of housing in the area, and which would have adequate accessibility as a result of the proposed footway on the opposite side of the road to reduce the likelihood of a heavy reliance on car use. It would also be likely to contribute to the local economy in terms of providing short term

employment during the construction phase. However, such benefits would be small relating only to a single dwelling.

30. The proposed footway on the opposite side of the road would have some benefit in terms of extending the footway access to the centre of the village for those residents living beyond the site to the north. However, I have not received any substantive evidence that the section of the footway running beyond the site access to the north would be necessary to serve the development itself. I have therefore not taken account of that element of the submitted legal agreement that relates to that northern section of the footway. Regardless of that, it would still not provide continuous access to all of those properties and I have not received substantive evidence to demonstrate any guarantee that such provision would be made in the future, with or without the proposed footway. The footway, would improve access to the village for pedestrians using the public rights of way running up to the highway on the opposite side of the road from the site. However, a continuous off road link would be reliant on the northern section of the footway, that I have found would not be necessary in respect of the proposed development. In any case, the extent to which those paths are used is unclear from the submissions. For these reasons, I have afforded little weight to any benefits of the proposed footway to existing residents and public rights of way users.
31. I acknowledge that it is intended to provide a suitable home for the appellant's extended family, which has close associations with the village, and would be closer to the local school and other family activities. However, the occupation of the dwelling could not be controlled in perpetuity and so I have afforded little weight to this factor also.
32. For the above reasons, any benefits associated with the proposed development would be outweighed by my conclusions in respect of the second and third main issues together with the conflict with policy SWDP 2 in terms of its location outside of the settlement boundary. It would therefore not be a sustainable form of development.

Conclusion

33. For the above reasons, and having taken account of all other matters raised, I conclude that the appeal should be dismissed.

Andrew Dawe

INSPECTOR