The Planning Inspectorate

Appeal Decision

Site visit made on 9 October 2018

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2018

Appeal Ref: APP/J1860/W/18/3199296
Field Ridge, Bromyard Road, Cotheridge WR6 5LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Burgoyne Property Investments Ltd. against the decision of Malvern Hills District Council.
- The application Ref 17/01090/FUL, dated 5 July 2017, was refused by notice dated 8 December 2017.
- The development proposed is extension of existing employment site and erection of B1/B8 Building.

Decision

1. The appeal is dismissed.

Procedural Matters

2. 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 appellant has had the opportunity to comment on the relevance of this revised version to the case and the Council has referred to it in its appeal submissions. I have taken account of the new revised version in the determination of the appeal.

3. The appellant has submitted with the appeal a Preliminary Ecological Appraisal by Focus Ecology Ltd dated March 2018 (the PEA). This had not previously been submitted in support of the original planning application. However, the Council has had the opportunity to provide any comments on this during the appeal process and so would not be prejudiced by it being taken into account in my decision.

Main Issues

4. The main issues are:

   i) whether or not the proposed development would be suitably located, having regard to development strategy policies of the development plan and to national policy;

   ii) the effect of the proposed development on the character and appearance of the surrounding area;

   iii) the effect of the proposed development on bio-diversity and protected species;

iv) whether suitable provision would be made for site drainage and surface water run-off.

Reasons

Suitability of location

5. Policy SWDP 2 of the South Worcestershire Development Plan (the SWDP) relates to the development strategy and settlement hierarchy including the principles pf providing accessible, attractive employment sites and focussing most development on the urban areas. It highlights that in the open countryside, development will be strictly controlled and will be limited to various categories which in relation to employment development is clarified in policy SWDP 12. That policy sets out, amongst other things, that the expansion of existing employment sites in rural areas will be supported where it has been demonstrated that intensification of the existing site is not viable or practical. In respect of this issue, I have also had regard to policy SWDP 4 which, amongst other things, sets out that proposals must demonstrate that they offer genuinely sustainable travel choices.

6. In respect of the existing employment site, I have had regard to the submitted evidence, including the allowed appeal Ref APP/J1860/X/17/3176902 relating to a certificate of lawful use or development for the erection of two steel portal framed buildings on that site. From this, it is evident that there remains scope for the erection of those currently unimplemented buildings on land which my colleague stated would not seem likely to have ever been envisaged as part of the hardstanding for the two existing buildings. He also noted that there was space available on site for the parking and turning of vehicles unaffected by the buildings proposed under that appeal scheme. I also note that the Council in considering that application, found there to be insufficient information to demonstrate whether there would be a reduction in the space available for the parking or turning of vehicles, notwithstanding my colleague's findings, and not that it was definitely the case. From my observations, those circumstances have not changed and I have no substantive basis to take a different view to my colleague. There is therefore insufficient basis to consider that the existing employment site could not be viably or practically intensified.

7. Additionally, whilst located adjacent to a main A-road with good access by private motorised vehicles from surrounding settlements, the site is not served by footways or provision for cyclists separate from the flow of motorised traffic, or street lighting, in the vicinity of the site. It is therefore likely that pedestrian and cycle access would be considered an unattractive and unsafe option by people travelling to and from the site. I have also received no evidence to indicate that there is a regular bus service that runs past the site with a bus stop sufficiently close to the site to avoid significant walking along the road or rough verge. It is therefore likely that the proposed development would be accessed with a heavy reliance on private motorised vehicles as opposed to alternative modes of travel.

8. The appellant draws attention to policy SWDP 8 of the SWDP which relates to support given to the provision of employment land to support job creation. However, I have received no substantive evidence to indicate that that policy overrides those of SWDP 2 and SWDP 12 in terms of development specifically in the open countryside when considering the development plan as a whole. In this respect, the supporting text to policy SWDP 8 also draws attention to the

more specific guidance on the provision of rural employment space contained in policy SWDP 12.

9. For the above reasons, I conclude on this issue that the proposed development would not be suitably located, having regard to development strategy policies of the development plan and to national policy. As such it would be contrary to policies SWDP 2, SWDP 4 and SWDP 12 of the SWDP. It would also be contrary to the section 9 of the Framework which relates to promoting sustainable transport.

Character and appearance

10. The proposed development would be positioned on a currently open and sloping agricultural field elevated above the level of the adjacent road. Together with the combination of its height, massing and gable ended design, it is therefore likely that it would be prominently visible over the roadside hedgerow, particularly on the approaches to the site from where the proposed landscaped bund directly in front of it would have less of a screening effect.

11. There other buildings in the vicinity, including those existing employment buildings to the west of the site and others to the east of Field Ridge. However, from the road those existing buildings are fairly discrete in terms of either the degree of set back from the road or their height and the extent to which they are screened by intervening vegetation. The nearby garden centre on the opposite side of the road is also set well back from the road and of fairly modest height in relation to the road.

12. Those existing utilitarian style buildings in the vicinity, despite the presence of foreground fencing, do not therefore significantly undermine the fundamentally and distinctly open and spacious character of the countryside in the vicinity of the site, albeit bisected by the busy A44 road. In that context, as seen from the road in particular, the proposed development, for the reasons cited above, would stand out as a dominant, jarring and obtrusive feature of the local landscape, clearly visible by the many passers-by on that road.

13. The proposed development would be a smaller scheme than that previously dismissed on appeal Ref APP/J1860/W/16/3144990 relating to a larger site at Field Ridge. However, for the above reasons, and despite the site not being subject to any statutory landscape designation, I conclude on this issue that it would cause unacceptable harm to the character and appearance of the surrounding area. As such, it would be contrary to policies SWDP 21 and SWDP 25 of the SWDP which together, in respect of this issue, require development to, amongst other things, integrate effectively with its surroundings, complement the character of the area, and to be appropriate to, and integrate with, the character of the landscape setting. It would also be contrary to the Framework which in section 12 relates to achieving well-designed places and in paragraph 170 states that decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.

Bio-diversity and protected species

14. The proposed development would be on an existing arable field with boundary hedgerow and other vegetation. The Council's third reason for refusal relates to no up to date ecological appraisal having been submitted to enable the

assessment of the impact of the proposal on bio-diversity and protected species. The PEA has however now been submitted. This identifies that the site supports low-moderate suitability for foraging and commuting bats due to the presence of the hedgerows. The hedges provide potential habitat for nesting birds and ground-nesting birds could use the arable field. No smooth or great crested newts have been recorded on or in close proximity to the site and it also identifies that the habitat is unfavourable for hazel dormice. The majority of the site is also found to be suboptimal for reptiles albeit that there are small areas of more favourable habitat towards the edges of the site. Additionally no evidence was found of badgers using the site. Hedgehogs and foxes are however considered likely to utilise the site.

15. There would therefore be a need to retain existing hedgerows, particularly on the southern boundary, in terms of the habitat they provide for foraging bats and nesting birds and potentially reptiles. In this respect, there is no intention or need for the removal or interference with that southern hedgerow. Measures to ensure its protection, and that of any other proposed to be retained, during construction works could be secured by condition were I to allow the appeal. Likewise, control over the installation of any external lighting in terms of its design and intensity could be secured by condition so as to prevent adverse effects on bats and nesting birds. The provision of new tree planting and other soft landscaping on the site would also have the potential to provide wildlife habitat which would be likely to offset any small loss of hedgerow on the western boundary to make way for the proposed site access. The PEA also identifies the need to incorporate a range of bird, bat and hedgehog boxes into future landscaping proposals.

16. In light of the above circumstances, and in the absence of any information to the contrary, also taking account of the significantly smaller site area than that relating to the previously dismissed appeal referred to above, I conclude on this issue that, subject to appropriate conditions, the proposed development would not cause unacceptable harm to bio-diversity and protected species. As such, in respect of this issue, it would accord with policy SWDP 22 of the SWDP which amongst other things sets out that development shall not compromise the favourable conservation status of European or nationally protected species or habitats, and should, wherever practicable, enhance biodiversity interests and corridors/networks beyond the site boundary. In respect of this issue, it would also accord with the Framework which in paragraphs 170, 174 and 175 relates to, amongst other things, the protection and enhancement of biodiversity.

Site drainage and surface water run-off

17. The proposed development would be intended to include hardstanding constructed of permeable materials to mimic existing natural drainage and not to increase surface water drainage from the site. Furthermore, the roof of the proposed building would be intended to drain to soakaways, subject to ground conditions being found suitable. The Council has raised concerns about the suitability of the ground conditions for infiltration drainage methods and whether there would be sufficient space on the site to accommodate soakaways. However, in this respect the appellant highlights that land adjoining the site is under the same ownership and so could be utilised if necessary.

18. I have also had regard to the findings of my colleague in respect of the previously dismissed appeal scheme referred to above in which it was found that increased flood risk to the wider catchment area would be unlikely. The now proposed smaller development area would therefore be likely, if anything, to cause less potential for flooding subject to appropriate drainage measures being secured.

19. The appellant has not submitted a Water Management Statement. However, in light of the above circumstances, it would be reasonable to consider that an appropriate detailed solution could be achieved and that such measures could therefore be appropriately secured by condition were I to allow the appeal.

20. For the above reasons, I conclude on this issue that the proposed development would make suitable provision for site drainage and surface water run-off, subject to an appropriate condition. As such, in respect of this issue, it would accord with policy SWDP 29 of the SWDP which relates to the need for development to provide sustainable drainage systems. In respect of this issue it would also accord with the Framework which in paragraph 163 requires that when determining any planning applications it should be ensured that flood risk is not increased elsewhere.

Other matters

21. The Council's fourth reason for refusal in its decision notice relates to insufficient information having been provided to demonstrate that the site access would have the required visibility splays and that there would be satisfactory provision for the parking, servicing and manoeuvring of vehicles on the site, having regard to highway safety and the proper functioning of the highway network. However, the appellant has submitted with the appeal a plan that clarifies the parking and turning provision and shows visibility splays which the Council considers to have addressed its concerns. Based on that evidence and my observations I have no reason to consider otherwise.

22. I have had regard to the statutory duty to pay special attention to the desirability of preserving the setting of the nearby Grade II listed building comprising Rose Cottage (the LB). The proposed development would be separated from the LB by the existing employment buildings and associated land to the west of the site together with substantial intervening vegetation. It would therefore also be located well away from the LB. For these reasons, I consider that the proposal would preserve the setting of the LB.

Conclusion

23. I have found that the proposed development would not cause unacceptable harm to bio-diversity and protected species and would make suitable provision for site drainage and surface water run-off. However, this does not deflect from my conclusions on the first two main issues that the proposed development would not be suitably located, having regard to development strategy policies of the development plan and to national policy, and that it would cause unacceptable harm to the character and appearance of the surrounding area.

24. The proposals would have some economic benefits in terms of adding to employment provision in the area. However, it is likely that such a benefit

would be fairly small relating only to three moderately sized units. Any such benefits would be outweighed by my conclusions on the first two main issues.

25. Therefore, for the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

Andrew Dawe

INSPECTOR