



Appeal Decisions

Site visit made on 17 December 2018

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2019

Appeal A Ref: APP/J1860/W/18/3200757

Bluebell Farm, Pershore Road, Earls Croome, Worcestershire WR8 9DJ

- 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 Mr Ball against the decision of Malvern Hills District Council.
 - The application Ref 17/00553/FUL, dated 19 May 2017, was refused by notice dated 19 October 2017.
 - The development proposed is a live/work unit.
-

Appeal B Ref: APP/J1860/W/18/3201427

Bluebell Farm, Pershore Road, Earls Croome, Worcestershire WR8 9DJ

- 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 Mr Ball against the decision of Malvern Hills District Council.
 - The application Ref 17/01692/FUL, dated 27 October 2017, was refused by notice dated 26 January 2018.
 - The development proposed is a live/work unit.
-

Decision

1. Appeal A is dismissed.
2. Appeal B is allowed and planning permission is granted for a live/work unit at Bluebell Farm, Pershore Road, Earls Croome, Worcestershire WR8 9DJ in accordance with the terms of the application, Ref 17/01692/FUL, dated 27 October 2017, subject to the following conditions set out in the Schedule to this decision.

Procedural matter – Appeal A

3. Whilst amended plans were received by the Council before it made its decision, I have noted that there are very significant differences between this later iteration of the scheme and the original one. Notwithstanding any arguments regarding the Council's procedures prior to presenting the scheme to Committee, I have made my decision on the basis of the scheme considered and subsequently refused by the Council as it was the one consulted upon during the application process.

Applications for costs

4. Applications for costs have been made by both parties in relation to both appeals. These applications are all the subject of separate Decisions.

Main Issues

5. The main issues in both appeals are (i) whether the proposals meet the definition of a live-work unit; and (ii) whether they would accord with the development plan policy for development in respect of live/work accommodation, including the access future occupiers of the development would have to shops and services.
6. In appeal A, a second main issue is the effects of the proposal on the character and appearance of the area.

Reasons – Appeals A and B

Whether the proposals would meet the definition of a live-work unit

7. Part G of Policy SWDP 8 of the South Worcestershire Development Plan (2016) (SWDP) permits live-work accommodation subject to certain criteria including a requirement that the residential use is ancillary with floor space split to provide at least 60% employment and no more than 40% residential; the residential accommodation has no more than 3 bedrooms; and the residential and work spaces are entirely separate with separate entrances and toilet facilities.
8. In both appeal schemes, based on the available evidence including the appellant's uncontested floorspace calculations, the proposals would accord with all of the above requirements. However, there are significant differences between the two appeal schemes in that the appeal A proposal comprises separate residential and commercial buildings whereas in appeal B there is one building with those uses physically conjoined.
9. The Council refers to paragraph 21 of the previous iteration of the National Planning Policy Framework (the Framework), which said that in drawing up Local Plans, planning authorities should facilitate flexible working practices such as the integration of residential and commercial use **within the same unit** [my emphasis]. However, this wording does not appear in the current Framework, which now says that planning policies should be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.
10. Both parties have undertaken a somewhat forensic examination of the words 'premises', 'unit' and 'accommodation' and have come up with varying interpretations. However, I cannot see anything in the SWDP Glossary definition that precludes a live-work unit comprising separate buildings and in any case this would be inconsistent with the Framework.
11. Taking into account the wording of policy SWDP 8 and the Framework leads me to conclude that both appeal schemes would meet the definition of a live-work unit. In this regard, neither appeal scheme would conflict with policy SWDP 8.

Development Plan policy

12. Policy SWDP 2 of the SWDP sets out the Council's development strategy and settlement hierarchy and seeks to focus most development on urban areas. Amongst other things, it also seeks to safeguard the open countryside, which is defined as land outside any development boundary.

13. Part C of policy SWDP 2 says that development will be strictly controlled in the open countryside and limited to a number of exceptions provided for by other policies in the development plan, which include policy SWDP 8.
14. I have no reason to disagree with the findings of the Inspector in the Bradley Green appeal¹ (within Wychavon District but still subject to the geographical policy coverage of the SWDP). The Inspector considered that at least some of the 'exceptions', including those under policy SWDP 8, will be in rural locations more remote from services and facilities. This means that the development plan contains this explicit recognition and thus, does not prevent such development.
15. Policy SWDP 4 seeks to ensure that, amongst other things, development proposals minimise the demand for travel and offer genuinely sustainable travel choices. The reasoned justification for the policy refers to the rural nature of most of South Worcestershire and the extent of commuting.
16. At my site visit, I took the opportunity to make the short drive from the appeal site to Upton-upon-Severn, which provides a wide range of shops and services. The nature of a live-work unit generally negates the need for a daily commute. I acknowledge that not all of the proposed dwellings' occupants would necessarily be employed in the commercial enterprise. However, there are no explicit development plan policy terms that require this.
17. Whilst trips to carry out a weekly shop and to access other day-to-day services would be likely to be made by private motorised transport, such trips would be of limited duration and of a number and frequency commensurate with a three-bedroom dwelling.
18. Notwithstanding this, there is a bus service connecting to Worcester, Tewkesbury and Upton-upon-Severn with stops within reasonable walking distance from the site. Whilst there is some disagreement between the parties over the exact timing of the services, they run at reasonably regular intervals during the working week and at weekends. It would provide a satisfactory alternative to the use of the car for journeys to higher order services in those larger settlements.
19. The Council is concerned that the proposed dwelling and the commercial building in appeal A could at some point in the future find themselves in separate ownerships. However, this is a matter that could be addressed by a suitably worded condition and indeed one has been suggested by the Council.
20. Furthermore, the criteria in policy SWDP 8 G include a requirement for live-work units to have access to superfast broadband. This could be secured by condition and would reflect what the reasoned justification to policy SWDP 4 says about helping to reduce rural isolation without increasing travel demand through improved access to new technology.
21. Moreover, paragraph 103 of the National Planning Policy Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account in both plan making and decision taking. This is clearly reflected in the SWDP.

¹ Ref APP/H1840/W/17/3176897

22. I acknowledge that the submitted plans on which the Council made its decision refer to 'workshop and stabling' in the case of appeal A and simply 'workshop' in the case of appeal B. Neither therefore shows a layout for each or the ratio of one to the other within the commercial building. However, there is no convincing evidence that altering the internal layout would require consequent alterations to the external appearance of the building, as the Council suggests. Moreover, there is no requirement in policy SWDP 8 G to set out in terms exactly what the employment generating activity would be. The policy only restricts development in certain use classes, none of which apply to the appeal proposal.
23. The Council highlights the British Horse Society grazing standards which specify that 1 acre per horse is required for grazing. Given the extent of the appellant's overall landholding and its permitted equestrian use, there would appear to be little, if any constraint to such a use successfully continuing to operate from the site if either appeal scheme was granted permission. Notwithstanding this, there is nothing within the available evidence to indicate that the end user of the development would be anyone other than the appellant and his wife and thus the live-work unit and the adjoining grazing land would be in the same ownership. I acknowledge that the landholdings could be separated off from each other in the future but there would be no requirement for the live-work unit to continue an equestrian use.
24. I have had regard to the decision of the Inspector in the Ombersley Golf Club appeal. In that case, the Inspector considered the distances and accessibility of shops and services to be prohibitive in encouraging the use of sustainable transport modes. For the reasons I have already set out, this is not a comparable situation with the location of the site in the appeal before me. I do not find that the conclusions reached in this other decision provide a compelling case for me to take an alternative view that the proposal would be acceptable.
25. Taking all of this into account, I consider that the appeal site in either case would occupy a sustainable location. The proposals would not run counter to the development plan strategy for development in the countryside. Accordingly, neither appeal scheme conflicts with SWDP policies SWDP 2 or the requirement of SWDP 8. The proposal would accord with policy SWDP 4 and with the Framework.

Appeal A

26. The proposed development would occupy a substantial proportion of a currently open field. Whilst there is currently a small mobile structure in the field, the overall openness of this part of the appellant's land is maintained.
27. The proposal would result in there being two separate buildings at opposite ends of the field with a detached garage and parking areas in between as well as the proposed access track and drive. This spread of built and urbanising form across the site would extend well beyond the currently recognisable confines of the farm complex, which include the caravan storage area. It would result in a dramatic and harmful effect on the openness of the area, which would be clearly noticeable from the local Public Right of Way (PRoW) network.
28. I have considered whether these effects could be mitigated by additional planting and which could be secured by a suitably worded condition. However,

whilst this could address views from the PRoW network, the scheme would still result in unacceptable residual landscape harm.

29. For this reason, the proposal forming appeal A would have an unacceptable effect on the character and appearance of the area thereby running counter to policies SWDP 21 and SWDP 25 which require development to integrate effectively with its surroundings and complement the character of the area.

Conditions

30. The Council has suggested the imposition of a number of conditions in the event of planning permission being granted. I have considered these in light of the Framework and Planning Practice Guidance. Where necessary, I have amended some of the suggested wordings for clarity, to ensure compliance with national policy and guidance.
31. I have specified the relevant drawings as this provides certainty. Conditions, 3, 4 and 5 are necessary to define the permission and in the interests of employment. A materials condition is necessary in order to ensure the appearance of the development is satisfactory. However, it is not necessary for this to be a pre-commencement condition. In the interests of highway safety, I have imposed a condition related to the provision of the access, parking and turning area. I have imposed a condition requiring a percolation test in order to determine the drainage requirements of the development.
32. A suite of landscape scheme conditions are necessary in the interests of the area's character and appearance. I have incorporated the Council's suggested requirements for details of boundary treatment and lighting into condition 9. It is not necessary for this to be a pre-commencement condition. There are no trees and hedges that would be affected and thus there is no need to include a reference to them in the condition.
33. A condition relating to sustainability measures is necessary in order to ensure the development's sustainability credentials. A condition related to water efficiency is necessary in order to ensure good water management. However, it is not necessary for either of these conditions to be in pre-commencement form. In order to ensure the development is satisfactorily provided with broadband, a condition is necessary to require it.
34. Because of the existing site conditions, I do not consider it necessary or reasonable to impose a condition related to biodiversity. In any case, the Ecological Appraisal referred to by the Council in the suggested condition relates to appeal A which I am dismissing.

Conclusion

35. For the above reasons, appeal A does not succeed but the appeal B scheme accords with the development plan and the Framework and that appeal succeeds.

Hayden Baugh-Jones

Inspector

SCHEDULE OF CONDITIONS –APPEAL B

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing No 1433/L 001; Proposed Site Plan Drawing No 1728 050; Proposed Plans Ground Single Live Work Unit Drawing No 1728 040; Proposed Plans First Single Live Work Unit Drawing No 1728 041; Proposed Elevations 1 Single Live Work Unit Drawing No 1728 042; Proposed Elevations 2 Single Live Work Unit Drawing No 1728 043.
- 3) The building containing the work element of the live/work unit hereby permitted shall be finished and ready for occupation before the building containing the residential element of the live/work unit is occupied and the residential use shall not precede commencement of the business use.
- 4) The building containing the work element of the live/work unit shall not be used for the sale of goods to visiting members of the public or for any use falling within Use Classes A1, A3, A4, A5, B2, C1 or C2 as defined under the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 5) The building containing the residential element of the live/work unit shall not be occupied other than by a person solely or mainly employed, or last employed in the business occupying the building containing the work element of the live/work unit, a widow or widower of such a person or any resident dependants.
- 6) No development above slab floor level shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 7) The development hereby permitted shall be occupied/brought into use until space has been laid out within the site in accordance with drawing no. 1728 050 for cars to be parked and for the loading and unloading of vehicles and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 8) No development above slab floor level shall take place until a percolation test has been carried out in accordance with BRE Digest 365 or other relevant guidance that shall have first been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the results of the percolation test before the dwelling is occupied.
- 9) The development hereby permitted shall not be occupied/brought into use until both hard and soft landscape works have been implemented in accordance with details that shall have first been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) boundary treatment;
 - ii) external lighting

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied/brought into use. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

- 10) Details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.
- 11) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 12) The development hereby permitted shall not be occupied/brought into use until water efficiency measures have been implemented in accordance with a Water Management Statement that shall have first been submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved measures.
- 13) Before the development hereby permitted is occupied/brought into use, details of broadband provision to serve the dwelling shall be submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details and the broadband provision shall be retained thereafter.
- 14) The development hereby permitted shall not be occupied/brought into use until sustainability measures from renewable or low carbon sources equivalent to at least 10% of predicted energy requirements have been incorporated into the dwelling in accordance with details that shall have first been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved measures.