The Planning Inspectorate

Appeal Decision

Site visit made on 26 March 2019

by Mike Worden BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th April 2019

Appeal Ref: APP/H1840/W/18/3209690
Applegrove, Worcester Road, Drakes Broughton, Pershore, Worcestershire WR10 2AG

- 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 Ms Maria Smith against the decision of Wychavon District Council.
- The application Ref 17/01943/OU, dated 22 January 2018, was refused by notice dated 23 March 2018.
- The development proposed is described as detached 3 bedroom bungalow on site adjoining parents bungalow. Bungalow will be self build.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a 3 bedroom bungalow at Applegrove, Worcester Road, Drakes Broughton, Pershore, Worcestershire WR10 2AG in accordance with the terms of the application, Ref 17/01943/OU, dated 22 January 2018, subject to the conditions on the attached schedule.

Procedural Matters

2. The application is made in outline and I have considered the appeal on this basis.

3. I have amended the description of the proposed development in my decision from *'Detached 3 bedroom bungalow on site adjoining parents bungalow. Bungalow will be self build',* to: *Erection of 3 bedroom bungalow*, as I consider this is a more concise and clearer description of what is being proposed.

Main Issue

4. The main issue is whether the site is an appropriate location for the proposed development having regard to the development plan.

Reasons

5. The appeal site is located off Worcester Road outside of the village of Drakes Broughton. It is rectangular in shape and extends some distance from the main road. There is an existing bungalow, detached garage, and a mobile home, on the site and much of the site is hardstanding. The appeal site lies next to a small industrial estate whilst on the opposite side of the road there is a market

garden business. There are a handful of other houses along Worcester Road including three bungalows in front of the industrial estate, and some detached houses on the appeal site side of the road in the opposite direction to the village.

6. There is a footpath alongside Worcester Road which leads into the village. There is a break in development between the industrial estate and the built up part of the village. The break comprises a school field and another field, although that field and one on the opposite side of Worcester Road are identified as housing commitments within the made *Drakes Broughton and Wadborough with Pirton Neighbourhood Plan* 2017 (the neighbourhood plan).

7. The appellant wishes to remove the existing mobile home and replace it with a three bedroomed bungalow. Access would be taken from Worcester Road through the site at the front. However, since all matters are reserved for subsequent approval, the details of the proposal are not known at this stage.

8. Policy SWDP1 of the *South Worcestershire Development Plan* (the SWDP) seeks to secure sustainable development. Policy SWDP2 of the SWDP sets out the development strategy and settlement hierarchy for the plan area. Drakes Broughton is identified as a Category two settlement, as it has at least two key services including a shop and access to daily transport services for employment and shopping. The SWDP defines a development boundary around the village. In accordance with Policy SWDP2 of the SWDP infill development within the development boundary is permitted but outside of the boundary, the land is defined as open countryside. In accordance with Policy SWDP2 of the SWDP only certain categories of development will be allowed in the open countryside. The appeal site lies wholly outside of the development plan boundary, and so is in open countryside for the purposes of the policy.

9. One of the exceptions which would be allowed in accordance with Policy SWDP2 is replacement dwellings. However, Policy SWDP 18 of the SWDP which sets out the approach to replacement dwellings in the countryside, states that a mobile home does not fall into this category. The replacement of a mobile home with a permanent building is therefore not permitted by the policy. A new dwelling would also not be permitted by Policy SWDP2 of the SWPD.

10. Policy DBWP1 of the neighbourhood plan seeks to manage new housing in Drakes Broughton and states that housing within the development boundary will be supported subject to criteria. Policy DBWP3 of the neighbourhood plan sets out the approach in relation to housing proposals outside of the development boundary. It states that housing would only be supported where it met one of a number of criteria. One of these is replacement dwellings not significantly and disproportionately larger than the dwellings they replace. That policy does not specify that a mobile home would be excluded from being considered a dwelling which would be replaced. The proposed dwelling in this case would be larger than the mobile home it would replace, but since this is an outline application I am not able to assess whether it would be significantly and disproportionately larger.

11. I have no details of the planning status of the mobile home. The appellant has lived in her mobile home for around 12 years, and this is not disputed. It seems to me therefore that this home is long standing. The appeal site is already developed and the proposal does not seek to push the boundary of the site beyond the area occupied by the existing buildings and their apparent

curtilages. The Council has not argued that the proposal would have an adverse effect on the character and appearance of the area. The proposed bungalow would be larger than the mobile home it would replace, but given the characteristics of the site and the adjacent industrial estate, I consider that the proposal would not harm the character and appearance of the open countryside in this particular location. The proposal would replace one dwelling, albeit a mobile home, with another, and I consider that it would not, in the particular circumstances, undermine the settlement strategy for Drakes Broughton set out in the SWDP and the neighbourhood plan.

12. The appellant has stated that the mobile home is damp and cramped for her family, and that the health of her children is suffering as a result. I have placed significant weight on this consideration. The desire of the family to move into settled accommodation as set out in the supporting statement also weighs in favour of the proposal and both considerations support the social role of sustainable development.

13. I have been referred to a number of appeal decisions but consider that they are not directly comparable to the case before me. The Woodmancote[1], Badsey[2] and Pendock[3] proposals related to new build accommodation and the Inspector determined in each case that the material considerations were not of sufficient weight to make a decision not in accordance with the development plan. The Broadway case[4] was new build and the Inspector found harm to the open countryside. I do not have full details of those cases and in any event have determined this appeal on its merits and on the basis of the evidence before me.

14. The proposed development would be contrary to Policy SWDP2 and SWDP18 of the SWDP and Policies DBWP1 and DBWP3 of the neighbourhood plan. I have had regard to the case law[5] provided to me and its references in the example appeal cases submitted. However Paragraph 2 of the National Planning Policy Framework (the Framework) makes it clear that planning law as set out in Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990, requires that applications for planning permission be determined in accordance with the development plan, unless material considerations dictate otherwise. I conclude that the material considerations set out above are of significant weight and sufficient for me to conclude that the appeal should be determined other than in accordance with the development plan, notwithstanding that the local authority can demonstrate a five year supply of deliverable land.

15. Although contrary to the policies of the plans set out above, I consider that the proposal would not conflict with the overarching sustainable development principles set out in Policy SWDP1 of the SWDP.

Conditions

16. I have considered the conditions suggested by the Council having regard to the Framework and Planning Practice Guidance. In addition to the standard

[1] APP/H1840/W/17/3179864
[2] APP/H1840/W/18/3204389
[3] APP/J1860/W/17/3181534
[4] APP/H1840/W/18/3213004
[5] East Staffordshire BC v SSCLG and Barwood Strategic Land [2016] EWHC 2973 (Admin), dated 22 November 2016

conditions regarding time periods for the submission of the reserved matters and implementation, there is a condition required referring to the plan to which the permission relates, in the interests of certainty.

17. There is a need for a condition relating to floor levels, in the interests of amenity, and a condition relating to boundary treatment and landscaping details in the interests of the character and appearance of the area.

18. There is a need for a condition requiring a scheme to be submitted related to energy generation in accordance with Policy SWDP27 of the SWDP which seeks to secure on site energy generation for new dwellings amongst other development.

19. I have imposed a condition requiring a construction method statement in the interests of residential amenity given the close proximity of existing dwellings to the appeal site. I have made minor alterations to the condition suggested, in the interests of clarity.

20. I have also imposed a condition to require the removal of the existing mobile home prior to the occupation of the dwelling hereby permitted, as the appellant has made it clear that the proposal is for a replacement dwelling, and I have considered the appeal on that basis.

Conclusion

21. For the reasons given above I conclude that the appeal should be allowed.

Mike Worden

INSPECTOR

SCHEDULE OF CONDITIONS

1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with the following approved plan: Location Plan 1:1250

5) Details of the levels of the existing site and the precise floor slab levels of the proposed dwelling, relative to the existing development on the boundary of the site shall be submitted for approval as part of the reserve matters.

6) Details of screen walls, fences, surface treatments to drives and implementation timetable shall be submitted for approval as part of the landscaping reserved matters.

7) Prior to the occupation of any part of the development hereby permitted details of renewable or low carbon energy generating facilities to be incorporated as part of the development shall be submitted to and approved in writing by the local planning authority. The details shall demonstrate that at least 10% of the predicted energy requirements of the development will be met through the use of renewable/low carbon energy generating facilities. The approved facilities shall be provided prior to any part of the development hereby permitted being first occupied or in accordance with a timetable submitted to and agreed by the local planning authority as part of the details required by this condition.

8) Prior to the occupation of the dwelling hereby permitted, the existing mobile home shall be removed from the site.

9) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:

   i) the parking of vehicles of site operatives and visitors;

   ii) the areas for site operatives facilities;

   iii) storage of plant and materials used in constructing the development;

   iv) measures to control the emission of dust and dirt during construction;

   v) a scheme for recycling/disposing of waste resulting from construction works;

   vi) delivery and construction working hours.

   The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- End of conditions -