



Appeal Decision

Site visit made on 24 September 2019

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 December 2019

Appeal Ref: APP/J1860/W/19/3232499

**Bell Acre, Drugger's End Lane, Castlemorton, Malvern, Worcestershire
WR13 6JD**

- 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 Browning against the decision of Malvern Hills District Council.
 - The application Ref 19/00580/OUT, dated 16 April 2019, was refused by notice dated 25 June 2019.
 - The development proposed is outline planning permission for the erection of 2 dwellings (live-work) with all matters reserved except access and appearance.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the proposed development is taken from the application form and is used by the Council in the refusal notice. The application was made in outline with all matters reserved with the exception of access and appearance.
3. However, on the application form the appellant also ticked 'layout' for consideration at outline stage and not as a reserved matter. The Council's Delegated Report refers briefly to layout being for consideration at outline stage and the Council's Statement also refers to layout being mentioned on the application form. However, neither clarify if 'layout' is a reserved matter or not. The Council's suggested list of conditions does not shed any light on this, as they do not include the customary conditions relating to the submission of particular reserved matters and the timescale for doing so. Furthermore, the appellant does not confirm the status of 'layout' in his Statement, although on the appeal form he has used the description from the application form, with no reference to layout.
4. Therefore, I have determined the appeal based on the written description taken from the application form and which is in the banner heading above. Consequently, I regard the plans that show the position of the two units, parking and garden areas, as well as any landscaping, to be illustrative only.
5. At the heart of the National Planning Policy Framework (the 'Framework') is a presumption in favour of sustainable development (paragraph 10), but this does not change the status of the statutory development plan as a starting point for decision making (paragraph 12). The Council can demonstrate in excess of a five year supply of deliverable housing land and therefore the South

Worcestershire Development Plan (SWDP)¹ is the up-to-date development plan for the purposes of this appeal.

Main Issues

6. The main issues in this appeal are i) the effect of the proposal on the character and appearance of the rural area, and ii) whether the proposal would be in a suitable location with regard to development plan policy in respect of live-work accommodation and access to services, facilities and reliance on the car.

Reasons

Character and appearance

7. The site is a long triangular parcel of land described by the parties as a paddock, located at the junction of Drugger's End Lane and Church Road, approximately 1km from the centre of Castlemorton and beyond the village limits and name sign. It is also some 1.5kms from the Malvern Hills Area of Outstanding Natural Beauty (AONB). I noted from my site visit that dwellings and farms were sporadic and dispersed along the approach lanes such that the site would be regarded as isolated.
8. The site is largely undeveloped save for a small stable building towards the northwest corner. At the time of my visit the building was not in use as a stable. There was a small vegetable plot beside it and a 'camp fire' nearby. A post and wire fence ran across the site and there were various structures in the field such as a children's climbing frame.
9. The site's eastern boundary is formed of a hedgerow that runs along Drugger's End Lane and which screens most of the site from the road. However, there are clear views into the site and the countryside and Malvern Hills beyond from the road junction and existing access. The other site boundaries adjoin agricultural land such that the site is clearly within the countryside.
10. A public right of way (PROW) diagonally crosses the site in a north-westerly direction from the site access. As I walked this section of the PROW across the site, it was evident to me that users of it would be afforded open views across a patchwork of fields and towards the Malvern Hills and the AONB, which provide an imposing backdrop to the site. The PROW provides enjoyment of the wider countryside and visual link to it. I therefore find the appeal site positively contributes to the relatively undeveloped pastoral scene, giving rise to a peaceful and distinctly rural character and appearance.
11. My observations are broadly in accordance with the site's landscape categorisation as part of the "Settled Farmlands with Pastoral use" landscape character type². The Council's Statement describes that this landscape type is characterised by rolling, lowland, settled agricultural landscape with a dominant pastoral land use and small scale, defined by hedged fields, with a network of winding lanes, and a scattered and dispersed pattern of farms and dwellings.
12. The proposal is for the erection of 2 live-work units. According to the submitted plans Plot 1 would be a two storey L-shaped building, comprising a 3-bedroom dwelling on two floors with an approximate floor area of 120sqm. The 'work' component would be approximately 180sqm that would comprise a goods bay,

¹ Adopted February 2016

² as assessed by Worcestershire County Council Landscape Character Assessment

- store & workshop and office on the ground floor with a large studio, office and archive space on the first floor. It would have black corrugated steel cladding, frameless glazing and clean vertexes to give the building a contemporary edge. Plot 2 would be a long single storey building intended to look like a contemporary conversion of a redundant poultry shed. It would offer 2-bedroom living accommodation over approximately 88sqm, with an office and studio occupying approximately 132sqm.
13. The site would be accessed via the existing field access off Drugger's End Lane. The new driveway would then split towards each dwelling, with the provision of parking space and private garden. Both units would have separate entrances to the live and work areas.
 14. The appellant questions that design should be considered as the proposal is in outline. However, the appellant has chosen to have 'appearance' determined at the outline stage. This therefore requires consideration of the submitted elevations and floor plans, because if planning permission were to be granted the buildings would have to be built as per the submitted plans.
 15. The buildings have been based on local agricultural vernacular and I have no reason to doubt the appellant's intended high-quality build standards. However, the buildings are large and as they are in an open setting they would be an unduly prominent encroachment into the countryside. There would also be an urbanising effect on the area as the buildings are not intended for agricultural use, but instead for residential/employment use with car parking, gardens and associated domestic paraphernalia. This would be further exacerbated by the amount of built development from two large buildings. The illustrative site layout shows the proposed buildings could be separated so that views of the Malvern Hills can be maintained from the road. However, this would serve to only disperse and extend the urbanising effect further across a wider site area and exacerbate the harm.
 16. As a result, I am not persuaded by the appellant's assertion that the "vast majority of the land will remain as is." Mindful of paragraph 170b of the Framework, which recognises the intrinsic character and beauty of the countryside, I find the proposal would harm the character and appearance of the rural area and the site's wider setting in relation to the nearby Malvern Hills and AONB. It would also reduce the experience and enjoyment of users of the PROW and its wider network. Accordingly, the proposal would be contrary to Policies SWDP 21 and SDP 25 of the SWDP. These collectively seek to ensure new development is well designed and integrates effectively into the surrounding landscape, taking account of the latest landscape Character Assessment.

Location of proposed development

17. Policy SWDP 2 sets out a development strategy and settlement hierarchy to encourage a sustainable pattern of development, focusing most development on the urban areas, as well as various settlements in the rural area having a range of services and facilities. Part C deals with development in the open countryside, which it defines as land beyond any development boundary. The supporting policy text recognises that high quality open countryside is an important planning attribute of the area. It also acknowledges that countryside locations outside of settlements are generally less sustainable because access to local services and employment opportunities tends to be poorer. To this end,

development in the open countryside will be strictly controlled and restricted to the list of exceptions including “development specifically permitted by other SWDP policies”. The footnote to the Policy includes proposals under Policy SWDP 8 ‘Providing the Right Land and Buildings for Jobs’.

18. Policy SWDP 8 and the supporting policy text recognise the diversity of the local economy, including opportunities for home-work/live-work arrangements dispersed throughout the rural area and that ‘Home-working accounts for over 11% of all employment in south Worcestershire’. For south Worcestershire, accommodating and encouraging appropriate employment development in rural areas can help reduce commuting to urban areas and assist in establishing rural sustainability. This is broadly consistent with the Framework that allows for flexible working practices, such as live-work accommodation (paragraph 81) and which acknowledges that in rural areas businesses may need to be located beyond existing settlements and in locations not well served by public transport (paragraph 84).
19. Part G of the Policy deals specifically with live-work accommodation and acknowledges that they can “help support small and start-up businesses as well as provide sustainability benefits particularly in the more rural parts of south Worcestershire”. Live-work proposals will be permitted in the open countryside provided they satisfy the seven criteria listed in the Policy, namely i) the residential use is ancillary with floor space split at least 60% employment and no more than 40% residential, ii) the residential accommodation contains no more than three bedrooms, iii) the residential and work spaces are entirely separate with separate entrances and toilet facilities, iv) where viable, affordable housing, in accordance with SWDP 15, is included within the development, v) all units have access to superfast broadband or equivalent infrastructure, vi) proposals for ten or more live-work units include provision for shared business services, i.e. meeting rooms and basic office services, and vii) the proposed use does not involve the sale of goods to visiting members of the public or fall within the A3, A4, A5, B2, C1, or C2 use classes.
20. The Council is satisfied that criteria i), ii) and iii) are met and that conditions could be imposed to ensure the requirements are retained for the life of the development to reflect it being an exception. I agree with the Council that conditions can be imposed to address criteria v) and vii) and that criteria iv) and vi) are not relevant in this case.
21. Whilst there is a policy acceptance that some countryside locations will be remoter than others or have poorer access to services and facilities, Policy SWDP 4 requires that the layout of development demonstrates how it will minimise the demand for travel and offer genuinely sustainable travel choices. The proposed live-work accommodation would go some way to reducing the need to travel for the ‘daily commute’ and would offer some compliance with Policy SWDP 4. Furthermore, the appellant advises that superfast broadband runs past the site, which can improve access to technology as a means of reducing travel.
22. Whilst one or two occupiers may not need to commute to work, the two and three bedroom living units would likely have other residents, including children, who would need to access day-to-day services and facilities, such as schools and shops. They may also need to commute elsewhere if not involved with the on-site business. From my site visit I noticed that Castlemorton had a primary

school and a church. A village hall and a public house were located further away on the B4208. Church Road does not have a pavement or streetlighting and in light of the distance to travel I do not consider these circumstances conducive to encourage walking or cycling. Hence, I find the site is not within a safe or reasonable walking distance to the very limited services in Castlemorton. Furthermore, I did not observe any bus stop and I have not been provided with any evidence of public transport services in the area. As such, I find it likely that the other occupiers would be reliant on the car to access basic day-to-day services and facilities, and these trips would likely outweigh, in number and frequency, any travel journeys saved by not commuting.

23. I acknowledge that the proposal would offer electric vehicle charging points, which could be conditioned. However, this would not reduce car usage and would only be an option to car users who may want to drive a more sustainable type of car. This would not go far enough to represent a genuine sustainable travel choice, especially in the absence of walking, cycling and public transport options and places the proposal in conflict with Policy SWDP 4.
24. To conclude on this main issue, the proposed live-work accommodation would be in general accordance with the development plan strategy for development in the countryside under Policies SWDP 2 and SWDP 8. There would be some compliance with Policy SWDP 4 in terms of a reduction in commuting travel. However, any minimisation on travel demands would likely be negated by occupiers being reliant on the car to access day-to-day facilities in light of the site's isolated location. Furthermore, the proposal would not offer genuinely sustainable travel choices.
25. Accordingly, the proposal would be contrary to Policies SWDP 2 and 4 whose aims have been outlined above. It would also be at odds with the Framework that requires opportunities for promote walking, cycling and public transport to be identified and pursued (paragraph 102) and that 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 (paragraph 103).

Other Considerations

26. Both parties have drawn my attention to a number of appeal decisions. I have not been furnished with the details or plans of any of them so have relied on my reading of the decisions.
27. The Council refers to two previous appeal refusal decisions³ on the site, one of which was determined before adoption of the current development plan. However, these decisions were for one and two dwellings respectively, and not live-work units, and therefore have limited relevance as they were subject to consideration under different policies. However, both Inspectors found the site to be poorly related to Castlemorton and that the proposals would harm the character and appearance of the rural area, as I do.
28. The Council also refers to the appeal at Ombersley Golf Course⁴ for a live-work unit. Whilst it is located in another District, but which uses the same

³ APP/J1860/W/15/3130912 dated 8 December 2015 & APP/J1860/W/18/3205055 dated 25 October 2018.

⁴ APP/H19840/W/17/3183773 dated 19 February 2018

development plan, the Inspector found both conflict and compliance with Policy SWDP 4, as I too have found to be the case.

29. The appellant refers to the Bradley Green decision⁵, a substantial distance away in Wychavon District but who use the same development plan. The Inspector allowed a live-work unit as he found the reduction in commuting to outweigh other car-dependant travelling for day-to-day services and facilities. However, I note several differences between the appeal proposal, such as it was for a single live-work unit for a specified end-user that would replace an existing Dutch barn and was located much closer to the nearest settlement. It would also have had a different site specific context away from the Malvern Hills and the AONB. The appellant's reference to an appeal at The Meadows⁶ in Ledbury has limited relevance due to it being for a proposal for 5 self-build dwellings in a different county for a different Council with a different development plan.
30. Despite any similarities or differences, I must consider the proposal before me on its own planning merits.

Planning Balance

31. There is a need to balance the various development plan policy compliance and conflicts. The appellant has also referred to the economic, social, and environmental dimensions of sustainable development, set out in paragraph 8 of the Framework.
32. In favour of the proposal would be economic benefits to the construction industry and to local spend from future occupiers. The provision of flexible rural employment is encouraged by both the development plan and the Framework and there would be some job opportunities. However, I have not been presented with any substantive evidence of known end-users or specific need. In any event, any job creation is likely to be limited in scale due to the live-work nature of the units and the size of the site.
33. There would be some social benefits from the provision of 2 dwellings. But this would be modest as their occupancy would be limited to someone (and their family) operating each of the 'work' units. Furthermore, the Council can demonstrate a 5 year housing land supply. The community of Castlemorton would benefit, but this would be modest due to the limited range of services/facilities and the site's distance from it.
34. Environmental benefits would also arise from the reduction in commuting travel, and from the energy efficient building design, use of 100% renewable sources for heat and power, electric vehicle charging points and sustainable drainage.
35. However, due to the site's isolated location and limited facilities in Castlemorton, occupiers would be heavily reliant on using the car to travel for basic day-to-day needs and there would be minimal genuine opportunities for sustainable travel choices, exacerbated by there being 2 units. This would, in my view, negate the non-commuting benefits from the live/work units and weigh against the proposal. Furthermore, the proposal is for the erection of two large non-agricultural buildings in the open countryside that would harm the

⁵ APP/H1840/W/17/3176897 dated 18 September 2017.

⁶ APP/P1615/W/18/3213122 dated 17 April 2019

character and appearance of the rural area. The proposal would cause environmental harm and not represent an acceptable or sustainable form of development.

Other Matters

36. I acknowledge the appellant's concerns with the Council's handling of the application, but in reaching my decision I have been concerned only with the planning merits of the case.
37. A number of local residents and the Parish Council raise a series of other concerns about the proposal but in view of the reasons for refusal and my conclusions on the main issues there is no need for me to address these in the current decision. I also note the letter from Harriett Baldwin MP advising she cannot get involved in individual applications, but offering to forward the appellant's personal statement to the Council.
38. The Secretary of State has undertaken an Environmental Impact Assessment (EIA) Screening Opinion⁷ and a negative screening direction has been issued, dated 21 August 2019. Within the context of the Regulations, taking into account the type and scale of development and its location in relation to protected sites such as the nearby SSSIs and the necessary assessments required, the screening direction has concluded the development is "unlikely to result in significant environmental impact" and that an EIA is not required. However, the direction does not take into account local development policy or other material considerations as part of the determination of the application.
39. Furthermore, references in the screening direction to 'small scale' have to be read in the context of the EIA regulations and that the proposal fell below the quantitative thresholds for 10b) type development, such as being under 5 hectares or less than 150 dwellings. This is not the same as considering the scale of development for the purposes of determining a planning application. Therefore, the screening direction, whilst relevant, is not determinative in my decision. The regulations require that the Local Planning Authority make the Secretary of State's views on the EIA public

Conclusion

40. Drawing all the above points together, the proposal development would not represent a sustainable or acceptable form of development in the open countryside. For the reasons set out above, having regard to all matters raised, I conclude the proposed development conflicts with the development plan read as a whole, and there are no material considerations to justify the development. The appeal should be dismissed.

K. Stephens
INSPECTOR

⁷ The Town and Country Planning (Environmental Impact Assessment) Regulations 2017