



Appeal Decision

Site visit made on 13 August 2019

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2020

Appeal Ref: APP/H1840/W/19/3229548

The Old Coal Yard, Windmill Lane, Stoulton WR7 4RP

- 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 P Brooks against the decision of Wychavon District Council.
 - The application Ref 19/00246/FUL, dated 29 January 2019, was refused by notice dated 18 April 2019.
 - The development proposed is demolition of 2 no. existing cottages, storage building and coal bunkers. Construction of 2 no. detached replacement dwellings with a detached garage block providing a single garage to each dwelling.
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Decision

1. The appeal is dismissed.

Background

2. The appeal site consists of a pair of semi-detached cottages, associated storage building and coal bunkers. A previous planning permission was granted under reference 17/01066/FUL for two dwellings to replace these cottages on the adjoining land immediately to the south of the appeal site. From the available evidence the boundary for that application appears to have some overlap with that of the appeal site, in that it also includes the two existing cottages within the site. The Council argues that the recently constructed dwellings were approved on the basis that they would replace the existing cottages, which would be demolished. However, the cottages' demolition was not secured by condition as part of that permission.
3. The parties refer to a number of High Court judgements in the evidence which indicate that a limitation can only be imposed on a planning permission if it is secured by condition. This case law has informed my approach to whether this proposal constitutes replacement dwellings. In this appeal, the agreed revised description of development includes the demolition of the existing cottages. The Council proposes a condition to remove the existing dwellings from the site prior to the commencement of development, to which the appellant agrees.
4. However, I have been made aware of a recent appeal decision¹ on the adjacent site relating to an Enforcement Notice issued by the Council regarding a breach of condition (10) relating to (17/01066/FUL). The Inspector has upheld that Enforcement Notice subject to corrections and from my reading of this decision, the approved landscaping scheme is required to be implemented in the area

¹ APP/H1840/C/19/3233373

where the existing cottages remain. The approved landscaping scheme includes the annotation 'existing cottages to be demolished'. Therefore, the implementation of the landscaping scheme can only be achieved if the cottages are removed. On this basis I am not convinced for the purposes of this appeal the proposed dwellings can be considered as replacement for the existing cottages. Further, the approved layout plan for (17/01066/FUL) shows one of the existing cottages covering most of the garden of one of the proposed plots. This is clearly an impractical arrangement which serves to demonstrate that the cottage would need to be removed in any case.

5. On the basis of the above and given the circumstances of this case I do not consider for the purposes of this appeal the existing cottages are to be considered as replacement for the cottages on site. Thus, I consider the proposal should be considered in the context of new development in the countryside in line with SWDP2 and not as replacement dwellings under Policy SWDP18. Accordingly, I will deal with the appeal on this basis.

Main Issues

6. The main issues are (i) whether the site is a suitable location for housing having regard to development plan policies and (ii) the effect of the proposal on the character and appearance of the area.

Reasons

Suitable location for housing

7. The recently constructed two dwellings adjoin the site to the south and there is an employment yard with an operating business to the north. This pocket of built development is located in a wider rural area surrounded by generally open agricultural fields. The site lies away from the settlement of Drakes Broughton within the open countryside.
8. The development strategy and associated settlement hierarchy is set out in Policy SWDP2 of the South Worcestershire Development Plan (SWDP) (2016). Drakes Broughton falls within the fourth tier of the hierarchy categorised as rural areas which includes category 1,2 and 3 villages. These provide various local services and facilities. The strategy allocates housing in these villages to meet local needs. Policy SWDP2 (C) defines land beyond the defined development boundary as in the open countryside within which development will be strictly controlled subject to a number of identified exceptions. The appeal site lies outside the defined development boundary of the SWDP. It also lies outside the defined development boundary in the Drakes Broughton and Wadborough with Pirton Neighbourhood Plan 2017 (Neighbourhood Plan).
9. Policy DBWP3 of the Drakes Broughton and Wadborough with Pirton Neighbourhood Plan supports new housing development outside the development boundaries for Drakes Broughton where they meet certain identified circumstances. In light of my findings on the replacement dwellings issue, the proposal would not meet any of the criteria under this policy and is thus contrary to it.
10. Key principles within the Development Strategy under SWDP2 (A) include the need to safeguard and (where possible) enhance the open countryside (criterion iii) to encourage the effective use and reuse of accessible, available and environmentally acceptable brownfield land (criterion iv) and to focus most

development on the urban areas (criterion vi). Whilst the parties are agreed that the proposal would promote the reuse of a brownfield site, the Council are concerned that the proposal would undermine the aims of the spatial strategy to focus development within or adjacent to existing urban areas and villages, and in doing so would fail to minimise the demand for travel.

11. Policy SWDP4 is concerned with managing travel demand and seeks that proposals minimise demand for travel and offer genuinely sustainable travel choices. The policy justification recognises however, that rural residents are more reliant on the use of cars. The village of Drakes Boughton is located approximately 500m away and contains various services. The occupants of the proposed properties would have to walk the distance along the unlit country lane without a footpath to the main road, and whilst it is unlikely to be as attractive to pedestrians as if footways and street lighting existed the distance is not excessively long. Where this lane meets the B4084 main road there is a pavement to enable occupiers to walk to the range of services provided. There are also bus stops within a reasonable walking distance from the site on the main road. These offer sufficiently frequent services to nearby towns to provide a viable alternative to the use of private motorised transport.
12. It is also important to consider the previous permission (17/02199/FUL) for the live/work unit at the site. Based on the evidence before me, conflict with SWDP4 was not found within this permission. On this basis and considering the matters above I do not find that the proposal to be contrary to SWDP4.

For the reasons above, whilst I have not found conflict with Policy SWDP4 the proposal represents new dwellings in the open countryside and does not meet any of the identified exceptions under SWDP2 and accordingly it would neither safeguard or enhance the open countryside or focus development in urban areas in line with the development strategy principles. Consequently, I find it is not a suitable location for housing and is thus in conflict with Policy SWDP2.

Character and appearance

13. The character of this area is one of a rural setting characterised by fragmented pockets of dwellings of varying styles and layouts set against the backdrop of open agricultural fields. This creates a sense of openness between built development and is characteristic of the local landscape setting. The existing pair of semi-detached dwellings are modest and of traditional form and set back into the site. The recently constructed dwellings are a prominent feature along this part of Windmill Lane.
14. Policy SWDP21 seeks that development integrates effectively with its surroundings with scale and siting being appropriate to the setting of the site. Policy SWDP25 seeks that development are appropriate to and integrate with the landscape setting.
15. The existing cottages are located to the rear of the site. The replacement dwellings granted under the previous permission are situated forward of these onto Windmill Lane to allow for an adequate amenity area for those dwellings. Accordingly, in respect of this appeal I acknowledge that re-siting the existing cottages to the front of the appeal site would allow for an increased amenity area for the proposed dwellings. However, the existing cottages are set back from the road, and the proposal would see the introduction of two detached properties close to the road adjacent to the recently constructed dwellings.

16. The appellant indicates the intention is the dwellings have been designed to harmonise with the character, scale and appearance of the recently constructed dwellings and would create an active street scene. I consider that locating another pair of two storey detached dwellings of similar design adjacent to those recently constructed, would unacceptably change the character of the area from one of openness with scattered dwellings.
17. The proposed siting of the detached properties further forward to the road would be more visually prominent, appearing as the dominant landscape feature along Windmill Lane in this location. This development would be a prominent feature along Windmill Lane and when viewed in conjunction with the recently built scheme and would detract from the rural character of the area. The approved buildings as built confirm my views as to the unsatisfactory impact of the appeal scheme. The proximity of these dwellings together with those recently constructed would alter the character giving this area a suburban appearance with 4 detached dwellings along this road. In addition, the smaller plot sizes of the proposed houses and the position of the proposed garages behind the dwellings would restrict views through to the open countryside. Thus, the built form proposed would reduce the feeling of openness in the area and would fail to integrate effectively with its surroundings and the character of the surrounding landscape and would adversely impact on the character and appearance of the area.
18. The appellant refers to the Worcestershire County Council Landscape Assessment Framework (LAF) and I have considered the proposal against the characteristics identified in the Principal Timbered Farmlands Landscape Type. This identifies a settlement pattern of farmsteads and cottages with a lack of strong settlement nuclei and indicates that concentrations of new development in particular localities would disrupt the pattern of settlement dispersal. I also note that the LAF guidelines within that document seek to maintain the historic dispersed settlement pattern. I acknowledge that the proposed development would include an orchard, which would modestly increase tree cover in the locality and thus make a commensurate positive contribution to landscape character. However, in light of the harm I have found to the area's character and appearance, this does not persuade me that the proposal would be acceptable in overall landscape terms.
19. I have considered the potential fall-back position of the live work unit at the site which has an extant planning consent. Notwithstanding this, the dwelling associated with this is a small single storey bungalow with the work unit located to the back of the site. The bungalow would retain a larger gap to the recently constructed dwellings, be less prominent and would retain a sense of openness with employment unit located to the rear of site. The unit would be seen in context with the existing employment unit to the north. Therefore, it wouldn't create the same suburban feel and prominence in the street scene of the proposed 2 storey detached dwellings fronting Windmill Lane designed to mirror the adjoining properties.
20. Notwithstanding the above, should I have considered SWDP18 a relevant policy for the determination of this appeal, the acceptability of proposals under SWDP18 include that replacement dwellings should be situated on the footprint of the existing dwellings unless there are (amongst other matters) visual and landscape grounds to justify an alternative location within the curtilage. I also note the supporting text to Policy SWDP18 identifies that the replacement of

existing dwellings with much larger properties can affect the character of the rural area especially in locations where traditional dwellings are smaller. In this respect given the harm I have found to character and appearance I would see no visual or landscape justification for the current proposal that would have seen the proposal comply with it. Therefore, notwithstanding my finding on the replacement dwelling issue, even if I were to consider them replacement dwellings for the purposes of SWDP18, I find that this would not outweigh the harm I have found to the character and appearance of the area.

21. For the reasons outlined above, the proposal would result in harm to the character and appearance of the area and would be contrary to Policies SWDP21 and SWDP25 of the South Worcestershire Development Plan (2016). The proposal would also be contrary to the National Planning Policy Framework which seeks that development are sympathetic to local character including the surrounding built environment and landscape setting.

Other Matters

22. The appellant has referred to an appeal decision elsewhere in the district, however this was for change of use of existing barns and therefore is different to the proposal subject of this appeal for new built development. Further I do not have the full details of this case before me with which to understand the Inspectors finding that the site was not of open countryside character. Accordingly, I give this limited weight in the determination of this appeal. I confirm that I have in any event determined this appeal on its own merits and on the basis of the evidence before me.
23. I acknowledge the proposal would provide modern housing and would create employment for example through construction of the properties therefore bringing some economic and social benefits. However, the Council indicate they are able to demonstrate a 5-year Housing land supply and whilst these are benefits of the proposal, the contribution they would make to housing supply and the economy are limited by the scheme's modest scale of only two dwellings. Accordingly, I find the benefits of the proposal would not be sufficient to outweigh the harm I have identified in relation to the character and appearance of the area.

Conclusion

24. For the above reasons, the appeal is dismissed.

Stephen Thomas

INSPECTOR