



Appeal Decision

Site visit made on 9 June 2020

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 July 2020

Appeal Ref: APP/H1840/W/19/3243384

Merryfield House, Woodbury Park, Norton, Worcester WR5 2QU

- 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 Tony Harborne against the decision of Wychavon District Council.
 - The application Ref 19/01546/FUL, dated 5 July 2019, was refused by notice dated 18 October 2019.
 - The development proposed is construction of detached single storey dwelling, access and garaging.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of detached single storey dwelling, access and garaging at Merryfield House, Woodbury Park, Norton, Worcester WR5 2QU in accordance with the terms of the application, Ref 19/01546/FUL, dated 5 July 2019, and the plans submitted with it, subject to the schedule of conditions attached to this Decision.

Main Issues

2. The main issues are (i) whether the development would be in a suitable location for housing, taking into consideration local policies and (ii) if there is conflict with policies, whether there are other material considerations which would justify a decision other than in accordance with the development plan.

Reasons

Suitability of location for housing

3. The appeal site forms land associated with Merryfield House, a detached, two-storey dwelling, amongst a small enclave of similar properties and a larger care home. These are located within a woodland park setting known as 'Woodbury Park' served via an access road off Woodbury Lane.
4. The appeal site lies outside a defined settlement boundary. In accordance with Policy SWDP 2 of the South Worcestershire Development Plan (SWDP), the appeal site is therefore classed as being within open countryside where development would be strictly controlled, and only defined exemptions would be allowed. The proposed development does not fall into any of those exemptions, and this is not disputed.
5. Under Paragraph 4, the reasoned justification to the above Policy advises, that the high quality of the open countryside is an important attribute of the area

and that sites beyond development boundaries generally are less sustainable as access to local services tends to be poorer and it is, therefore, appropriate that development in the open countryside is restricted.

6. In particular, the reason for refusal also makes specific reference to the development not safeguarding or enhancing the countryside. This is one of the principles established in criterion A of Policy SWDP 2. In considering the weight to be given with any conflict with the Policy, it is also necessary to consider this.
7. In this case, the appeal site is located at the end of a row of dwellings and forms the side garden to the host property. This side garden consists of a lawn area incorporating shrub and tree planting with some domestic paraphernalia, including a timber shed. The site is also relatively contained by a low retaining wall and the access road along its frontage, and to its other boundaries by boundary treatments and the adjacent driveway which serves the care home.
8. Consequently, the appeal site has a strong physical relationship to the existing built development. Furthermore, due to its containment and domestic character, it makes no significant contribution towards the quality of the open countryside, which includes the surrounding open and wooded parkland areas of Woodbury Park, and the network of arable fields beyond this. Moreover, the appeal site's most notable feature is a mature Oak tree (T1), which is to be retained as part of the proposed scheme. It is also common ground between the main parties that the appeal site is brownfield or Previously Developed Land, being residential curtilage not within a built-up area.
9. The new dwelling and its garage would form the first property upon entering Woodbury Park. As such, its single-storey scale would provide an appropriate transition between the mature landscaping along the approach to Woodbury Park and the two-storey properties within it. The new development would also be served off the existing access road and its layout would be broadly consistent with the general wayside arrangement of dwellings along here. In addition, due to its modest scale and intervening landscaping, any views of the new dwelling from the surrounding area would be limited and in the context of the existing development. Based on these factors the new development would be easily accommodated within the appeal site, without having an adverse impact upon its parkland setting or the wider rural landscape of the area.
10. For the above reasons, although the proposed development would include some encroachment, this would be onto brownfield land and would not harm the quality of the open countryside.
11. Turning to the accessibility of the site, its location is not isolated, and it benefits from good access to public transport links, including bus stops and the Parkway Station which provide access to nearby towns and villages. There are also employment and education facilities, along with a public house nearby. As such, future occupiers of the development would not be solely reliant on the use of the private car. Accordingly, the location of this site for a single dwelling would not significantly undermine one of the other principles of Policy SWDP 2 of the SWDP, which is to focus most development on the urban areas.
12. In conclusion on this main issue, the development would be in clear conflict with SWDP policies, SWDP 2 insofar as it would be located outside a defined settlement boundary, and SWDP 1, which amongst other things supports

planning applications that accord with the policies in the SWDP. Nevertheless, I have not identified any actual planning harm arising from the proposal.

Other Considerations

13. The Council can demonstrate a 5-year supply of deliverable housing land. Nevertheless, housing requirements are set as minima and the development would still deliver an additional home. In these circumstances, the benefits derived from a single dwelling would be limited. However, this would still make a small contribution to the housing land supply and to a limited extent supports Criterion A (ii)¹ of Policy SWDP 2 of the SWDP. Therefore, this attracts some weight in favour of the proposal.
14. Paragraph 78 of the National Planning Policy Framework ('the Framework') states that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. The development would be consistent with this objective. However, the scale of development is such that it would only provide modest economic and social benefits. Accordingly, these factors attract only limited weight in favour of the proposal.
15. Policy SWDP 2 expressly states that part of the development strategy is to encourage the effective use and re-use of accessible, available and environmentally acceptable brownfield land. Criterion G also specifically states that encouragement will be given to the redevelopment of brownfield sites. As concluded above, the site is in an accessible location and there is no clear evidence that it is not available or environmentally acceptable. Accordingly, the development would be consistent with this principle of Policy SWDP 2 and the objectives of the Framework. As such, this attracts significant weight in favour of the development.
16. As part of the South Worcestershire Development Plan Review (SWDPR) the appeal site forms part of a significant area of land which under Policy SWDPR 49: Worcestershire Parkway, has been identified as a 'New Settlement Area'. Paragraph 48 of the Framework states that decision-takers may also give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan. Whilst the SWDPR has advanced to the preferred options stage, it is unclear the level of unresolved objections that may or may not be levied against the 'New Settlement Area' and other parts of the SWDPR. As such, there can be no certainty that the plan will be adopted in its current form and I attach no weight to it at this stage.

Other Matters

17. The Council has referred me to an appeal decision² in that case, in undertaking the planning balance, the Inspector concluded that the benefits of the proposal would not be sufficient to outweigh the significant harm. However, that appeal related to an open field and the proposal was for two dwellings. Therefore, the circumstances in that appeal were different to the one before me, which relates to a proposal for a single dwelling on brownfield land. Accordingly, I have determined the appeal before me on its merits.

¹ ii. Provide for and facilitate the delivery of sufficient housing to meet objectively assessed needs to 2030

² APP/H1840/W/19/3219858

Conditions

18. I have considered the conditions put forward by the Council in light of the requirements of the Planning Practice Guidance (PPG) and the Framework. In addition to the standard timescale condition, I have imposed a condition specifying the relevant plans as this provides certainty. Conditions requiring details of the proposed materials and boundary treatments, along with retained and proposed landscaping are necessary to ensure the satisfactory appearance of the development and the area. Conditions securing access and parking facilities for the dwelling are necessary in the interests of highway safety.
19. A condition requiring the proposed development to adhere to the submitted Water Management Statement, is necessary to ensure the satisfactory drainage of the site. To ensure the development supports the delivery of low carbon/renewable energy and safeguards natural resource, I have imposed a condition requiring a proportion of energy sources to be renewable within the development.
20. The requirement of a Construction Environmental Management Plan by condition is necessary in the interests of highway safety. However, given the modest scale of the proposed development and in the absence of any clear information on how its construction may affect any Listed Buildings, I have not imposed any such requirement, as suggested by the Council.
21. Based on the concerns raised by Worcestershire Regulatory Services and to safeguard the living conditions of future occupants from potential ground gases, a condition is necessary to undertake a gas risk assessment and provide any mitigation, if required.
22. Conditions 3, 4, 5, 6, 7 and 8 which prevent any development approved from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for them to take the form of 'pre-commencement' conditions in order to have their intended effect. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance.

Conclusion

23. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the development plan unless material considerations indicate otherwise.
24. Paragraph 12 of the Framework reflects this and makes it clear that the development plan is the starting point for decision making. The importance of the plan-led system is clear. Nonetheless, the Act provides scope for other factors to be considered in the planning balance.
25. There is clear conflict with the development plan in respect of the appeal site being outside the defined development boundary. The relevant policies of the plan are up-to-date and thus this conflict weighs significantly against the development. Amongst other things, these policies establish the broad strategy for the distribution of development and should not be set aside lightly. However, no other planning harm has been identified, the extent of the conflict is relatively small, and aspects of the development would be broadly consistent with some of the relevant key principles of both local and national policy. There would therefore only be limited harm to the Council's overall strategy.

26. The proposal would provide modest, but tangible benefits. In particular, the development of a brownfield site in an accessible location. Although relatively limited in scale, there would be some additional social and economic benefits associated with the delivery of a new dwelling.
27. The matters here are very finely balanced. However, in my view, the aforementioned benefits would outweigh the limited technical conflict with policies and absence of any other harm. Therefore, in the particular circumstances of this case there are material considerations which justify a decision other than in accordance with the development plan.
28. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal
INSPECTOR

Schedule of Conditions

- 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 plans and drawings: – Drawing 010 Rev C - Proposed Floor Plans; Drawing 011 Rev B - Proposed Elevations Sheet 1; Drawing 012 Rev B - Proposed Elevations Sheet 2; Drawing 015 - Proposed Garage / Car Port; Drawing 20 Rev A - Proposed Site Plan; Drawing 001 Rev C - Site Location and Block Plan.
- 3) The development hereby permitted shall not commence until an assessment of the risks posed by any landfill, ground gas or vapours at the development site, has been submitted to and approved in writing by the local planning authority. The assessment shall be carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced).

If the approved risk assessment identifies ground gases or vapours posing unacceptable risks, no development shall commence until a detailed remediation scheme to protect the development from the effects of such ground gases or vapours has been submitted to and approved in writing by the local planning authority. Following approval, the remediation scheme shall be implemented in accordance with approved details.

Following implementation and completion of the approved remediation scheme, and prior to the first occupation of the dwelling hereby approved, a verification report shall be submitted to and approved in writing by the local planning authority to confirm completion of the approved remediation scheme.

- 4) The development hereby approved shall not commence until details of facing, roofing, surfacing materials and hard landscaping have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.
- 5) The development hereby permitted shall not commence until, a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the local planning authority. Thereafter the boundary treatments shall be implemented in accordance with the approved details and prior to the first occupation of the development hereby permitted.
- 6) The development hereby permitted shall not commence until a scheme for soft landscaping, has been submitted to and approved in writing by the local planning authority, the scheme shall include:-
 - (a) details of any planting and trees to be retained, together with measures for its protection during the course of the development.
 - (b) schedule of proposed planting (indicating species, sizes at time of planting, numbers/densities of plants and planting pit design for trees).

(c) written specification outlining cultivation and other operations associated with plant establishment and protection.

The approved soft landscaping scheme shall be completed in the first respective planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner.

If within a period of 5 years from the date of the planting of any plant or tree pursuant to this condition, that plant, tree or any replacement, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, it shall be replaced by another plant or tree of the same species and similar size at the same location.

No retained tree, hedge or hedgerow shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars. Any pruning shall be carried out in accordance with British Standard 3998: 2010 (tree work) and in accordance with any approved supplied arboricultural information. If any retained tree, hedge or hedgerow is removed, uprooted or destroyed or dies, another tree, hedge or hedgerow of similar size and species shall be planted at the same place, in the next available planting season or sooner.

- 7) Before the commencement of the development hereby permitted, details of renewable and/or low carbon energy generation measures shall be submitted to and approved in writing by the local planning authority. The measures shall contribute to at least 10% of the predicted energy requirements of the development. The details to be submitted shall include:- a) the overall predicted energy requirements of the approved development; b) the predicted energy generation from the proposed renewable/low carbon energy measures; and, c) an implementation timetable for the proposed measures. Thereafter the development shall be carried out in accordance with the approved details.
- 8) Before the commencement of the development hereby permitted, a Construction Environmental Management Plan shall be submitted to and approved in writing by the local planning authority. This shall include the following:
 - Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway;
 - Details of site operative parking areas, access, material storage areas and the location of facilities for site-operatives (offices, toilets etc);
 - The hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring;
 - Details of any temporary construction accesses and their reinstatement;
 - A highway condition survey, timescale for re-inspections, and details of any reinstatement;
 - Thereafter, the development hereby permitted shall be undertaken in accordance with the approved Construction Environmental Management Plan.

- 9) The dwelling hereby permitted shall not be occupied until the first 5 metres of the access into the development, measured from the edge of the carriageway, has been surfaced in a bound material. The access gradient shall not exceed 1:12 for the first 5 metres.
- 10) The dwelling hereby permitted shall not be occupied until an area has been laid out at a gradient not exceeding 1 in 8 within its curtilage for the parking of 3 cars. This area shall thereafter be retained for vehicle parking.
- 11) Prior to the occupation of the dwelling hereby permitted, the details set out in the submitted Water Management Statement shall be fully implemented and retained for the life of the development.