



Appeal Decision

Site Visit made on 5 January 2021

by Mr Stuart Willis MSc, BA (Hons), PGCE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2021

Appeal Ref: APP/J1860/W/20/3258822

Lower Crest, Martley Road, Great Witley, Worcester, WR6 6HY

- 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 The Executors of the late Bernard Owen against the decision of Malvern Hills District Council.
 - The application Ref 19/01700/FUL, dated 7 November 2019, was refused by notice dated 19 March 2020.
 - The development proposed is change of use of an existing building to a dwelling place.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of the appeal are:
 - Whether the proposal would be in a suitable location for housing, having regard to the development strategy for the area;
 - Whether the proposal makes appropriate provision for affordable housing; and,
 - The effect of the proposed development on the character and appearance of the area.

Reasons

Location of Development

3. The appeal site is accessed off a track with a Public Right of Way running alongside it. The garden of an existing property is to one side with open fields and undeveloped land to the others. The site is located outside of the defined settlement boundary.
4. Policy SWDP1 of the South Worcestershire Development Plan (DP) sets out the broad presumption in favour of sustainable development in line with the National Planning Policy Framework (Framework). Policy SWDP2 of the DP establishes the settlement hierarchy and development policy that should apply in settlements and the open countryside.
5. The parties indicate that Great Witley is classified as a Category 1 settlement in the Hierarchy of Settlements. Policy SWDP2 of the DP indicates that in such settlements housing sites are allocated to address the need for housing and support local services in these settlements. Being outside of any settlement boundary, Policy SWDP2 defines the appeal site as being in the open

countryside, where new housing development is strictly controlled. Development in the open countryside is only considered appropriate if supported by other relevant local plan policies.

6. The proposed development conflicts with the policies of the Plan as it does not meet any of the exceptions where residential development in the open countryside is considered appropriate.
7. Policy SWDP2 states that Category 1 villages provide a varying range of local services and facilities. The Council consider Great Witley to have good access to services and public transport links and I have reached the same finding. While there may not be a pavement and lighting along the whole of the route, these are a relatively short distance from the site. Therefore, the proposal would not result in a reliance of private car and offer genuinely sustainable travel choices. In this way it would accord with Policy SWDP4 of the DP.
8. Given the proximity of the site to other buildings, including the adjacent dwelling it would not be isolated in the context of paragraph 79 of the Framework.
9. Notwithstanding this, the site is not a suitable location for housing, having regard to the local housing strategy. The proposal would be contrary to policy SWDP1 and SWDP2 of the Plan. Even though the site is not isolated from other residential properties, it is outside of the development boundary and would not meet any of the exceptions listed.
10. Furthermore, it would fail to accord with the Framework where it states for planning applications that conflict with an up-to-date development plan, permission should not usually be granted.

Affordable Housing

11. The Framework states that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. The officer report refers to the site being within a designated rural area. Policy SWDP15 of the DP seeks a financial contribution towards local affordable housing provision for schemes of less than 5 dwellings.
12. The Council have set out how the contribution was calculated. While Policy SWDP 15 of the DP does not state that financial viability assessments are essential, no planning obligation or detailed financial evidence has been provided to the contrary. Consequently, the appellant has failed to demonstrate the scheme would be unviable with this contribution or, even if it were, what the maximum proportion of affordable housing contribution is. Therefore, on the evidence before me, it appears that the need for the contribution sought by the Council arises from the development and satisfies the 3 tests in Regulation 122(2) of the CIL Regulations 2010.
13. Given the scale of the scheme, the proposal is not a complex development. In addition, no exceptional circumstances have been demonstrated. Consequently, as advised in Planning Policy Guidance the use of a planning condition to secure a planning obligation would not be appropriate in this instance.
14. I appreciate that there have been delays in information being provided and that Covid-19 may have impacted on this. Nonetheless, the Procedural Guide

Planning appeals – England (N.2) sets out the timetable for a planning obligation and evidence to be submitted.

15. Decision notices¹ for similar proposals elsewhere have been provided. Nonetheless, I do not have any other information relating to these schemes or the approach to viability that was taken. As such, I cannot be sure they represent a direct comparison to the scheme before me.
16. The proposal would not provide an appropriate level of affordable housing and so would conflict with Policy SWDP15 of the DP.

Character and Appearance

17. The existing building is of utilitarian appearance and of little architectural merit. The overall proportions of the existing building would largely be retained, as would the pattern of openings. The new external materials and renovation of the building would bring about some improvement to its external appearance. This would be seen from the Public Right of Way adjacent.
18. The appeal building and site as a whole is separated from the fields beyond by mature landscaping. As such it is more visually associated with the adjacent properties and gardens rather than as part of the countryside beyond. Therefore, the presence of a dwelling and domestic paraphernalia at the appeal site would not appear incongruous.
19. As the proposal would not be an isolated dwelling with regard to paragraph 79 of the Framework, the exception where development would re-use redundant or disused buildings and enhance its immediate setting, would not be applicable to the appeal scheme.
20. Nonetheless, the proposed development would have a small positive effect on the character and appearance of the area. It would accord with Policy SWDP21 of the DP where it seeks to ensure proposals integrate effectively with its surroundings, in terms of form and function. It would also comply with the Framework where it requires developments to add to the overall quality of the area

Other Matters

21. The appellant suggests that the presumption in favour of sustainable development, as contained within paragraph 11 of the Framework, applies as the DP does not contain policies for conversions of buildings to dwellings. Conversion to residential development is referred to in the context of farm diversification and with regard to affordable housing contributions. The DP also sets out a strategy for the locational requirements for new residential development, which could include conversions. Thus, there are relevant policies contained within the development plan.
22. The provision of a minimum 5-year housing supply is not to be considered as an upper limit and the proposal would align with the national aim to boost the supply of housing. The Framework supports small scale development reflecting different needs in the community and anticipates windfall developments. However, the contribution of a single dwelling would be very small.

¹ 19/01289/FUL and 20/00698/CU

23. While the improvement to the character and appearance of the area weighs in favour of the scheme, this would also be limited given the scale of the proposal. Similarly, even if I were to agree that the site represented previously developed land, the benefits from this, and those related to supporting the rural community and economy would be minimal. A lack of third party or statutory consultee objections is not in itself a reason for allowing development that is unacceptable.
24. Even when taken cumulatively the benefits of the proposed development would not outweigh the harm I have identified and the conflict with the development plan and Framework as a whole.

Conclusion

25. For the reasons set out above, and having considered all matters raised, I conclude that the appeal should be dismissed.

Mr Stuart Willis MSc, BA (Hons), PGCE, MRTPI

INSPECTOR