
Appeal Decision

Site visit made on 16 March 2021

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2021

Appeal Ref: APP/H1840/W/20/3258066

5 Rectory Farm Barns, Willow Barn, Rectory Lane, Upton Warren B61 7EG

- 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 Rachael Louise Harper against the decision of Wychavon District Council.
 - The application Ref 20/00556/CU, dated 10 March 2020, was refused by notice dated 4 June 2020.
 - The development proposed is change of use to form two bedroom dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - whether the proposal would comprise inappropriate development in the Green Belt;
 - whether the location of the appeal site is suitable for the proposal, having regard to the development strategy for the area and accessibility;
 - whether acceptable living conditions would be provided for the intended future occupiers, having particular regard to the proximity of the M5 motorway, and
 - whether the contribution sought to affordable housing is reasonable and necessary.

Procedural Matters

3. The appellant has requested that I consider a Noise Survey that she has commissioned in response to the Council's third refusal reason. The Council has provided comments on the survey and for me to consider it would not prejudice those who should have been consulted of this information. Accordingly, I have taken this information into account in my consideration of this case.
4. A completed S106 Agreement has been submitted with the appeal which makes provision for a financial contribution to be paid towards affordable housing. This is considered later in my decision.
5. Legal authority has been received to confirm that the appeal can proceed under the name of the above person.

Reasons

Whether Inappropriate Development

6. The appeal site is located within the West Midlands Green Belt. Paragraph 145 of the National Planning Policy Framework (Framework) establishes that the construction of new buildings is inappropriate in the Green Belt, save for a number of exceptions. Certain other forms of development are also considered not inappropriate in the Green Belt as set out in Framework paragraph 146, provided they preserve its openness and do not conflict with the purposes of including land within it. In that criteria E of Policy SWDP 2 of the South Worcestershire Development Plan (SWDP) (2016) sets out that development in the West Midlands Green Belt will be considered in accordance with national policy as set out in the Framework, it is consistent with it.
7. The proposal relates to the re-use of a building which is permanent and of substantial construction. It would preserve the openness of the Green Belt and would not conflict with the 5 purposes of including land within the Green Belt. Moreover, the alterations proposed, including the replacement of timber doors with glazing and a balcony with balustrade would not result in an extension or alteration of a building which would be disproportionate over and above the size of the original building. Given the above, I conclude that the proposal would not comprise inappropriate development in the Green Belt for the purposes of the Framework and the SWDP. It is noteworthy that the Council found similarly in this regard.

Location

8. There is no dispute that the appeal site is located within the countryside for planning policy purposes. Nor is there dispute that the appeal site comprises previously developed land.
9. Policy SWDP 2 of the SWDP establishes the development strategy and settlement hierarchy for the area. It seeks to focus most development on the urban areas where both housing needs and accessibility to lower-cost public services are greatest. Criterion C of the policy states that land beyond any defined development boundary is classed as open countryside and housing development in these areas will be strictly controlled and limited to a small number of categories, none of which the proposal complies with.
10. Criteria A of Policy SWDP 2 does however lend support to the effective use and re-use of accessible, available and environmentally acceptable brownfield land, and criteria G gives encouragement to the redevelopment of brownfield sites. In this regard the reuse of an existing building, which is acceptable in terms of its effect on the character and appearance of the area and its availability accord with these matters. However, in order to comply with criteria A, it is also necessary to assess whether the site is accessible, and this is considered below.
11. The appeal property is accessed off Rectory Lane, a narrow road, enclosed by hedgerows which has no street lighting or pavements. Although the road is a no through road, it serves a number of dwellings as well as agricultural and equestrian land and it is reasonable to assume that although lightly trafficked, vehicles, including delivery vans and agricultural machinery would be using it throughout the day.

12. The closest services and facilities to the appeal site are in Upton Warren, with reference being made to a public house/restaurant/hotel which is 850 metres from the appeal site, bus stops on the A38 which have been calculated to be 900 metres from the appeal site, a petrol station and shop, and garden centre complex which are approximately 1km distant. Whilst the distances between the appeal site and these services are modest and could reasonably be walked or cycled to, the likelihood of this occurring given the highway conditions of Rectory Lane with limited areas for pedestrian refuge would be small, because the intended future occupiers of the dwelling would be unlikely to feel safe walking or cycling within the road. This would be particularly so if the occupiers of the proposed dwelling were elderly, had limited mobility, or were a family with young children, or in inclement weather or after dark.
13. Accordingly, unless the occupiers of the proposed dwelling had access to a private vehicle, the appeal site would not be accessible. Moreover, day to day services, including places of education, employment, shops and healthcare facilities would not be accessible, other than private vehicle. It follows that the intended future occupiers would have a high dependency on a private vehicle. For those that did not have access to a private vehicle the new dwelling and day to day services and facilities would not be accessible.
14. There would also be a high probability that once in their cars, there would be a high probability that the intended future occupiers would travel to larger towns and villages thus the support that they would be likely to give to maintaining the vitality of rural communities would be unlikely to be discernible.
15. I am mindful that the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, but the Framework, like the development plan, needs to be read as a whole. It also requires that accessible services are provided and that safe and suitable access to the site can be provided, with priority given first to pedestrians and cycle movements, with the needs of people with disabilities and reduced mobility in relation to all modes of transport addressed. For the reasons set out the proposal would not achieve these matters.
16. Furthermore, the Framework makes it clear that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. The contribution that 1 additional dwelling would make to these matters would be unlikely to be discernible. Moreover, there would be a high probability that given the limited services nearby that occupiers of the dwelling would travel further than the local services to larger towns for their shopping, entertainment and employment given the limited facilities nearby, therefore making little contribution to the vitality of rural communities in the locality.
17. Given my findings, whilst the appeal proposal would re-use previously developed land, and would provide accommodation which may be suitable for elderly or disabled occupiers or small families, it would not be in an accessible location and would be remote from accessible services and facilities, unless the intended future occupiers had access to a private vehicle. Accordingly, this leads me to conclude that the location of the appeal site is not suitable for a dwelling and because of the conflict with SWDP Policies SWDP 2, SWDP 4 and SWDP 21 which seek to strictly control development in the countryside, re-use accessible brownfield land and minimise the demand for travel and offer

genuinely sustainable transport choices, with accessible local services for all users, including those with disabilities.

Living Conditions

18. The M5 motorway runs to the west of the appeal site with a field separating the respective features. The traffic noise from the motorway was clearly audible from outside the building and it would be likely to be audible from within the building. Indeed, the appellant's noise survey demonstrates that the internal noise level would exceed the standards set out within BS8233 during the day and at night with the windows open.
19. That being said, such noise levels would likely to be similar to those at nearby properties in Rectory Lane. I have been provided with no evidence to demonstrate that nearby occupiers have a poor living environment, either within their properties or within their gardens as a result of the proximity to the motorway.
20. Consequently, and subject to suitable acoustic measures being implemented which could be controlled by planning condition, I consider that suitable living conditions could be provided for the intended future occupiers of the proposed dwelling. In this regard there would be no conflict with SWDP Policy SWDP 31 which requires development proposals to be designed to avoid any significant adverse impacts from pollution on human health and wellbeing. Moreover, there would be no conflict with paragraph 127 of the Framework, which requires, amongst other matters that places are created that promote health and well-being with a high standard of amenity for future users.

Affordable Housing

21. SWDP Policy SWDP 15 requires that all new residential development, including conversions makes a contribution to affordable housing. In this regard the submitted S106 Agreement would make a financial contribution towards affordable housing in the locality.
22. Given the above, I find that the contribution sought to affordable housing is reasonable and necessary. The completed S106 Agreement ensures that there is no conflict with the aims of SWDP Policy SWDP 15.

Other Matters

23. My attention has been drawn to planning permission having been granted for the conversion of the appeal building to a holiday let. Whilst such a use is residential, it is likely that the property would be occupied differently to its proposed use with the daily traffic movements to it differing also. Indeed, a condition attached to the planning permission limits the occupancy of the accommodation. Moreover, the nature of the use of a holiday let differs to that of a dwelling, particularly with regard to access to employment, education and healthcare. It is also clear from the decision notice that such a use was considered to comply with Policy SWDP 35 of the SWDP. The granting of permission for a holiday let does not provide justification for the appeal proposal.
24. Several examples of residential development have been drawn to my attention. Other than the conversion of a building to the north of the site which was granted prior approval, and an agricultural workers dwelling to the south, none

are within the locality of the appeal site. Whilst the policy context of other examples is similar to the proposal before me, the specifics of the site circumstances are not and accordingly this limits the weight that I can give them in my consideration of this case. In terms of the building at Rectory Farm this was considered to be permitted development and the dwelling to the south is likely to have been considered an exception to residential development in the countryside for the purposes of Policy SWDP 2 of the SWDP, being for an agricultural worker. The circumstances of these dwellings are not comparable to the case before me, which I have determined on its merits.

25. I note that the proposal would be likely to have some economic benefits in terms of employment and that the proposal could include measures to benefit the environment. However, such benefits would be small given the quantum of development and would not outweigh the harm that I have identified.

Planning Balance and Conclusion

26. Although the proposal would result in a new dwelling that would contribute to the supply of small dwellings in the locality, which would be suitable for elderly occupants because of the ground floor bedroom, and contribute to affordable housing, its countryside location would not be accessible and it would be remote from accessible local services, other than by private vehicle, in conflict with SWDP Policies SWDP 2, SWDP 4 and SWDP 21. It has not been demonstrated that any relevant policies are inconsistent or out-of-date. The other matters advanced in support of the proposal and my findings in terms of the Green Belt, living conditions and affordable housing provision do not outweigh the identified harm. Accordingly, there are no other considerations, including the provisions of the Framework, which indicate that the proposal should be determined other than in accordance with the development plan taken as a whole.

Decision

27. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

RC Kirby

INSPECTOR