



Appeal Decision

Site Visit made on 20 April 2021

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

an Inspector appointed by the Secretary of State

Decision date: 05 July 2021

Appeal Ref: APP/H1840/W/21/3267349

Woodlands Farm, West Side, North Littleton, Evesham, Worcs WR11 8QP

- 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 Daniel, Chris and Lewis Albutt against the decision of Wychavon District Council.
- The application Ref 20/00842/Ful, dated 30 April 2020, was refused by notice dated 7 January 2021.
- The development proposed is erection of self-build replacement dwelling for agricultural workers and demolition of existing dwelling for agricultural workers.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Daniel, Chris and Lewis Albutt against Wychavon District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I am aware of other appeals¹ at Woodlands Farm but have assessed the proposal on the basis of its own individual merits.

Main Issues

4. The main issues of the appeal are:
 - Whether the proposal would comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding,
 - Whether the proposal would be a suitable form of development having regard to development plan policy in respect of replacement dwellings; and
 - The effect of the proposed development on biodiversity.

Reasons

Flooding

5. The Flood map for planning in the Flood Risk Assessment (FRA) shows that the existing dwelling is principally within Flood Zone 1 with only a small part being within Flood Zone 2. Although the accuracy of the Flood Zones has been

¹APP/H1840/W/20/3257219 and APP/H1840/W/20/3257220

questioned, the FRA provided by the appellant identified that some of the proposed building footprint would be located within the Flood Zone 3 outline, the majority within the Flood Zone 2 outline and a small area to the east which is located within Flood Zone 1. Even if the zones had been changed since, as the appellant suggests, the new dwelling would still be primarily within Flood Zone 2.

6. There are said to be flood defences in the area and measures are proposed to mitigate the effects and risk of flooding such as raising proposed floor levels and flood plain storage compensation. However, while the existing dwelling may have been subject to previous flooding, these factors do not alter the Flood Zone classification.
7. Planning Policy Guidance (PPG)² and the National Planning Policy Framework³ (Framework) aim to steer development to areas with the lowest probability of flooding through a sequential test. Policy SWDP 28 of the South Worcestershire Development Plan (the Plan) reflects this. The appeal scheme does not meet the definition given for minor development in PPG in this context⁴. Consequently, planning applications, such as the appeal proposal, are required to apply a sequential test to establish whether there are other reasonably available sites for the proposed development in areas with a lower probability of flooding.
8. Notes associated with Table 3: Flood risk vulnerability and flood zone 'compatibility' in PPG⁵ states that it does not show the application of the sequential test which should be applied first to guide development to Flood Zone 1, then Zone 2, and then Zone 3.
9. The FRA considered that there would be no proposed changes to the flood risk vulnerability of the land use and did not carry out a sequential test. Nonetheless, while the proposal would not relate to an additional dwelling, the appeal scheme would relocate more vulnerable development into a location with a higher probability of flooding than the existing dwelling, going from mostly within Zone 1 to mostly within Zone 2.
10. Consequently, the scheme has failed to demonstrate that there are no other sequentially preferable alternative sites for the proposed development. On the basis of the information before me, the proposal does not pass the sequential test and there is no need to consider flood risk in this regard any further.
11. Therefore, the proposal would not comply with local or national planning policy which seeks to steer new development away from areas at the highest risk of flooding. The proposal would be contrary to Policy SWDP 28 of the Plan where it seeks to minimise the impacts of and from all forms of flood risk.
12. In addition, it would fail to accord with the Framework where it states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

² Paragraph: 019 Reference ID: 7-019-20140306

³ Paragraph 158

⁴ Paragraph: 046 Reference ID: 7-046-20140306

⁵ Paragraph: 067 Reference ID: 7-067-20140306

Development Strategy

13. Being outside of any settlement boundary the appeal site is in the open countryside as defined in the Plan. Policy SWDP 18 of the Plan sets out the criteria against which such schemes should be considered.
14. There is no detailed evidence presented of the costs or exact extent of works required to make the existing dwelling suitable for the appellants needs regarding the size of the accommodation and flood prevention measures. Moreover, there is limited information as to how these costs compare to that of the proposed replacement dwelling.
15. The appellant sought pre-application advice regarding possible alterations and extensions to the existing dwelling under permitted development rights. It has been put to me that these represent fallback positions that would have a more harmful effect on the character and appearance of the area than the appeal scheme. The suggested schemes would increase the bulk and height of the existing dwelling. However, there is no certificate of lawful development for any such proposals and no guarantee that any potential scheme would be built were the appeal dismissed. Furthermore, the fallback schemes would not result in the same conflict with flooding policies.
16. They do, however, suggest that the existing dwelling could potentially be altered, extended, or refurbished to meet the appellant's accommodation needs whether under permitted development rights, or via planning permission.
17. The replacement dwelling would not be positioned on the footprint of the existing one. The appeal site is near to the North and Middle Littleton Conservation Area (CA). The significance of the CA lies, in part, in the retention of the historic form of buildings and village layout.
18. The existing dwelling is of limited architectural merit. Being set back from the road reduces its prominence and it has a neutral effect on the setting of the CA. The proposed dwelling would be closer to the road, but not significantly so. It would be of a grander appearance and still be set back further from the road than, and would be largely viewed as separate from, other properties. The proposed dwelling would preserve the setting of the CA and this is a neutral factor.
19. Although the scheme would provide a greater area of private garden space to the rear of the property, the existing space is not severely restricted. It has also not been shown that alternative measures would be ineffective in providing greater privacy or security. The proposed position would allow the existing dwelling to be retained during the construction of the new one. Notwithstanding this, there is no substantive evidence to demonstrate that the costs and practicalities of temporary or alternative accommodation would be insurmountable for the appellants.
20. Given the scale of the proposal and from the information before me, energy efficiency benefits of the new property would not be significant. Moreover, on the basis of the information before me I have not been convinced that health or other bat related issues justify the relocation of the property. The proposed dwelling, however, would be in a location with a higher probability of flooding.
21. The proposed dwelling would not be disproportionately larger than the existing one. Were the appeal to be allowed, an occupancy condition could be imposed.

Compliance with existing or future conditions are matters separate to this appeal.

22. Consequently, the proposal would not be a suitable form of development having regard to development plan policy in respect of replacement dwellings. It would be contrary to Policy SWDP 18 of the Plan where it requires proposals to demonstrate that accommodation needs cannot be met through the alteration, extension and/or refurbishment of the existing dwelling and that the proposed dwelling should be positioned on the footprint of the existing dwelling, unless there are visual, landscape or highway safety or other environmental grounds to justify an alternative location within the existing curtilage.

Biodiversity

23. The Bat Assessment and Mitigation Strategy found roosting by a small maternity roost of common pipistrelle, individual day-roosting common pipistrelle and brown long-eared bat *Plecotus auritus* at the site. Mitigation measures are proposed as well as precautionary measures for the demolition of the dwelling.
24. As the competent authority for the purposes of the Habitats Regulations it is necessary for me to assess whether there is a reasonable prospect of a licence being granted, having regard to the three derogation tests. When determining whether or not to grant a licence Natural England must be satisfied that the following tests have been met: (a) preserving public health or public safety or other imperative reasons of overriding public interest; (b) that there is no satisfactory alternative; and (c) that the action will not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range.
25. In so far as the first test is concerned, the public interest generated by the proposal can be of a social, environmental or economic interest. The proposal would lead to certain benefits for the appellants by providing them with accommodation they consider to be more suitable for their needs and allowing them to occupy the existing dwelling during construction.
26. The proposal would support the rural economy. Nevertheless, I do not have details of the existing or future farming activities or diversification schemes before me. Even if I were to agree that the site represented previously developed land the benefits of its use, and those arising from the construction of the dwelling would be limited given the scale of the proposal. The proposal would preserve the setting of the CA and is a neutral factor. Benefits relating to security and energy efficiency would be small.
27. Nonetheless, having regard to development plan and national policies, the proposal would be contrary to those in relation to flood risk and the development strategy for this type of proposal. As such, there are outstanding concerns and the proposed development would not be in the public interest. Therefore, it would fail the first test.
28. The fallback positions put forward would require works to the roof of the existing dwelling. Notwithstanding this, no compelling case has been presented to indicate that the property is incapable of providing for the appellants needs with alterations and/or extension. As such, there could be alternative solutions

that would result in the protection of the existing bat habitat. The proposed development would thus fail the second test.

29. With regards to the third test, I concur with the Council that the proposed development could be implemented in such a way as to ensure no harm would occur to the protected species.
30. Nonetheless, the appeal proposal fails to meet the other derogation tests and would have an adverse effect on biodiversity. It would therefore conflict with Policy SWDP 22 of the Plan where it states development should, wherever practicable, be designed to enhance biodiversity. The proposal would also fail to accord with the Framework where it seeks to minimise impacts on biodiversity.

Other Matters

31. The proposal is described as a self-build dwelling and there is positive support for the provision of such units in national policy. Notwithstanding this, it would replace an existing dwelling rather than create an additional one and no means have been put forward to ensure that the proposal proceeds on a self-build basis.
32. While not adjacent to other dwellings, there are properties in the vicinity of the site. Therefore, the proposal would not represent an isolated dwelling in the context of paragraph 79 of the Framework.
33. My attention has been drawn to a development at Lower Farm Lodge. While the building may have previously been a garage, the scheme referred to is for an extension to an existing dwelling, not a replacement one. That proposal would meet the definition of minor development in PPG with regard to flooding. Accordingly, it would not be subject to the sequential test and is materially different to the appeal scheme.

Conclusion

34. The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
35. Therefore, for the reasons set out, I conclude that the appeal is dismissed.

Stuart Willis

INSPECTOR