



Appeal Decision

Site Visit made on 13 July 2021

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2021

Appeal Ref: APP/J1860/W/21/3271390
Woodchester, Beach Hay, Bayton DY14 9NF

- 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 Ms Wendy Hill against the decision of Malvern Hills District Council.
 - The application Ref 20/00942/FULL, dated 7 July 2020, was refused by notice dated 22 September 2020.
 - The development proposed is 'demolition of existing workshop that has current planning permission for conversion to a single 2 bed dwelling and replacement with a 2 bed single dwelling'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The previous appeal decision on this site for the erection of a single dwelling¹, addressed the principle of a fallback position created by the prior approval for change of use of the workshop to a dwellinghouse² ('prior approval scheme'), together with the related planning permission for external alterations³, both granted during 2019.
3. I see no justification to diverge from the Inspector's view for that appeal that, in the absence of an alternative approval, it would be highly likely that the prior approval scheme and extant permission for external alterations would be implemented. Given that the footprint of the existing building appears to slightly overlap with the footprint of the current appeal scheme, I am satisfied that, were I to allow this appeal, the prior approval and this appeal scheme could not both be implemented. Accordingly, the scheme before me represents an alternative rather than additional proposal to the prior approval scheme, and a valid fallback position.
4. I have had regard to the provisions of the National Planning Policy Framework ('the Framework') published in 2021, which, insofar as they are relevant to the matters at hand in this appeal, are consistent with the previous iteration.

¹ Appeal Ref APP/J1860/W/19/3241761

² Council Ref 19/00033/GPDP

³ Council Ref 19/00461/FUL

Main Issues

5. The main issues are:

- whether the proposed development would make adequate provision for affordable housing;
- whether or not the appeal site is an appropriate location for the development proposed, with regard to access to services and facilities, along with minimising the need to travel and offering sustainable travel choices; and
- the effect of the proposal on the character and appearance of the area.

Reasons

Affordable Housing

6. In order to support appropriate provision of affordable housing in the District, criterion B. v. of Policy SWDP15 of the South Worcestershire Development Plan ('SWDP') (adopted February 2016) requires that, on sites of fewer than five units, a financial contribution towards affordable housing will be sought. I note also that paragraph 64 of the Framework enables authorities to seek affordable housing contributions in designated rural areas, such as Malvern Hills. The proposal is not supported by an associated contribution and no evidence is provided of one having been progressed in advance of this appeal.
7. Although the appellant has expressed a willingness to provide the necessary contribution, the Planning Practice Guidance ('PPG') advises that, to provide sufficient certainty, planning obligations should be finalised prior to planning permission being granted⁴. The PPG also confirms that a condition requiring a planning obligation to be entered into is appropriate only in exceptional circumstances⁵. There is no substantive evidence before me as to any exceptional circumstances here. As such, I cannot find other than that the absence of a mechanism to secure an appropriate level of affordable housing provision would unacceptably harm the provision of affordable housing in the area, contrary to Policy SWDP15.

Location of Development

8. The site is located on land identified as open countryside in the SWDP. Policy SWDP2 part C seeks to limit development in the open countryside, allowing for certain exceptions. The scheme is not advanced as one that satisfies any of these exceptions, not being accommodation for rural workers, rural employment, a rural exception site, or a building for agriculture and forestry. It is similarly not submitted as a replacement dwelling (under the terms of Policy SWDP18). Nor is the proposal submitted as a house extension, or one that would be specifically permitted by any other SWDP policy.
9. The policy as a whole seeks to ensure a sustainable pattern of development. This focusses new development on larger settlements where there is greater access to local services and employment opportunities, and consequently less reliance on travel by private car and associated emissions. Given the countryside location of the site, remote from nearby settlements and without

⁴ Planning Practice Guidance Ref 21a-010-20190723

⁵ Planning Practice Guidance Ref 21a-010-20190723

evidence of good accessibility to public transport, the scheme would not be consistent with the SWDP2 policy objectives.

10. However, whilst full details of the prior approval scheme are not before me, I am satisfied that it would amount to a similar intensity of use as this appeal scheme. As such, the sustainability effects of occupancy of the prior approval scheme would be equivalent to those associated with occupancy of the appeal scheme, and in the same area of the countryside.
11. For these reasons, I find that the appeal proposal would result in no significant effects in relation to the suitability of the location for residential development compared with the prior approval scheme. Therefore, although conflict would arise with Policy SWDP2 and with relevant elements of the Framework, the harm arising from this conflict is outweighed by the existence of the prior approval scheme. I cannot therefore conclude other than that the appeal site is an appropriate location for the development proposed.

Character and Appearance

12. The site is located in an undulating landscape characterised by fields bound by hedges and trees and interspersed with individual dwellings. The immediate vicinity is sparsely populated, with no strong pattern of development. Some houses are situated close to the road and others, such as the existing house on site, are set further back and consequently less visible from it. The existing workshop building is perpendicular to the road. Set back from the main drive behind an area of hardstanding and against the backdrop of woodland, its simple form appears functional, subservient to the existing house, and in keeping with the rural character of the area.
13. The proposed development would be positioned slightly forwards of the existing workshop, but still set back from the drive, and turned slightly towards the road. Whilst it would consequently be positioned slightly closer to the public right of way ('PROW') that runs alongside the site, a good level of separation would remain. In any event, at the time of my visit the PROW was somewhat overgrown and did not appear heavily used.
14. In addition, the proposed material treatment of the building with dark timber boarding, living green walls and sedum green roof, would assimilate well with its woodland setting. Its lower profile in comparison to the existing workshop would help to further integrate the building with its setting and minimise its visual impact on the surrounding area. Additional tree and hedge planting, the details of which I consider could be conditioned, would also assist in that regard, further screening the house from the road and softening the appearance of the site from the footpath.
15. Concluding on this matter, I find that the proposal would not harm the character and appearance of the area. It would consequently accord with Policy SWDP21 (Design) which seeks to ensure that developments integrate with their surroundings, including, amongst other matters, complementing the character of the area. Similarly, I conclude that the proposal would accord with Policy SWDP25 (Landscape Character) which, amongst other matters, seeks to ensure proposals integrate with the character of the surrounding landscape. For similar reasons it would accord with paragraph 174 of the Framework (formerly paragraph 170) which requires that decisions recognise the intrinsic character and beauty of the countryside.

Other Matters

16. The appellant submits that conversion of the existing workshop to residential use (the prior approval scheme) is included in the Council's five year housing land supply position and no evidence has been provided to the contrary. I accept that the appeal scheme, if implemented, would similarly contribute one house to the Council's housing supply in place of the prior approval scheme. However, due to the existence of the prior approval scheme, the benefit of delivering one dwelling on this site is not dependent on this appeal. In any event, the contribution to housing supply would be small and would not outweigh the harm to affordable housing provision.

Planning Balance and Conclusion

17. I have found no harm in respect of the effect of the development on the character and appearance of the area. Whilst I have found that it would not be a suitable location for development, with regard to access to services and facilities, along with minimising the need to travel and offering sustainable travel choices, I must consider this harm in the context of the prior approval scheme. Whilst full details of the prior approval scheme are not before me, I am satisfied that it would amount to a similar intensity of use as this appeal scheme. As such, the sustainability effects of occupancy of the prior approval scheme would be equivalent to those associated with occupancy of the appeal scheme, and in the same area of the countryside.
18. Notwithstanding the above, I have found that harm would result from the lack of an affordable housing contribution. The presence of the prior approval scheme does not justify allowing a proposal that clearly conflicts with Policy SWDP15 of the development plan.
19. Therefore, I find that the prior approval scheme would not result in any greater harm, in respect of the main issues I have identified, than the proposed development. Consequently, it does not weigh in favour of allowing the proposal.
20. For the above reasons, having considered the development plan as a whole, the Framework and all other relevant material considerations, I conclude that the appeal should be dismissed.

Rachel Hall

INSPECTOR