



# Appeal Decision

Site Visit made on 21 September 2021

**by Stuart Willis BA Hons MSc PGCE MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3<sup>rd</sup> November 2021**

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**Appeal Ref: APP/H1840/W/20/3263014**

**The Yard, Bishops Wood Lane, Crossway Green, DY13 9SE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs J Banks against the decision of Wychavon District Council.
  - The application Ref 20/00675/OUT, dated 2 April 2020, was refused by notice dated 24 September 2020.
  - The development proposed is construction of a live/work unit of accommodation.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Outline planning permission is sought with all matters reserved.
3. Following the refusal of the application the new National Planning Policy Framework (Framework) has been published. The parties have had the opportunity to comment on this. There have been no fundamental changes relevant to the main issue in this appeal.

## Main Issue

4. The main issue of the appeal is whether the appeal site would be a suitable location for the proposed development, with particular regard to the local development strategy and national planning policy, proximity to services and reliance on private motor vehicles.

## Reasons

5. The main part of the appeal site is a roughly rectangular area of land set back from the road and accessed along a largely narrow track. The site is mostly screened from outside views by nearby mature trees and vegetation, including nearby land that is Ancient Woodland, Site of Regional or Local Wildlife Importance and forms part of the Severn Valley North Green Infrastructure.
6. There are buildings relatively close to the site on land said to be both within and outside the appellants ownership. Nevertheless, the site is set back and separate from the scattered properties along the frontage of Bishops Wood Lane.

7. One of the principles of the development strategy for the area, as set out in Policy SWDP2 of the Plan<sup>1</sup>, is to focus most development on the urban areas, where both housing needs and accessibility to lower-cost public services are greatest. In addition, it aims to provide accessible, attractive employment sites.
8. The appeal site is outside of any settlement boundary and therefore in the open countryside. In such locations Policy SWDP2 states development will be strictly controlled and sets out the limited exceptions where new development will be permitted. This includes development specifically permitted by other SWDP policies.
9. One example of such a policy is Policy SWDP8. This relates to providing land and buildings for jobs and contains criteria relating to live/work accommodation. It does not state that such proposals must be limited to within development limits and the supporting text makes reference to home-work/live-work arrangements being dispersed throughout the rural areas.
10. The application is made in outline form. Therefore, many of the criteria contained within Policy SWDP8 would be dealt with as part of a reserved matters submission and the imposition of conditions were the appeal to be allowed, such as the scale and layout of the property. The Council are satisfied that the scheme would accord with this policy and I have reached the same conclusion.
11. Policy SWDP4 of the Plan seeks to ensure proposals demonstrate that their layout minimises demand for travel and offer genuinely sustainable travel choices. The supporting text highlights that rural residents are more reliant on the use of cars than those in the urban areas.
12. This follows the Framework where it recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, it acknowledges that the planning system should actively manage patterns of growth, give priority first to pedestrian and cycle movements and to so far as possible facilitate access to high quality public transport.
13. The nearest settlement as identified in the Plan to the site is Crossway Green. It is currently classified as a Category 3 settlement in the Plan. These villages are described as providing a range of local services and facilities and that their role is predominantly aimed at meeting locally identified housing and employment needs. While this categorisation may change as a result of the Village Services and Rural Transport Study 2019, this does not alter the current plan and carries little weight.
14. There are some facilities in Crossway Green, which is within walking distance of the appeal site. However, having reach the road from the largely unmade narrow track which is largely enclosed by the adjacent trees, pedestrians and cyclists would need to travel along Bishops Wood Lane to access services, facilities and public transport.
15. This would involve routes which are without any street lighting, pavement, natural surveillance or dedicated cycle facilities where in places the curvature of the road limits forward visibility. While not as busy as the roads beyond, at the time of my visit, which I appreciate is only a snapshot in time, there were

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<sup>1</sup> South Worcestershire Development Plan

- regular vehicle movements along this route. There is a grass verge along much of the route, although the size and slope of the verge varies and in places there is limited space to take refuge off the carriageway.
16. Beyond Bishops Wood Lane there is a better walking environment. However, having walked the route myself, future occupiers and visitors would need to first travel along a route where the circumstances would not represent an attractive walking environment and would be unlikely to encourage cycling, in particular at times of darkness or adverse weather conditions.
  17. There are bus stops in the area with a relatively frequent timetable that would provide access to services in other settlements. Nonetheless, to reach these occupiers of the proposed dwelling or visitors to the site would need to travel along these same routes. This would not make buses an attractive or probable option.
  18. While it may be technically possible to access services and facilities by foot, bus or bicycle, it would be unrealistic and unlikely due to the characteristics of the surrounding road network. Therefore, there would be a lack of sustainable transport choices available, and occupiers of and visitors to the site would be heavily reliant on the use of motor vehicles.
  19. While I note the Braintree judgement<sup>2</sup> with regard to isolated homes in the countryside, the appeal is for a live-work unit. In any event, the property would not form part of a settlement being separate from any cluster of buildings or properties as well as some distance from services and facilities in the area beyond.
  20. In contrast to a dwelling, the proposed live-work unit would result in some offsetting of the additional journeys. Working from home may allow some flexibility for occupiers to travel outside of times of darkness. Goods would not be sold from the site and it is indicated that visits would be by appointment.
  21. However, it is indicated that one of the appellants would still need to travel off site at times and visitors would still come to the site. There is limited information before me regarding the frequency of visits, deliveries and collections associated with the business linked to the proposed unit. Furthermore, the appellant comments that the existing Midlands Property Fix enterprise is not run from the site at present. While relevant policies do not prohibit this, no details have been provided of the current commute and accessibility for comparison with the proposed scheme.
  22. The unit could have up to 3 bedrooms and no mechanism has been put to me that seeks to secure the permission for the appellants only. Therefore, there would be no guarantee that all residential occupiers would work at the site. Other occupiers may generate their own traffic movements leading to greater journeys than has been suggested.
  23. These factors, and uncertainties, would limit the offsetting of commuting journeys arising from the scheme being for a live-work unit. Therefore, the proposal would be contrary to Policy SWDP4 of the Plan as it would not offer genuinely sustainable travel choices.

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<sup>2</sup> Braintree District Council v SoS, Greyread Limited & Granville Developments Ltd 15/11/2017

24. The Plan and the Framework do not indicate that one policy takes preference over another. The development plan will often include policies with conflicting or differing aims and should be read as a whole.
25. Consequently, although the proposal would accord with Policy SWDP8 of the Plan, it would be contrary to SWDP2 and SWDP4 where they, in part, seek to provide accessible employment sites, focus development where accessibility to lower-cost public services are greatest and minimise demand for travel, offering genuinely sustainable travel choices.

### **Planning Balance**

26. The scheme would accord with elements of the economic and social objectives for sustainable development. It would also accord with the Framework where it states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
27. Nevertheless, it has not been shown that the proposal results from the needs of the business and the scheme would relocate jobs rather than result in additional employment or growth. While any contribution is worthwhile, the contribution towards enhancing or maintaining the vitality of rural communities associated with the build and occupation of the scheme, would be small given the scale of the proposal. Consequently, the weight afforded to these benefits is limited. The reliance on private car weighs against the scheme with regard to the social objective in relation to being accessible to services.
28. A lack of harm to the historic or natural environment is a neutral factor. The lack of accessibility to alternative modes of transport would go against the environmental objective of the Framework in terms of using natural resources prudently, minimising pollution and moving to a low carbon economy and attracts considerable weight.
29. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
30. I have taken into account that commuting would reduce journeys in comparison to a solely residential proposal. Nevertheless, in this instance, based on the information presented and on its own individual merits, 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.

### **Other Matters**

31. My attention has been drawn to other appeal and Council decisions relating to live-work units<sup>3</sup>. I do not have full details of these cases outside of the decisions/reports.
32. The Church Road case was said to relate to an expanding business. This would have weighed in the balance when considering economic benefits of the scheme, whereas in the appeal before me this is not indicated to be the case.

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<sup>3</sup> APP/H1840/W/17/3176897, APP/H1840/W/19/3230487, 19/02191/FUL

In the Turnpike Road appeal, the Inspector found sufficient policy conflict and harm to dismiss the case without needing to specifically address accessibility as it was not raised by the Council, unlike in this instance. The Hanbury Road scheme had public transport and services considerably closer to the site than in the appeal case.

33. These proposals related to different sites, settlements and characteristics of the surrounding road network and proximity to differing services and facilities. While these decisions looked at accessibility with some being closer to settlements than the scheme before me, they are materially different to it.
34. Whether larger scale economic development would be inappropriate for the rural locality and highway network are not matters for this appeal.

**Conclusion**

35. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*Stuart Willis*

INSPECTOR