



Appeal Decision

Site visit made on 1 February 2022

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2022

Appeal Ref: APP/H1840/W/21/3284727

Land Adjacent to Corner Cottage Lower Lane, Kinsham GL20 8HT

- 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 Majid Mortezaee against the decision of Wychavon District Council.
 - The application Ref 21/00675/FUL, dated 15 March 2021, was refused by notice dated 22 June 2021.
 - The development proposed is the conversion of garage/workshop into a residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The third reason for refusal given by the Council, relating to the potential harm to bats, has now been withdrawn. I have therefore not considered this matter in my considerations below.

Main Issues

3. The main issues are: (i) whether the appeal site is a suitable location for new housing, and the effect of the proposal on (ii) flood risk, and (iii) a public right of way.

Reasons

Suitability of Location

4. The appeal site is outside of the settlement boundary for Kinsham where Policy SWDP2 (c) of the South Worcestershire Development Plan (the SWDP, February 2016) considers land to be open countryside and where residential development is restricted other than in accordance with the exceptions set out within the policy. Both main parties accept that the appeal site is outside of a settlement boundary and none of the exceptions raised in Policy SWDP2 have been raised by either party. The conversion of existing buildings is not listed as an exception and therefore, on a plain reading of the above policy, the proposal would conflict with the locational strategy and exceptions of the development plan.
5. Policy NP5 of the Bredon Neighbourhood Plan (the BNP) relates to the design of alterations and conversions, including the conversion of garages. It does not relate to the principle of development in the countryside which is still governed

by the SWDP. Therefore, whilst the proposal may comply with BNP Policy NP5, it does not mean that the principle of the conversion is acceptable.

6. Thus, in terms of the locational strategy, the appellant submits that the proposed dwelling would be close enough to Bredon for the daily needs of future occupiers to be met. However, whilst the appeal site is at a walkable distance from Bredon, and is not isolated, there are no streetlights linking the site to this settlement. It is therefore likely that the route would be difficult and unsafe for future occupiers, especially vulnerable occupiers, to walk or cycle during the hours of darkness or inclement weather. Although it has been raised that there is a bus service nearby, I have not been provided with a timetable and so cannot be certain that the routes or timings would be viable for the typical daily needs of future occupiers. This context would put pressure on occupiers to make use of private motor vehicles to reach Bredon.
7. From my observations on site and the evidence before me I understand that Kinsham does not provide any services or facilities. Although my attention has been drawn to services being provided within Bredon no details of these have been submitted. From my observations, and lacking evidence to the contrary, I find it likely that occupiers would need to regularly travel further afield, likely by a private motor vehicle, to reach services and facilities such as shops and employment. Therefore, I find that any benefits to the vitality of these rural communities would be very limited.
8. Moreover, although Paragraph 105 of the National Planning Policy Framework (the Framework) understands that the opportunity for sustainable transport will vary between urban and rural areas, I find that this matter has been taken into account in the local policy and I have been mindful of this in my consideration of the appeal.
9. The development plan has a well-founded spatial strategy and settlement hierarchy supported by clear settlement boundaries and it is not within the remit of this appeal to consider altering these. The limited benefit above would not be sufficient to outweigh the locational harm of a dwelling outside of the settlement boundary, contrary to the development plan.
10. It has been suggested that the proposed dwelling would be more affordable and as such be appropriate for first-time buyers or those downsizing and that this would support the vitality of Kinsham. However, it has not been demonstrated that this is the case, nor that there is a specific need for such housing. As such, this matter would not outweigh the harm identified above.
11. I have been mindful of the appellant's reference to a previous refusal of planning permission at the appeal site (reference W/15/03096/CU). However, the information available to me is scant and as such I do not know the full context or circumstances under which the relevant policies were considered. This example has not therefore been determinative in my consideration of this appeal.
12. Given the appeal site's location outside of a settlement boundary, and its distant relationship to services and facilities resulting in a high dependency on the private motor vehicle, I conclude that it is not within a suitable location for a new dwelling and future occupants of the development would not have reasonable access to shops and services. The proposal is contrary to the locational strategy set out within Policies SWDP2 and SWDP4 of the SWDP and

Policy NP1 of the BNP. These policies, collectively and amongst other matters, direct residential development to within settlement boundaries and require that development minimise the demand for travel, offering sustainable options. The proposal would also conflict with Paragraph 105 of the Framework with regard to both the locational strategy for development and to sustainable transport.

Flood Risk

13. The appeal site is within Flood zone 1 where the risk from flooding is at its lowest and where residential development is usually not unacceptable. As such I find that the proposal would satisfy the sequential test and that completing the exceptions test would be unnecessary.
14. Nevertheless, there has been one identified incidence of surface flooding in the past, and such a flood could have a significant impact on the health and safety of future occupiers and their belongings. The site is surrounded by a wooded area and more broadly by substantial open fields. Although I note the flooding incident raised by the Council, I find that it is more than likely that this area, in the most part, capably drains away surface water. As the proposal would not result in the covering of any further land, the drainage ability of the surrounding area would not be compromised.
15. Although the proposal may not compromise the drainage ability of the surrounding area, given the existing risk, a strategy would be needed to reduce any risks to future occupiers. However, only one incidence some years ago has been brought to my attention and so I find that the risk is relatively low. Therefore, any strategy would need to be proportionate to this level of the risk and as such could be dealt with via a suitably worded condition in the event the appeal was allowed.
16. In light of the above there would be no unacceptable harm as a result of flood risk. I find that the proposal would comply with Policies SWDP28 and SWDP29 of the SWDP which require that development minimise the risks of and impacts from all forms of flooding.

Public Right of Way

17. There are two public footpaths which cross near to the appeal site. I note that there was some disagreement between their exact location during the planning application process, but that has now been cleared. The path to the front of the site heads across the shared driveway and then between Corner Cottage and the appeal site where it meets the second footpath. This leads from the orchard to the rear of the appeal site and crosses through a number of neighbouring rear gardens.
18. The proposal would likely result in some physical and visual changes a result of residential occupation, such as boundary treatments, planting and residential paraphernalia. However, given that the paths already run near residential properties and through their gardens, the character of this area, as appreciated from the footpaths, would largely remain the same and the changes would not be unacceptable.
19. I understand that no stopping up, or diversion, of the footpaths are proposed, and my findings here do not relate to such works. Should any such changes be proposed they would need to be sought through a separate application.

20. Therefore, in light of the above I find that the proposal would not unacceptably affect the character, usability or enjoyability of the footpaths surrounding the appeal site. The proposal would therefore comply with SWDP Policy SWDP21 and Policy NP7 of the BNP which require that proposals integrate and complement their surroundings and highlight that the provision of good paths are of particular importance. It would also comply with the aims of Paragraph 98 of the Framework with regard to protecting and enhancing public rights of way.

Other Matters

21. Although I note that the appeal site is not covered by any protected designations and that the proposal would not result in the loss of any trees, these are not benefits of the scheme. As such these matters carry only neutral weighting.
22. I have found harm to result from the proposed development. As such, the appeal must fail and any requirement for a financial contribution towards affordable housing, as required under SWDP15 of the DP, would not engage. It is not therefore necessary for me to consider this matter further.

Planning Balance

23. As the policies outlined above are relevant to the proposal, and as they are up-to-date, the tilted balance set out under Paragraph 11d of the Framework would not be engaged.
24. The Government's objective is to significantly boost the supply of housing and the proposal would provide one new dwelling. The scheme would also lead to a small and time-limited economic benefit during the construction phase, as well as potentially some very limited economic and social benefits resulting from future occupiers. However, given the small scale of the proposal, these benefits collectively attract modest weight. Whilst no harm would occur as a result of flood risk or to the public rights of way, these are not benefits of the scheme and as such I afford them neutral weight.
25. Conversely, the location of the proposal outside of a settlement boundary would undermine the Council's plan-led approach to the delivery of housing and for sustainable transport. This matter attracts significant weight and outweighs the benefits associated with the proposed development.
26. The proposal would conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

27. Therefore, for the reasons outlined above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR