



Appeal Decision

Site visit made on 10 May 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2022

Appeal Ref: APP/H1840/W/21/3279884

Court Farm, Hindlip Lane, Hindlip WR3 8SS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Tucker against Wychavon District Council.
 - The application Ref 21/00997/FUL, is dated 14 April 2021.
 - The development proposed is change the use of the existing detached redundant outbuilding to 1 No. holiday let (unit 1) and 2 No. dwellings (units 2 and 3).
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Decision

1. The appeal is dismissed and planning permission is refused for the change of use of the existing detached redundant outbuilding to 1 No. holiday let (unit 1) and 2 No. dwellings (units 2 and 3).

Procedural Matters

2. The Council failed to determine the application within the prescribed period. However, following submission of the appeal, the Council have prepared an appeal statement. This advises that had the Council determined the application, planning permission would have been refused. Putative reasons for refusal are given and identify that the principal concerns relate to the main issues set out below.
3. The appellant has submitted a signed Unilateral Undertaking (UU) agreeing to a financial contribution towards affordable housing in the district. I have addressed this in my reasoning below.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - Whether the proposed development would be an appropriate location for visitor accommodation and housing having regard to the development plan and relevant national planning policies;
 - Whether the affordable housing contribution is required to make the proposal acceptable in planning terms; and

- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development and the effect upon openness

5. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings is regarded as inappropriate in the Green Belt save for a number of specified exceptions.
6. One such exception is the re-use of buildings provided that the buildings are of permanent and substantial construction, and they preserve the Green Belt's openness and do not conflict with the purposes of including land within it. Another being the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development. I have considered the scheme against both exceptions.
7. The Framework states that one of the essential characteristics of the Green Belt is its openness. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm. Openness has both spatial and visual aspects.
8. Criterion E of Policy SWDP 2 of the South Worcestershire Development Plan (2016) (SWDP) relates to development in the Green Belt and states that development proposals will be assessed in accordance with national guidance.
9. I acknowledge that the appeal building could be occupied for domestic purposes, but this would be associated with Court Farm. In this regard the associated paraphernalia is likely to be limited commensurate with its occupation as a single-family dwelling.
10. The proposed development, in contrast, would be divided into three separate properties including the subdivision of the open area to the side and rear of the building creating separate amenity spaces and a parking area. This would result in an intensification of the site.
11. In my view, this intensification, boundary treatments and domestic paraphernalia associated with three individual properties, including outdoor seating and bins combined with parked vehicles would not be di-minimis but would reduce openness spatially and visually, irrespective of conditions preventing extensions or alterations. This would have a greater impact upon openness compared to the current situation.
12. The proposed development including its associated infrastructure and domestic paraphernalia would have a substantial impact on openness in both visual and spatial terms contrary to the aims and objectives of the Framework.
13. Consequently, the proposal constitutes inappropriate development as set out in Paragraph 147 of the Framework and SWDP Policy 2E.

Visitor accommodation

14. In respect of visitor accommodation SWDP Policy 35 sets out the criteria against which such schemes are to be assessed. Criterion B.v. sets out that visitor accommodation will be permitted where it re-uses a redundant rural building of permanent and substantial construction. At my site visit I observed that externally the appeal building is complete and appears to be structurally sound.
15. There is no definition of redundant in the SWDP or the Framework. The Inspector in respect of the previous appeal relating to visitor accommodation on the same site and against the same development plan policies as those before me (Ref: APP/H1840/W/21/3268591) found that whilst the building is no longer needed by the current occupier this does not mean that it would be the case for future ones. As such, it is not redundant.
16. Consistent with the previous Inspectors findings and based on the evidence before me I am not persuaded that I should come to a materially different view from that of the previous Inspector in respect of this matter.
17. As such, it remains that the building is not redundant and the proposal continues to be in conflict with SWDP Policies 2 and 35 which, amongst other things, seek to locate visitor accommodation to appropriate locations.

Location of housing

18. Policy SWDP 2 outlines the development strategy for new development in the area. Part C sets out that land outside the defined development boundary will be considered open countryside and development in such areas will be strictly controlled and limited to a number of developments which does not include new open market housing.
19. The site is located within open countryside. The surrounding roads are devoid of footpaths and street lighting and there are no cycle routes linking the site. Walking and cycling to and from the site to local services would be extremely difficult and would be especially difficult for the young, the elderly and those with mobility issues. This would be particularly so during the hours of darkness and inclement weather. In these circumstances the use of a private motor vehicle is the only practical means for residents to access the services they require. This combination of factors demonstrates that the appeal site is not in a location where a new dwelling would be considered acceptable.
20. Consequently, I conclude that the appeal site is not a suitable location for permanent dwellings due to the lack of access to services and facilities and would conflict with the housing strategy for the area. The proposal would, therefore, be contrary to SWDP Policies 1, 2 and 4 which, amongst other things, seek to control development in open countryside and for developments to offer genuinely sustainable travel choices.

Affordable housing contribution

21. In order to support the appropriate provision of affordable housing in the district criterion B.v. of SWDP Policy 15 states that a financial contribution towards local affordable housing should be made on sites of 5 dwellings or fewer. Paragraph 64 of the Framework permits local planning authorities to seek affordable housing on smaller sites in designated rural areas.

22. The Council contend that the site is located within a designated rural area, and I have not been provided with any evidence to suggest otherwise.
23. I note the appellant's comments in respect of the requirement for such a contribution. However, he has provided a signed and dated UU as the mechanism by which to deliver a contribution towards affordable housing in the district in accordance with SWDP Policy 15.
24. I am satisfied that the contributions would satisfy the tests for planning obligations set out in Regulation 122 of the Community Infrastructure Levy Regulations (2010). As such, I find that the submitted UU would overcome the Council's fourth putative reason for refusal.

Other Matters

25. The appellant contends that the appeal building will remain unused for the foreseeable future. Whilst this may be the case, this factor is not justification for a scheme that I have found to be harmful.
26. I note the appellant's comments regarding wishing to house displaced Ukrainian refugees. I have given this matter careful consideration and acknowledge that his intentions can only be commended. However, I find that this factor is not sufficient to outweigh the harm that I have identified.

Planning Balance

27. There is dispute between the parties as to whether or not the Council can demonstrate a deliverable five year supply of housing land. The appellant has drawn my attention to two appeals¹ whereby Inspectors have determined that the Council cannot demonstrate a deliverable five year supply of housing land. However, the Council maintain that the South Worcestershire Councils can demonstrate a supply of 5.76 years.
28. With specific regard to this appeal, if I were to agree that the Council is unable to demonstrate a deliverable five year supply of housing land Paragraph 11 d) sets out that the most important development plan policies for determining the application are out-of-date, unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed.
29. Footnote 7 states that the Green Belt is one such protected area and as set out above there is a clear reason for refusing the development in respect of Green Belt impact. Therefore paragraph 11 d) and the presumption in favour of sustainable development is not engaged.
30. Whilst the SWDP is more than 5 years old the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of it. Due weight should be given to them, according to their degree of consistency with it. In my view the relevant SWDP Policies are broadly consistent with the sustainable development principles and objectives set out in the Framework. Therefore, the most relevant policies for determining the application are not out of date.
31. I acknowledge that the construction of two market dwellings would make a small contribution towards the district's housing supply and the provision of

¹ Appeal Ref: APP/J1860/W/21/3267054 and APP/J1860/W/19/3242098

visitor accommodation would contribute to the local economy through increased visitor spend and use of local businesses. The proposal would also make a financial contribution towards affordable housing in the area. These are all factors in the schemes favour.

32. Based on the evidence before me there are no technical objections to the development proposed. However, these are largely matters of neutral consequence in the planning balance.

Conclusion

33. The proposal would be inappropriate development in the Green Belt. It would also result in the loss of openness. I attach substantial weight to this harm, as required by paragraph 147 of the Framework.
34. The other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
35. I conclude that the proposal conflicts with the development plan, when read as a whole. There are no other considerations that outweigh that harm. The appeal is therefore dismissed.
36. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR