



Appeal Decision

Site visit made on 14 June 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2022

Appeal Ref: APP/H1840/W/21/3283391

**Holberrow Golf, Alcester Road To Mile Post Lane, Holberrow Green
B96 6SF**

- 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 Tracey against the decision of Wychavon District Council.
 - The application Ref 19/02182/FUL, dated 28 September 2019, was refused by notice dated 27 July 2021.
 - The development proposed is conversion of existing former golf driving range clubhouse into a single dwelling, erection of single storey side extensions, demolition of driving range bays and removal of car park hardstanding.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of existing former golf driving range clubhouse into a single dwelling, erection of single storey side extensions, demolition of driving range bays and removal of car park hardstanding at Holberrow Golf, Alcester Road To Mile Post Lane, Holberrow Green B96 6SF in accordance with the application, Ref 19/02182/FUL dated 28 September 2019, subject to the conditions in the schedule to this decision.

Procedural Matter

2. The appellant has submitted a signed Unilateral Undertaking (UU) stating that the proposed development would be a self-build dwelling and agreeing to a financial contribution towards affordable housing in the district. I have addressed these matters in my reasoning below.

Main Issues

3. The main issues are:
 - Whether the proposed development would be consistent with local and national policies relating to the location of new housing development;
 - The effect upon employment land; and
 - Whether the affordable housing contribution is required to make the proposal acceptable in planning terms.

Reasons

Appropriate location

4. Policy SWDP2 of the South Worcestershire Development Plan (2016) (SWDP) sets out the development strategy and settlement hierarchy for the district. Part C of the policy states that permission for development in the countryside, beyond any development boundary will only be granted in certain circumstances. The policy does not support the provision of market housing in countryside locations.
5. The appeal site is a former golf driving range comprising a main club house, bay wings and associated land. However, as the development would be located within open countryside and beyond a settlement boundary it would not be an appropriate location for new housing. As such, it would be in conflict with SWDP Policy 2.
6. The village of Inkberrow is located to the southwest of the appeal site. The village has a number of services and facilities to meet residents day to day needs. Whilst connected by a footpath, residents are unlikely to use this route on a regular basis due to the overall distance and it being narrow in places and unlit. As such for higher order goods residents would have to travel to settlements such as Worcester and Evesham and most likely would use a private vehicle for these trips.
7. Given the distance between the site and nearby villages with more services and facilities future occupiers would be more reliant on private vehicles to access services and facilities to meet their day-to-day needs. However, it is acknowledged in the National Planning Policy Framework (the Framework) in paragraph 105 that transport solutions will vary between urban and rural areas. Notwithstanding the above, I find that the location of the development and accessibility to services and facilities in Inkberrow and nearby towns and villages would not be unacceptable. Future occupiers would not be solely reliant on private motor vehicles as there are some services and facilities nearby accessible by foot.
8. Consequently, the proposed development would accord with SWDP Policy 4 which, amongst other things, requires proposals to offer genuinely sustainable travel choices.

Effect upon employment land

9. Policy SWDP12 B seeks to help rural regeneration through safeguarding employment uses in the district including recreation-related uses. The policy sets out that proposals to any non-employment-generating purpose will need to demonstrate that the site has been actively marketed for employment, tourism, leisure or recreation purposes for a period for at least 12 months and that it is no longer viable for such uses. The details of what is required from the marketing exercise is set out in Annex F.
10. I note the Council's comments in respect of the appellant's marketing evidence including that marketing has not taken place for 12 months immediately prior to submission of the application. However, the viability report sets out that a number of previous operators have failed to successfully run the site as a golf driving range and has laid vacant for 6 years. The report advises that marketing has taken place on and off for more than 5 years.

11. I concur that the dilapidated condition of the site and the level of capital investment required to bring it back into use would make it an unattractive proposition for a number of enterprises. Furthermore, the failure of several operators to successfully run a golf business indicates there is unlikely to be a demand for such a use in the area. This leads me to believe that there is limited prospect of the premises being occupied by another similar operator in the near future.
12. The site has been vacant for a significant length of time and marketing has taken place during this period, albeit on an ad hoc basis. I give credence to the argument that due to its rural location the site is unattractive for commercial and office occupiers. These factors alongside the limited prospect of a recreation use starting up again lead me to reach the conclusion that there is no demand for an employment generating use at the site.
13. Whilst I cannot determine whether the site was marketed for a range of employment uses or whether the rent or sales figures sought reflected market conditions the policy adopts a flexible approach in respect of marketing requirements. It is for the decision taker to come to a view based on market conditions and individual characteristics of the site.
14. Whilst the site has not been fully marketed in accordance with Appendix F, based on the evidence before me and without any compelling evidence to the contrary I find that the proposed development would not undermine the provision of employment generating land. As such, it would accord with SWDP Policies 2C and 12 B, which amongst other things, support the loss of employment sites in rural areas where it is demonstrated they are no longer viable.

Affordable housing contribution

15. 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.
16. The appellant 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 the Policy.
17. I am satisfied that the contribution 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 overcomes the Council's concerns in relation to this matter in accordance with SWDP Policies 1, 7 and 15 which, amongst other things, seek appropriate infrastructure to support new development and a contribution towards affordable housing.

Planning Balance

18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
19. The Council contend that they can demonstrate a 5.76 year deliverable supply of housing land. However, the appellant has drawn my attention to a number of

appeals¹ whereby Inspectors have questioned the Council's aggregated approach towards calculating their housing land figure across the SWDP geographical area and have determined that the Council cannot demonstrate a deliverable supply. I attach significant weight to these decisions which lead me to disagree with the Council's housing land supply position.

20. In terms of self-build and custom housebuilding the Council's position is that they are meeting their duties in respect of the Self Build and Custom Housebuilding Act 2015. They point to the Wychavon District Self-Build and Custom Housebuilding Register Progress Report (November 2021) as part of their evidence. The appellant takes a different view, making reference to a greater demand for plots than the Council acknowledges and uncertainty as to whether or not permissions on which the Council relies can be counted towards their supply.
21. Notwithstanding the above there are no relevant development plan policies relating to self-build and custom-building housing in the SWDP.
22. In such instances paragraph 11(d) of the Framework and the 'tilted balance' is engaged. In so far as this appeal is concerned the Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. The proposed development would make a contribution towards the district's housing supply. The completed UU would secure the proposal as a self build unit. As such, it would accord with Paragraph 62 of the Framework by providing housing for different groups in the community. It would also lead to social and economic benefits with the financial contribution towards affordable housing and jobs during the construction phase.
24. Although outside the settlement boundary, it is in a location that is within a reasonable distance of a range of day-to-day services. Future occupants would be able to reach these on foot, providing them with transport choice and not an over-reliance on a car. There would be some positive contribution to the vitality of Holberrow Green and Inkberrow as rural communities, thus in this regard it would accord with Paragraph 79 of the Framework.
25. The proposal would make best use of previously developed land by reusing a disused building and enhancement of the immediate setting through the removal of buildings in disrepair and new landscaping in accordance with paragraph 80 c) of the Framework. It would be well contained limited to areas largely occupied by existing structures and would not encroach into the surrounding countryside. As such, I find that the proposed development would protect the surrounding landscape in accordance with Paragraph 174 a) of the Framework.
26. Overall, these benefits would significantly and demonstrably outweigh the minor harm that I have identified in relation to its location within the countryside when assessed against the policies in the Framework when taken

¹ Appeal Ref: APP/J1860/W/21/3267054, APP/J1860/W/19/3242098, APP/H1840/W/21/3289569 and APP/J1860/W/21/3289643

as a whole. Therefore, the proposal benefits from the presumption in favour of sustainable development.

27. In this case the presumption in favour of sustainable development is a material consideration which outweighs the conflict with the development plan. A decision should thus be taken otherwise than in accordance with the development plan.

Conditions

28. I have considered these in relation to the contents of the Framework and the Planning Practice Guidance (PPG). In the interests of precision, clarity and brevity I have undertaken some rationalisation of the conditions suggested by the Council.
29. In addition to the standard time three-year limit condition for implementation; it is necessary to specify the approved plans in the interests of certainty. Conditions relating to the external materials, landscaping and external lighting have been imposed to ensure the satisfactory appearance of the development.
30. Conditions for surface water and foul water drainage measures; a requirement for at least 10% of the energy supply of the development to be from renewable or low carbon energy sources and details of electric vehicle charging points have been imposed in the interests of achieving sustainable development.
31. A condition relating to the access, parking and turning areas is relevant in the interests of highway safety.
32. In order to protect retained trees on site a condition for tree protection measures during the construction works has been imposed.
33. A condition for contamination identification and remediation of any potential contamination within the site is necessary in the interests of the health and safety of future occupants.
34. A condition for the development to be carried out in accordance with the submitted Ecological Appraisal has been imposed in the interests of biodiversity. Whilst the Council has requested details for a scheme to be approved and once implemented signed off by a suitably qualified ecologist given the relatively low ecological value of the site I do not consider such is measure necessary.
35. The Council has suggested a condition restricting construction hours. However, given the separation between the site and nearby properties and the small scale of the development such a condition is not necessary. The Council has also suggested a condition for the structures that will not be retained to be removed from site. However, there is no indication that they would remain on site therefore there is no justification for the condition.
36. The Council has suggested removing permitted development rights for the enlargement, improvement or other alterations of a dwellinghouse and buildings or enclosures incidental to the enjoyment of it. The PPG advises that planning conditions to restrict permitted development rights may not pass the test of reasonableness or necessity. Taking into account the provisions of the PPG and without substantive justification from the Council I have not imposed such a condition.

37. As part of the condition the council have set out that the property cannot be subdivided or the height increased to form separate living accommodation. The proposed development must be carried out in accordance with the approved plans and thus, it is not necessary to impose the condition.

Conclusion

38. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location & Block Plan Drawing Number 3442_001; Existing Site Plan, Floor Plan & Elevations Drawing Number 3442_002; Existing Plan Drawing Number 3442_003; Proposed Plan and Elevations Drawing Number 3442_004 Rev D and Proposed Roof Plan Drawing Number 3442_005 Rev C.
- 3) No development shall commence until an assessment of the risks posed by landfill or ground gas vapours, shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority.
- 4) No development shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) The development shall not be occupied until foul and surface water drainage works have been carried out in accordance with details which shall have been submitted to and approved in writing by the local planning authority.
- 6) The development shall not be occupied until space has been laid out within the site in accordance with Drawing Number 3442_005 Rev C for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 7) The development shall not be occupied until the proposed dwelling has been fitted with an electric vehicle charging point. The electric vehicle charging point shall be retained for the lifetime of the development.
- 8) The development shall not be occupied until a scheme of landscaping shall have been submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 9) The development shall not be occupied until details of renewable and/or low carbon energy generation measures shall be submitted to and approved in writing by the local planning authority. The measures shall contribute to at least 10% of the predicted energy requirements of the development.
- 10) All trees and hedges shown to be retained shall be protected by fencing in accordance with British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) for the duration of the construction work. No fires shall be lit within 10 metres of the nearest point of the canopy of any retained tree. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 11) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the building is occupied. Development shall be carried out in accordance with the approved details.
- 12) The development shall be carried out in accordance with the conclusions and recommendations set out in the submitted Ecological Appraisal.