



Appeal Decision

Site visit made on 24 May 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th July 2022

Appeal Ref: APP/H1840/W/21/3278794

The Smallholding, Haye Lane, Ombersley WR9 0EJ

- 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 Morgan against the decision of Wychavon District Council.
 - The application Ref 21/00819/OUT, dated 29 March 2021, was refused by notice dated 16 June 2021.
 - The development proposed is removal of mobile home and construction of detached bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for removal of mobile home and construction of detached bungalow at The Smallholding, Haye Lane, Ombersley WR9 0EJ in accordance with the application 21/00819/OUT, dated 29 March 2021, subject to the conditions set out in the schedule to this decision.

Procedural Matters

2. The application is in outline with all matters reserved for future consideration. I have determined the appeal on this basis.
3. An illustrative layout accompanies the application and I have paid regard to this layout in so far as assessing the principle of development in land use terms.
4. The Ombersley and Doverdale Neighbourhood Plan (2021) (NP) has been 'made' following determination of the application. I have paid regard to this as part of my decision.
5. I note that there is an enforcement investigation relating to the appeal site. However, this is not a matter which is before me as part of this appeal, and it has not influenced my decision.

Main Issues

6. The main issues are:
 - Whether the appeal site is an appropriate location for new housing having regard to the development plan and relevant national planning policies;
 - The effect of the proposed development upon the character and appearance of the area; and

- Whether the proposed development would make adequate provision for affordable housing.

Reasons

Appropriate location

7. Policy SWDP 2 of the South Worcestershire Development Plan (2016) (SWDP) outlines the development strategy for new development in the district. Part C sets out that development in rural areas will be strictly controlled to developments specifically permitted by SWDP policies. This does not include new open market housing.
8. The appeal site is located along Haye Lane and is currently occupied by a mobile home and ancillary domestic structures including sheds and glasshouses. The site is outside of any defined settlement boundary and the area has a predominantly rural character. Haye Lane is a country lane and there are no footways or streetlighting present.
9. New development outside of existing settlement boundaries will be considered to be located in the countryside and the scheme has not been presented on the need for a countryside location. The appeal site is located within open countryside and therefore would be contrary to Part C of Policy SWDP 2.
10. The site is not well connected to the nearest village of Ombersley. The surrounding roads are devoid of footpaths and street lighting. Walking 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 future occupiers would be overwhelmingly reliant on private vehicles to access services and facilities to meet their day-to-day needs. There are no realistic alternative modes of transport.
11. As such, it would be contrary to SWDP Policies 2 and 4 which, amongst other things, seek to control development in open countryside and development to offer genuinely sustainable travel choices.

Character and appearance

12. The site has a domestic appearance including areas of lawn, hardstanding and ancillary structures. The site is bounded by mature hedging largely screening it from the highway and is surrounded by agricultural land.
13. I acknowledge that the personal circumstances behind the residential use on site no longer exist. However, the site has accommodated a mobile home and ancillary structures for a considerable period. With its driveway, managed grounds and ancillary structures the site has a domestic appearance.
14. There is no evidence to suggest it forms a valued landscape and in my view it does not make an important contribution to the wider landscape given its long standing domestic use and appearance.
15. There would be a degree of urbanisation as a result of the development but it would be contained to a small area of the site. Furthermore, there is no reason to suggest that an appropriate scale, design and layout could not be secured at reserved matters stage that respects the surrounding context.

16. As such, the effect of the development is unlikely to result in further domestication of the site above the existing situation that would result in any adverse effects on the character and appearance of the area.
17. Whilst the mobile home was originally associated with a market garden and polytunnels and greenhouses, it is apparent this ceased in 1988. A return to agricultural land is unlikely given the time since it was used as a market garden. In these particular circumstances the harm from the creation of a new dwelling compared to the existing situation to the character and appearance of the area would be very limited.
18. Accordingly, the proposed development would not unduly affect the character and appearance of the area. It would accord with SWDP Policies 2 and 21 which, amongst other things, seek to safeguard and, wherever possible, enhance the open countryside and development proposals to complement the character of the area.

Affordable housing contribution

19. 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 National Planning Policy Framework (the Framework) permits local planning authorities to seek affordable housing on smaller sites in designated rural areas.
20. 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.
21. 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.

Conditions

22. The Council has suggested 8 conditions in the event that the appeal was to be allowed. I have considered these in light of the Framework and the Planning Practice Guidance (PPG). In the interests of precision, clarity and brevity I have reworded some of the suggested conditions.
23. Conditions relating to the submission of reserved matters and the time limits associated with this have been imposed. I have imposed a condition specifying the relevant drawing as this provides certainty.
24. In the interests of sustainability conditions for requiring at least 10% of the energy supply of the development to be from renewable or low carbon energy sources and for the development to be carried out in accordance with the submitted Water Management Statement have been imposed.
25. The Council has suggested conditions for details of landscaping and boundary treatments. However, these details would form part of the reserved matters. Furthermore, the informative nature of these conditions indicate they are not necessary. Thus it is not necessary to impose separate conditions.

26. The Council has suggested a condition for a bat roosting feature and bird nesting box. However, no clear justification has been provided for the condition. As such the condition is not necessary and I have not imposed it.

Planning Balance

27. 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.
28. The proposed development conflicts with Policies SWDP 2 and SWDP 4 for the reasons set out above. These are important policies that form the area's spatial strategy and for ensuring developments offer sustainable travel options.
29. The appellant indicates that permission was granted in 1986, at appeal, for the siting of a mobile home. Permissions for the continued siting of the mobile home was granted in 1989, 1994 and 1999. The last permission in 1999 was granted on the basis that it was to be occupied by the appellant's mother with a condition stating that it is to be removed when she no longer resided in the mobile home.
30. In light of the appellant's personal circumstances a residential use was permitted in a location where such development would not normally have been granted. However, the fact remains that the mobile home has been on site for a significant period and a residential use has existed for approximately 36 years. The proposed development would be limited to a small area of the site, well contained 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(b) of the Framework.
31. Although it would be limited there would be some positive contribution to the vitality of Ombersley as a rural community, thus in this regard it would accord with Paragraph 79 of the Framework.
32. It is acknowledged in the Framework in paragraph 105 that transport solutions vary between urban and rural areas. As such there will be a tension and a balance to be struck between the desirability of supporting sustainable rural development and maximising sustainable transport opportunities.
33. Whilst not in a location that would normally be appropriate for new housing the potential effects of the development, the amount of vehicle movements to and from the site would be very similar if it were a mobile home or a permanent dwelling. Moreover, these movements are established and have been taking place for the last 36 years.
34. Whilst there would be conflict with the SWDP in respect of the locational and sustainable travel requirements set out in Policies SWDP 2 and 4, I find that the economic and social benefits of the proposal would overcome the perceived locational disadvantages of the appeal site. As such, in my judgement, the proposed development would accord with SWDP Policy 1 which seeks, amongst other things, to secure development that improves economic, social and environmental conditions in South Worcestershire.
35. The development would also accord with the Framework which aims to achieve sustainable development and housing in rural areas where it will enhance or maintain the vitality of rural communities.

Conclusion

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

B Thandi

INSPECTOR

Schedule of conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Location Plan Drawing Number 01; but only in respect of those matters not reserved for later approval.
- 5) 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.
- 6) Prior to the first occupation of the development, the details set out in the submitted Water Management Statement shall be fully implemented and shall be retained thereafter for the lifetime of the development.