



Appeal Decision

Site visit made on 6 June 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th July 2023

Appeal Ref: APP/P1805/W/22/3312531

Curr Lane Farm, Curr Lane, Upper Bentley, Worcestershire B97 5ST

- 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 Mitchell Ferris of Curr Lane Ltd against the decision of Bromsgrove District Council.
 - The application Ref 22/00758/FUL, dated 30 May 2022, was refused by notice dated 26 September 2022.
 - The development proposed was originally described as "Redevelopment and change of use to a large portion of an existing mixed use commercial site known as Curr Lane Farm, involving the demolition of existing storage buildings, and the erection of 7 new homes, set out around two new courtyards, accessed from a new roadway ingress off Curr Lane. Two of the existing storage barns will remain to the northern end of the site."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site is in the Green Belt. There is no dispute between the parties that the proposal would involve the redevelopment of previously developed land and fall within the exception set out in paragraph 149 g) of the National Planning Policy Framework (the 'Framework') for "*...the partial or complete redevelopment of previously developed land, whether redundant or in continuing use...which would not have a greater impact on openness of the Green Belt than the existing development.*" The Council deem that the proposal would not be inappropriate development in the Green Belt and would comply with Green Belt Policy BDP4 of the Bromsgrove District Plan (the District Plan). I have no reason to take a different view. As the proposal would not amount to inappropriate development in the Green Belt there is no need for me to consider whether very special circumstances exist.

Background and Main Issue

3. Following an enforcement appeal inquiry¹ (the 'enforcement scheme') the existing buildings have consent for mixed-use commercial. A planning application² was later refused (the 'previous scheme') for redevelopment of the commercial buildings for 7 detached dwellings. The appeal before me is a re-submission of that scheme, but with an overall floor area has been reduced by

¹ APP/P1805/C/16/3160015 dated 28 April 2017

² Local Planning Authority ref: 20/01568/FUL refused 10 March 2022

omitting garages such the Council confirm there is no longer a requirement to provide affordable housing.

4. In light of the reason for refusal and the matters relating to Green Belt, the main issue is whether the appeal site would be a suitable location for housing with regard to local and national policies.

Reasons

5. District Plan Policy BDP2 seeks to promote sustainable patterns of development, sustainable communities and reduce the need to travel by focussing new development in locations based on the services and facilities that are available in each settlement. The Council's settlement hierarchy, shown in Table 2 of the policy, sees development primarily focused on Bromsgrove as the main town, then in the large and small settlements.
6. District Plan Policy BDP16 recognises that the private car remains the dominant mode of travel in a largely rural district and acknowledges the associated impact this can cause to air quality, noise and carbon emissions. As the location of development can influence how residents choose to travel, the Council seeks to promote sustainable development and encourage, where possible, alternatives to the car. Hence, new development should take the opportunity to enhance walking and cycling wherever possible.
7. Policy BDP1 is a broad-brush policy that promotes the principles of sustainable development, and that consideration will be had, amongst other things, to accessibility to public transport.
8. These policies are broadly consistent with the Framework, which states that to promote sustainable development in the rural areas housing should be located where it will enhance or maintain the vitality of rural communities; seek opportunities to promote walking, cycling and public transport; limit the need to travel, and offer a genuine choice of transport modes. The Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and should be taken into account in decision-making.
9. The appeal site is located along a country lane approximately 1.5kms from the built-up edge of Webheath, which is a largely residential suburb on the eastern edge of Redditch. The site is not located within any of the settlements listed in District Plan Policy BDP2. Being surrounded by fields the site was clearly in the countryside.
10. There is no objection on technical highway grounds. However, the Highway Authority and Council share concerns about sustainability principles and the site's location with regard access to essential services. The Highway Authority has no highway safety concerns about the relocation of the site access to a straighter section of Curr Lane closer to Twin Oaks, away from the bend.
11. The nearest bus stop is about 2kms (1.3 miles) away on Birchfield Road in Webheath. I have not been provided with distances to the nearest shops and I saw none nearby in Webheath, but the Council has stated that there are no amenities/services within acceptable walking distances of the site. I am advised that the nearest GP surgery is in Hillview some 4kms away and schools are over 3 miles (4.8 kms) away. However, distance and proximity to services and

facilities is not the only factor to consider - the nature and type of route to them will have an effect on their suitability and likelihood of them being used.

12. Curr Lane is a classified, narrow road. I saw that it had no pavements, verge or streetlights. It also rises uphill as it ascends through the trees to the edge of Webheath at the roundabout with Curr Lane and Foxlydiate Lane. The Highway Authority refers to Curr Lane being fast-flowing, but this is disputed by the appellant. Local residents refer to high traffic speeds and I witnessed a number of vehicles driving at speed during my visit. Nonetheless, from what I saw the length and nature of Curr Lane is not conducive to encourage walking or cycling, even with the use of electric bikes, to the bus stop or to access day-to-day services and facilities, especially in the dark or inclement weather.
13. From the evidence submitted the route of National Cycle Route 5 (NCR5) appears to have changed and no longer follows Curr Lane. Instead, it is about 2kms from the site towards Upper Bentley. Therefore, from the appeal site users would have to travel further along other lanes to avoid Curr Lane. With the distances involved, and paucity of nearby services and facilities in any event, the presence of NCR5 is not likely to have a significant effect on persuading future occupants to cycle to access day-to-day facilities, even if an electric bike made it easier for some.
14. Consequently, the site's location would make future occupants unduly reliant on the use of the car to access day-to-day services and facilities, even if the cars were electric and some trips were linked. Those without access to a car, and indeed those unable to ride a bike or with mobility issues, would not have a choice of other transport modes and hence would be unable to access services and facilities.
15. In the enforcement appeal, reference to NCR5 offering suitable cycling access was made in relation to the use of the site for business and employment. An employment site is inherently different to a residential site and the nature and duration of journeys undertaken to get to and from places of work is generally accepted as being longer than the more frequent comings and goings of a family making trips to the shops, schools, doctors, work and such like. Indeed, the Framework acknowledges that in rural areas businesses may need to be located beyond existing settlements and in locations not well served by public transport.
16. The appellant advises that the access to services and facilities will improve with the future cross-boundary mixed-use urban extension site at Foxlydiate, which will be in very close proximity to the appeal site. A hybrid application has been granted for outline planning permission for the erection of up to 2,600 dwellings, a local centre with retail floor space, community facilities and a first school. There is also an associated permission for access off Birchfield Road, Curr Lane, Foxlydiate Lane and emergency, pedestrian and cycle access to Pumphouse Lane with various associated earthworks, drainage, utilities, landscaping and lighting. I am not aware a Reserved Matters application has been submitted, nor have I been advised of the likely timescales for the build-out of the site. Nonetheless, the urban-extension does not currently exist and therefore does not currently offer any benefits. Furthermore, a development of that scale would likely be built-out in phases and take a number of years to complete and for all the services/facilities to be provided. Consequently, future

occupiers of the appeal proposal would not benefit from the proposed local services and facilities for some time.

17. The appellant draws my attention to a Council decision³ over 5 years ago to allow 5 dwellings as a replacement for business buildings on land nearby at The Retreat on Curr Lane. From the submitted evidence, the Council's decision was based mainly on the use of paragraph 55 of the then 2012 Framework⁴ relating to isolated dwellings in the countryside, with reference also made to the enforcement appeal. To overcome the Council's then sustainability concerns it accepted the applicant's package of measures that included maps/details of the locations of footpaths and nearest bus stops, vouchers for bicycles and supermarket shopping deliveries. I have no information regarding how these were monitored and whether the measures were successful in reducing reliance on the car. The parties do not regard the appeal site to be isolated in Framework terms, so it cannot be directly compared to development at The Retreat.
18. The appellant is offering a package of measures as well that would include the provision of 2 electric bikes for each dwelling complete with a 3-year service agreement. He would also provide a similar welcome pack of maps/guides of nearby cycle and footpath routes. The Council has not accepted the measures or suggested additional measures that might make it more acceptable. Whilst the appellant's measures are laudable, in my view they would be unlikely to present realistic opportunities to promote sustainable modes of travel to access day-to-day facilities and services, although I acknowledge they could help promote walking, running and cycling for leisure and recreation with their associated health and well-being benefits.
19. The proposal may well see a change in vehicle movements and type of traffic using Curr Lane, when compared to the traffic movements associated with the rural businesses that currently occupy and operate from the site. There would be a reduction in the volume of commercial traffic, and there may also be some reduction in overall traffic movements. Whilst this may bring some environmental benefits, it does not make the site any more accessible to essential day-to-day local services and facilities or the site any more suitable for housing.
20. It may also be the case that some future occupants choose to work from home for some or part of their working week, and suitably fast and reliable broadband connections may influence this. This could help reduce commuting and car journeys and can even assist in establishing rural sustainability. However, this cannot be controlled, and the proposal is not promoted as live/work units. Supermarket home deliveries are not uncommon and can play a role in reducing car usage.
21. Nonetheless, the proposed dwellings would be 3, 4 and 5 bedroom properties that would likely be attractive to families with children who would need to go to school. Hence there would still be a need for future occupants to access day-to-day services and facilities, such as schools, doctors, dentists, shops, leisure and sports, even if some of these trips were linked. The location of the site and lack of public transport restricts the choice of transport modes available to

³ Local Planning Authority ref: 17/00574/FUL

⁴ The National Planning Policy Framework was first published in March 2012, revised 24 July 2018, subsequently updated 19 February 2019 and revised 20 July 2021.

future occupants, such that they would be heavily reliant on the private car, despite the appellant's measures to increase opportunities for other modes of travel

22. My attention is also drawn to an appeal decision on a site in Thaxted⁵ in a different part of the country for a single dwelling. Despite being in an inappropriate location and occupants would be reliant on the car, that Inspector gave limited weight to the harm because of the few journeys likely to be made by occupants of one dwelling. As the appeal proposal before me is for 7 dwellings the Thaxted decision is not directly comparable. In any event, I must consider the appeal proposal on its own merits.
23. Drawing together all the above points, I find the appeal proposal would undermine the Council's spatial and settlement strategy for the location of housing and promoting sustainable patterns of development and would result in reliance on the car. Hence the appeal site would not be a suitable location for housing with regard to local and national policies. Accordingly, the proposed development would be contrary to District Plan Policies BDP1, BDP2 and BDP16 whose aims are outlined above.

Other Matters

24. I am aware of some local support for the development preferring residential development to the existing commercial use with the associated visual improvement and reduction in commercial traffic.

Planning Balance and Conclusion

25. The Council cannot currently demonstrate a 5-year supply of deliverable housing sites. In the absence of such, paragraph 11d) of the Framework (or the 'tilted balance') is triggered. This means that the policies which are most important for determining the application are to be considered out-of-date and that 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.
26. The proposal would have poor access to public transport and day-to-day services and facilities. This would mean future occupants would have limited or no choice about transport modes and would therefore be heavily reliant on the private car. Those without access to a car and unable to walk or cycle would have no access. The proposal would therefore undermine the Council's housing strategy and conflict with the environmental and social aims of the Framework. This is a serious planning objection to which I give significant weight.
27. On the other side of the balance the proposed 7 dwellings would help contribute to meeting the Council's unmet housing need and this is a significant factor that weighs in favour of the proposal. However, given the scale of the development such a contribution would be modest and thus limited in the grand scheme. There would also be some associated modest economic and social benefits arising from the construction of the dwellings and their longer-term contribution to the local area.

⁵ APP/C1570/W/21/3278376 dated 8 March 2022

28. Whilst the Framework sets out a presumption in favour of sustainable development and even where the paragraph 11 is engaged, the benefits of additional housing do not necessarily outweigh all other concerns. Case law has found that even where policies can be considered out of date, this does not mean that they carry no weight. The balancing exercise remains a matter of planning judgement.
29. The proposal would see the redevelopment of an existing brownfield site, although I give this moderate weight as the proposal would also see the loss of an existing rural commercial site. There would also be some environmental benefits with the provision of electric vehicle charging points and with a reduction in commercial traffic using the local road network and possible reductions in vehicle movements if occupants chose to work from home or have supermarket deliveries. The provision of electric bikes and the welcome pack would help provide an opportunity to promote more sustainable travel but would be unlikely to realistically encourage non-car use to access day-to-day services and facilities. I give these matters moderate weight.
30. The future urban-extension does not exist at the present time and therefore cannot be regarded as providing services and facilities for future occupants of the appeal site and hence has no weight.
31. Whilst the weight to be given to Policy BDP2 is reduced as a result of paragraph 11d) it is not reduced to the extent that it plays no part. Indeed, the development plan still has primacy and still seeks to ensure the spread of development across the district is done so to ensure adherence to the Framework's principles of sustainable patterns of development and that development is directed to those areas that have the benefit of accessible services.
32. Taking the above factors into account, I am not persuaded that the adverse impacts of the proposed development would significantly and demonstrably outweigh the totality of the benefits when assessed against the policies in the Framework taken as a whole. The lack of harm to the Green Belt, design, drainage and ecology and other technical matters carries neutral weight in the planning balance.
33. I have found the proposal would conflict with local policies guiding the location of housing. For the reasons above I conclude that the appeal proposal would not accord with the development plan and the material considerations I outline above are not sufficient to outweigh this conflict. Accordingly, the appeal should be dismissed.

K. Stephens
INSPECTOR