

Appeal Decision

Site visit made on 25 July 2023

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State.

Decision date: 10th August 2023

Appeal Ref: APP/J1860/D/23/3319962

Court Farm, Deblins End, Callow End, Worcester WR2 4UE

- 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 & Mrs Jones against the decision of Malvern Hills District Council.
 - The application Ref M/22/01218/HP, dated 2 August 2022, was refused by notice dated 6 February 2023.
 - The development proposed is described as a two storey extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a two storey extension; at Court Farm, Deblins End, Callow End, Worcester WR2 4UE; in accordance with the terms of the application Ref: M/22/01218/HP, dated 2 August 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three [3] years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 'Elevations as Proposed,' Drawing No 1866.04A, Dated March 2022;
 - 'Floor Plans as Proposed,' Drawing No 1866.03, Dated March 2022.
 - 'Site Location Plan & Site Plan as Proposed,' Drawing No 1866.00, Dated March 2022.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) The occupation of the dwelling shall be limited to a person solely or mainly working or last working in the locality in an equestrian business, or in agriculture as defined in Section 336(1) of the Town and Country Planning Act 1990 or forestry, or a dependant of such a person residing with him/her/they (but including a widow or widower of such a person)
 - 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order revoking or re-enacting that Order with or without modification) no additions, extensions or external alterations shall be made to the dwelling hereby approved without the submission and subsequent approval of a separate application for planning permission.

Preliminary Matter

2. I note discussion in the appeal documents with regards to whether the existing rear window/ first floor extension, lean-to extension, and porch alterations are lawful and in accordance with conditions imposed as part of the original approval. It is not for me under a Section 78 appeal to determine the current correct and legal development of the existing building. I have therefore made my decision on this basis of the existing conditions and to the development plan and relevant material considerations. To that end it is open to the Council to pursue enforcement action, or for the appellant to apply for a determination under s191/192 of the Town and Country Planning Act if they believe the lawful development is different. My determination of this appeal under s78 does not affect the issuing of a determination under s191/192 regardless of the outcome of this appeal.
3. The Council in their Officer report and Reason for Refusal comment that the application is in accordance with the development plan with regards to issues such as living conditions, design, parking, etc. I have no reason to dispute the Council's opinion and will therefore not revisit these matters, with this letter focussing upon the one matter in dispute.

Main Issue

4. Taking the above into account, the main issue of this appeal is having regard to national policy, the development plan and any material considerations, whether there is an essential need for the proposed extension and if so whether justification for it exists.

Reasons

5. Court Farm is a modest sized, detached rural workers dwelling, approval for which was granted in 2012¹ as part of the business which contains an equestrian livery yard, caravanning/ camping facilities and a commercial fishing lake. Permitted development rights to erect extensions, alterations, garages and other enclosures were removed by a condition attached to the same permission. Court Farm remains a working farm and the proposal is to extend the dwelling with a two storey extension to the side. With the proposed extension and some internal reconfiguring of the dwelling as shown on the plans, the proposal seeks predominantly to increase the bedroom space for the occupant's 3 children, to introduce a breakfast room, boot room and W/C.
6. Policy SWDP19 of the South Worcestershire Development Plan (DP) seeks to apply a number of tests to dwellings in the countryside so that they have the ability to support dedicated housing for rural workers to help sustain the rural economy. Some of the tests which are applied under this policy include meeting functional and economic tests; consideration around existing uses of buildings as part of the holding; not exceeding 150Sqm of net useable floorspace unless a large property is robustly justified; the location of the dwelling in relation to the other uses; and that planning conditions will be imposed to control the occupancy of such a dwelling.

¹ Council Ref: 10/01498/OUT

7. In a strict reading of the LP Policy SWDP19 and accompanying text, and including Annex G, there is no direct reference to extensions, with the determination of this policy appearing to be limited to the considerations around proposals for new dwellings. Whilst in my mind it may be possible to dismiss the relevance of this policy from a procedural perspective, I can also appreciate the broader aims of the policy which seek to control the development of rural housing so that it is commensurate with the functional requirements of the rural enterprise. I am therefore minded to assess the proposed extension against the broader aims of the policy together with Paragraph 80 of the National Planning Policy Framework (the Framework).
8. According to the appeal documents, the appellants have been working on the farm for almost 10 years since the granting of planning permission, and have expanded the rural enterprise with the addition of fishing lakes 5 years ago, camping facilities 3 years ago as well as a herd of 40 cows. Additionally since the establishment of the rural workers dwelling, the appellant has extended their family with 3 children, which goes some way to illustrating that the rural worker is financially secure and is seeking to extend their stay for the benefit of the rural enterprise. The extension does not materially create a much larger dwelling, with the reconfiguring of spaces enabling space suitable for a growing family, as well as the ancillary spaces such as a breakfast room which assists in facilitating some breakfasts for people utilising the fishing lakes. Additionally, information presented from an estate agent illustrates that the proposed extension would not materially change the value of the property, meaning that the dwelling is still accessible and affordable. There is no other available property in the nearby vicinity that could alleviate the additional needs of the appellant and that the extension will enable the appellant to continue to reside at the farm and support the rural economy. These are additional relevant considerations that I will treat as material considerations to this scheme.
9. I also note that the appellant has included a more recent approval for a rural workers dwelling at Cobblers Farm.² In this application, a dwelling of 189Sqm was approved and did not include an office above the garage which likely placed the useable net floorspace above 200Sqm which is not that indifferent to the current proposal. In this case the Council assessed the applicant's family who had 3 children and viewed that a larger property was not unreasonable to cater for the family in order to support the rural enterprise. Taking the above into account, I consider that there are sufficiently robust grounds that enable a dwelling larger than the 150Sqm as suggested by the LP Policy SWDP19.
10. Taking the above into account, the proposal would meet the broad aims of LP Policy SWDP19 and Paragraph 80 of the Framework, the proposed extension would be generally appropriate and facilitates the retention of a rural worker and their family and has shown to be an essential need that has been justified. Consequently the scheme is consistent with the policies of the Development Plan, taking into account material considerations.

Conclusion and conditions

11. I conclude that the proposal is generally appropriate and would be compliant with the development plan on the basis of the reasons discussed and subject to the conditions listed at the beginning of this letter.

² Council Planning Ref: 21/00338/FUL

12. I have had regard to the context of the Framework and the National Planning Practice Guidance which advises that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The Council has forwarded a list of proposed conditions should the appeal be allowed.
13. Condition 1 is a standard time limit condition for the commencement of works; Condition 2 details the approved plans; and Condition 3 seeks that materials match the existing dwelling. These conditions are standard conditions which are necessary and are required for the avoidance of doubt, and to ensure that the extension is of appropriate materials to blend appropriately to the existing dwelling.
14. Condition 4 applies the occupancy condition as per the original permission for a rural worker and enables this condition to apply to the extension. This is necessary so that the occupancy of the dwelling is maintained as the dwelling is an exception to what would normally be appropriate in the open countryside and facilitates the rural economy. Condition 5 applies the removal of permitted development rights as per the original approval so that this would also apply to the extension and dwelling as a whole. It is considered necessary to restrict any alterations and extensions to the dwelling so that extensions and alterations can be assessed with the aims of restricting development in countryside locations.

J Somers

INSPECTOR