



Appeal Decision

Site visit made on 20 December 2023

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2024

Appeal Ref: APP/H1840/W/23/3319030

**Lenches Self Storage, Badgers Hill to Handgate Lane, Sheriffs Lench
WR11 4SD**

- 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 N Webb, Lenches Self Storage, against the decision of Wychavon District Council.
 - The application Ref W/22/00436/FUL, dated 18 February 2022, was refused by notice dated 15 December 2022.
 - The development proposed is Removal of the existing two bedroom static home and former commercial building and replacement with a Live/Work unit.
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Decision

1. The appeal is allowed and planning permission is granted for the removal of the existing two bedroom static home and former commercial building and replacement with a live/work unit at Lenches Self Storage, Badgers Hill to Handgate Lane, Sheriffs Lench, WR11 4SD in accordance with the terms of the application, Ref 22/00436/FUL, dated 18 February 2022, and subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was issued on 19 December 2023. Both main parties were offered the opportunity to comment on the implication of the changes to national policy on the appeal proposal. Where received, comments have been taken into account.

Main Issue

3. The main issue is whether the appeal proposal would be in a suitable location, with regard to the Council's development strategy, and in particular respect to its accessibility to services and facilities.

Reasons

4. The appeal site is in a rural location a considerable distance from the nearest defined development boundary. For planning policy purposes, it is therefore within the open countryside.
5. Policy SWDP 2 of the South Worcester Development Plan (adopted 2016) (the SWDP) establishes the strategy for new development in the area. Criterion C of the policy outlines that permission for development in the countryside, will be strictly controlled and limited to certain exceptions, including development specifically permitted by other SWDP policies. This is due to sites beyond development boundaries generally being less sustainable given that they tend

- to have poor access to local services and facilities. However, the wording of Policy SWDP 2 and its supporting text make clear that some development is expected to take place outside of urban areas and in rural locations.
6. Policy SWDP 8 seeks to support proposals for economic growth across the plan area and is one of the exception policies expressly identified under SWDP 2, whereby development in the open countryside can be permitted.
 7. Criterion G of SWDP 8 relates specifically to development for live/work accommodation and states that such proposals will be permitted provided that they meet several stated criteria. The criteria primarily relate to the size and composition of the live/work accommodation, albeit also encompass issues such as its use, availability of infrastructure, and where viable the provision of affordable housing.
 8. It is disputed whether the proposal meets criteria SWDP 8 G vii), namely, "*The proposed use does not involve the sale of goods to visiting members of the public or fall within the A3, A4, A5, B2, C1, or C2 use classes*".
 9. Whilst the proposal may result in multiple members of the public accessing the site, it does not fall within any of the excluded use classes listed under the policy criteria G vii¹. Additionally, given that the business element of the proposal is for self-storage facilities I do not consider that it involves the sales of goods to visiting members of the public, but instead comprises the offering of a service for use at the site. Therefore, I find the proposal does not conflict with criteria G vii.
 10. The Council has not raised issue with regards to other criteria of SWDP 8G). It has though questioned the requirement for a live-work unit at the site. It is noted that there is an existing mobile home on the appeal site. There is also an existing residential dwelling on the wider site², that is occupied by a member of the appellant's family who is currently involved in the day-to-day operating of the existing business. The appellant, however, has put forward a business case based upon expansion and succession planning for the business, whilst I am mindful that Policy SWDP 8 does not specifically require justification of the business proposals or need for the development. Consequently, I am satisfied that the appeal scheme accords with Policy SWDP 8 and thereby also accords with Policy SWDP2.
 11. Despite the above, Policy SWDP 4, amongst other matters, also requires that proposals must demonstrate that the development will minimise the demand for travel and that they offer genuinely sustainable travel choices.
 12. The appeal site is not well located to a range of facilities or services to support day-to-day living, nor public transport options. Given the locational context of the appeal site, both residents and customers of the proposed development would be highly dependent on the use of the private car. This is the least sustainable means of transport and consequently, the proposal is contrary to the aims of Policy SWDP4.

¹ Nor as updated following the coming into force of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, and further amendments to the Town and Country Planning (General Permitted Development) (England) Order 2015.

² Albeit outside the appeal site's redline boundary

13. It remains that the appeal proposal may breach a particular development plan policy, but does not necessarily fail to accord with the development plan as a whole. On the face of it, there is a degree of tension between Policies SWDP 4 and SWDP 8. Fundamentally, SWDP 8 is one of the specific policy exceptions to the overall development strategy, and it offers recognition that live/work units provide employment opportunities and small businesses in rural areas. Indeed, I consider that through allowing an exception for development in the countryside, there is an implicit acknowledgement that development under SWDP 8 may need to take place where access to facilities and services will be limited. Accordingly, there is a balance to be struck between what is considered as acceptable sustainable rural development, such as live-work units, whilst maximising the available sustainable travel opportunities.
14. I am mindful that a self-storage business already exists in this location and the proposal would enable its continued operations and expansion. This would lead to intensification of the use and associated increases in vehicle movements. However, I consider it unlikely that customers would access self-storage facilities via public transport, or on foot, regardless of whether such options were available. This is due to the likelihood that they will be storing or collecting several items including potentially bulky equipment. I also accept that there is likely to still be demand for such facilities from residents in rural and semi-rural locations. As such, even if the proposal were to be positioned in a more sustainable location with regards to access to facilities and services, I am unconvinced that this would significantly reduce the number of private vehicle movements.
15. I accept that occupants of the residential element of the scheme will also still be required to make vehicle trips to various facilities and services. The proposal would, however, allow some reduced travel needs in terms of the appellant's access to the business.
16. Overall, I am satisfied that the proposal would benefit from the support for live/work schemes set out under SWDP 8 and therefore also complies with Policy SWDP 2. I accept that the proposal, given its location and lack of sustainable transport options, is contrary to the aims of Policy SWDP 4. Nonetheless, in this specific instance, I am satisfied that the proposal still complies with the development plan taken as a whole.
17. In reaching this view, I recognise that Policy SWDP 4 also aligns with the aims of the Framework in respect of focusing development towards locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. However, the Framework also sets out that sites to meet local business and community needs in rural areas may have to be found in locations beyond existing settlements, and in locations not well served by public transport. Whilst the Framework also provides policy support for the sustainable growth and expansion of businesses in rural areas.

Other Matters

18. The Council has provided various appeal decisions to support its views that the proposed development is in an unsuitable location. I do not have the full details of each of the cases raised. However, neither of the appeals relating to

live/work units at land to the rear of Barlych, Hill Furze³ or Oak Tree Farm⁴ were seemingly dismissed based on their locations in the open countryside. This is despite the relevant Inspectors finding that those schemes would rely significantly on the use of private motor vehicles. Instead, the appeal at Hill Furze was allowed despite being found contrary to SWDP 4, whilst the Oak Tree Farm appeal was dismissed on character and appearance grounds. A third appeal⁵ highlighted by the Council is of an entirely different context, in that it related to the development of two market dwellings (as opposed to live/work units) in an area a considerable distance from the appeal site. As such, my decision does not turn on these previous decisions.

19. The appeal site already contains a former commercial building (jam factory) and mobile home which would be replaced by the appeal proposal. Whilst these may have generated significant numbers of vehicle trips in the past, given their nature and rather dilapidated condition they are now unlikely to. As such, I have given this line of argument very limited weight and it has not been determinative to the appeal.

Conditions

20. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. In the interests of precision, conciseness, and enforceability I have undertaken some minor editing and reordering of the conditions.
21. As well as the standard time limit condition, a condition specifying the approved plans and documents is necessary for the avoidance of doubt and in the interests of proper planning. For conciseness, I have updated the condition to also include the need to accord with the submitted Arboricultural Method Statement.
22. A condition requiring details of works within root protection areas is necessary to be complied with before any site works commence, in order to protect vegetation at the site and in the interests of visual amenity. Similarly, a condition relating to the provision of landscaping is reasonable and necessary in the interests of the visual amenity of the site and the surrounding area.
23. A pre-commencement condition requiring an assessment of contamination risks at the site is needed to ensure that the risks from land contamination do not pose a threat to future users of the site or neighbours. I have amended the Council condition for precision purposes.
24. The approval of sample materials and finished floor levels are both reasonable and necessary in the interest of the appearance of the development. I have amended the respective conditions to ensure precision and enforceability.
25. Pre-commencement conditions requiring the approval of a construction environmental management plan and provision of a detailed ecological mitigation and enhancements to be submitted and approved in writing by the LPA are reasonable and necessary in the interests of biodiversity. I have

³ Appeal Ref: APP/H1840/W/19/3244074 - Land to the Rear of Barlwyth Cottage, Hill Furze, Fladbury, Worcestershire, WR10 2NB

⁴ Appeal Ref: APP/H1840/W/22/3290328 - Oak Tree Farm, Crest Hill, Harvington, Evesham WR11 8NS

⁵ Appeal Ref: APP/J1860/W/21/3283821 - Brookend Boarding Kennels, Stocks Lane, Leigh Sinton WR13 5DY

amended the condition regarding an ecological mitigation scheme for clarity purposes.

26. Similarly, a condition requiring the details of any external lighting is reasonable to ensure that there would be no adverse impact on protected species or the rural character of the area.
27. Conditions in relation to renewable energy/low carbon energy generation and water management measures are both reasonable and necessary on sustainability grounds, having regard to development plan policies.
28. Conditions requiring the delivery and maintenance of the access, parking and vehicle turning spaces, as well as electric vehicle charging points and cycle spaces are needed to ensure a satisfactory form of development.
29. A condition to ensure that the live/work units are carried out in accordance with the relevant criteria in Policy SWDP 8, including an occupational condition to ensure that the residential element of the live/work units are occupied by a person in connection with the associated business, are all considered necessary as the proposal is considered as an exception to the development strategy set out by Policy SWDP 2. However, I have amended the Council's suggested condition to also include Use Class B8 'storage and distribution' to reflect the nature of the proposed development.

Conclusion

30. For the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant considerations, I conclude that the appeal should be allowed.

Lewis Condé

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless where required or allowed by other conditions attached to this permission, the development hereby approved shall be carried out in accordance with the information provided on the application form and the following plans/drawings/documents:
 - SPA 313 01 entitled 'location Plan';
 - SPA 313 03 entitled 'Existing Block Plan';
 - SPA 178 05 entitled 'Former commercial building to be removed';
 - SPA 225 entitled 'Existing Floorplans';
 - SPA 178 07 entitled 'Two-bedroom static home to be removed';
 - SPA 313 11 REV A entitled 'Proposed Elevations';
 - SPA 313 15 REV A entitled 'Proposed House Plans';
 - SPA 313 02 REV A entitled 'Proposed Block Plan';
 - SPA 313 10 REV A entitled 'Proposed Storage Unit Plans';
 - SPA 313 16 REV A entitled 'Proposed House Elevations';
 - SPA 313 20 entitled 'Masterplan'; and
 - Tree Survey and Arboricultural Impact Assessment – prepared by Westside Forestry Ltd (dated March 2022)
- 3) No development shall take place, or other operations, including demolition works, fires, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the detailed design and construction method statement of vehicular drives, parking areas and other hard surfacing within the root protection area (as defined by BS5837:2012) has been submitted in writing and approved by the Local Planning Authority.

The design and construction must:

 - a) Be in accordance with the recommendations of BS5837:2012.
 - b) Include details of existing ground levels, proposed levels and depth of excavation.
 - c) Include details of the arrangements for the implementation, supervision and monitoring of works.

Construction of the development shall thereafter be undertaken in accordance with the approved details.
- 4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), 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. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.

- 5) 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. The development shall be carried out in accordance with the approved details / samples.
- 6) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 7) No development shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall include:
 - i. An appropriate scale plan showing 'ecological protection zones' where construction activities are restricted and where protective measures will be installed or implemented;
 - ii. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
 - iii. a Methodology Statement to demonstrate construction activities will be undertaken so as to avoid impact on those parts of the site subject to periods of the year when activities could be harmful, such as the bird nesting and other wildlife breeding or hibernation seasons in accordance with the Ecological Mitigation and Enhancement Strategy and Ecological Management Plan; and persons/contractors responsible for:
 - (a) Compliance with legal consents relating to nature conservation;
 - (b) Compliance with planning conditions relating to nature conservation;
 - (c) Installation of physical protection measures during construction;
 - (d) Implementation of sensitive working practices during construction;
 - (e) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
 - (f) Provision of training and information about the importance of 'Ecological Protection Zones' to all construction personnel on site.

The Construction Environmental Management Plan shall be carried out fully in accordance with the approved details.

- 8) No development shall take place until a detailed ecological mitigation and enhancement scheme, which shall be based on the 'impacts, enhancements and mitigation' set out in section 6 of the Ecological Assessment by Greenscape Environmental (dated 8th February 2022) has been submitted to and approved in writing by the Local Planning Authority. The mitigation and enhancement scheme hereby approved shall then be carried out in strict accordance with the approved scheme. On completion of the scheme, the development shall be inspected by a qualified ecologist and a statement of conformity shall be submitted and approved in writing by the local planning authority to confirm whether all of the measures have been implemented in accordance with the details approved under this condition. The approved mitigation and enhancement scheme shall then be retained on site thereafter.
- 9) Prior to first use/occupation of the development hereby permitted, a lighting plan for the operation phase of development, shall be submitted to and approved in writing by the Local Planning Authority. All lighting should be designed in accordance with Bat Conservation Trust / Institution of Lighting Professionals Guidance Note 08/18 Bats and artificial lighting in the UK. Submitted lighting plans should be accompanied by contour diagrams that demonstrates minimal levels of lighting on receptor habitats, including trees and hedges. Development shall be carried out in accordance with the approved details and retained thereafter.
- 10) Prior to the first use/occupation of the development hereby permitted, the details set out in the submitted Water Management Statement dated 18th February 2022 shall be fully implemented and thereafter retained.
- 11) Prior to the first use/occupation of the development hereby permitted, details of renewable or low carbon energy generating facilities to be incorporated as part of the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall demonstrate that at least 10% of the predicted energy requirements of the development will be met through the use of renewable/low carbon energy generating facilities. The approved facilities shall be provided prior to the live/work unit hereby permitted being first brought into use/occupied or in accordance with a timetable submitted to and approved by the Local Planning Authority as part of the details required by this condition.
- 12) The dwelling hereby permitted shall not be occupied until it has been fitted with an electric vehicle charging point. The charging point shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 as per the Worcestershire County Council Streetscape Design Guide. The electric vehicle charging point shall be retained for the lifetime of the development unless it needs to be replaced, in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.
- 13) The dwelling hereby permitted shall not be occupied until sheltered and secure cycle parking has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning

Authority. Thereafter the approved cycle parking shall be kept available for the parking of bicycles only.

- 14) The development hereby approved shall not be brought into use until the access, parking and turning facilities have been provided in accordance with the approved plans. The access, parking and turning facilities shall be retained thereafter.
- 15) Before the first use/occupation of the development hereby permitted a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:-
 - i. a plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, canopy spread and species, together with an indication of any proposals for felling/pruning and any proposed changes in ground level, or other works to be carried out, within the canopy spread.
 - ii. a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas.
 - iii. a schedule of proposed planting -indicating species, sizes at time of planting and numbers/densities of plants.
 - iv. a written specification outlining cultivation and other operations associated with plant and grass establishment.
 - v. a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation/use of the development, whichever is the sooner. The planting shall be maintained in accordance with the approved schedule of maintenance.

Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 16)
 - i. The work element floorspace of the live/work units hereby permitted shall be finished ready for occupation before the residential floorspace is occupied and the residential use shall not precede commencement of the business use.
 - ii. The business floorspace of the live/work elements of the development hereby approved shall be used for Use Class B8, Use Class E(g)(i) offices, E(g)(ii) research and development or E(g)(iii) industrial processes and for no other purpose, including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
 - iii. The residential floorspace of the live/work units hereby permitted shall not be occupied other than by a person solely or mainly employed, or last

employed in the business occupying the business floorspace of the associated unit, a widow or widower of such a person, or any resident dependants.

iv. The residential use of the live /work units hereby permitted shall be ancillary with the floor space split at least 60% employment and no more than 40% residential.

v. The residential accommodation within each live/work unit hereby permitted shall contain no more than three bedrooms

vi. The residential and work spaces shall be entirely separate. with separate entrances and toilet facilities.