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# 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: 12 February 2024**

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**Appeal Ref: APP/H1840/W/23/3318120**

**Hawthorn Gardens, Boston Lane, Charlton, Worcestershire WR11 2RD**

- 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 and Mrs R. Boughton against the decision of Wychavon District Council.
  - The application Ref W/22/01586/FUL, dated 13 July 2022, was refused by notice dated 22 December 2022.
  - The development proposed is erection of a live/work unit and associated works.
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of a live/work unit and associated works at Hawthorn Gardens, Boston Lane Charlton, Worcestershire WR11 2RD in accordance with the terms of the application, Ref W/22/01586/FUL, dated 13 July 2022, 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 site would be an appropriate location for new live/work development with regards to the development strategy for the area and access to services and facilities.

## Reasons

4. The appeal site is located on Boston Lane, approximately 700m to the west of the defined development boundary for Evesham. It is located amongst ribbon development of several dwellings and commercial uses along Boston Lane. The surrounding area has a rural character, although given the presence of neighbouring development the site is not isolated as per paragraph 84 of the Framework.
5. Due to the appeal site's location beyond any defined development boundary, it is within the open countryside for planning purposes. Policy SWDP 2 of the South Worcestershire Development Plan (SWDP) (adopted 2016) 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

other than certain exceptions, notably, including development specifically permitted by other SWDP policies. The supporting text to the policy identifies that sites beyond development boundaries are generally less sustainable given that they tend to have poorer access to local services and employment opportunities.

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. Criterion G of Policy SWDP 8 specifically relates to live/work units. It states that development will be permitted where it accords with various stated criteria. There is no dispute between the main parties that the proposal meets the criteria outlined under SWDP 8G.
7. Given the compliance with Policy SWDP 8, and that this is one of the specific exception policies outlined under criterion C of Policy SWDP 2, I find that the proposal would not be contrary to Policy SWDP 2. Furthermore, the supporting text to policies SWDP 2 and SWDP 8, together, make clear that some development, including live/work accommodation, is expected to take place in rural locations, whereby there would be greater dependency on private car journeys.
8. Nevertheless, the proposal must be considered against the development plan as a whole. In this regard, 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.
9. As indicated the appeal site is located approximately 700m from the western-edge of Evesham. This is a main town in the settlement hierarchy established under Policy SWDP 2, which is noted as providing a comprehensive range of local services and employment opportunities for their residents and the rural hinterland. Whilst many of the facilities and services within Evesham are set a further distance away, there is a café/farm shop as well as a local convenience store approximately 1.2km from the appeal site.
10. The appellant's personal circumstances are such that he would likely be dependent on the use of a private motor vehicle even if the proposed development were to be more closely located to facilities and services. Notwithstanding this matter, the proposal would accommodate another resident(s), whilst it would also potentially endure beyond the personal circumstances of the appellants.
11. Although Boston Lane does not contain any pedestrian footways or streetlighting, it appears to be a relatively straight and lightly trafficked road. The appeal site is also only a short distance to the junction of Boston Lane and the B4084, whereby pavement provision is available along the length of the B4084 to Evesham. The pavement is of an appropriate width, while the route is along relatively flat terrain, but again does not contain streetlighting. It would therefore allow the opportunity for future occupiers of the development to walk or cycle to facilities and services available within Evesham. However, I find that the distances involved would likely deter most people from frequently walking or cycling this route to access everyday facilities, particularly in periods of inclement weather or periods of darkness.

12. Additionally, there is an existing bus stop near the junction of Boston Lane and the B4084, that provides services throughout the day to Evesham, Worcester, Stratford-upon-Avon, as well as smaller settlements. The bus stop is within walking distance from the appeal site (approx. 130m). I also understand that a 'flag down' bus service operates in the vicinity of the site providing a means of transport for children to travel to a local school. Consequently, I find there would be some opportunities for future residents to utilise sustainable modes of transport to access facilities and services.
13. Be that as it may, in all likelihood, future residents would still use private vehicles to undertake trips to access most services and facilities. Likewise, visitors to the site (including in connection with the business use) would also likely travel by private vehicle. This is largely due to the site's distance to most facilities and services, as well as the convenience of the car compared to other modes of transport, especially during adverse weather or periods of darkness. I therefore consider that residents of the proposed development would remain heavily reliant upon the private car. Accordingly, there would be a degree of conflict with Policy SWDP 4, in terms of minimising demand for travel and providing genuinely sustainable travel choices.
14. Nonetheless, I have taken into account the advice of the Framework that recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. The Framework also indicates 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. I am also mindful that, whilst the proposal would not eliminate all potential vehicle trips to be made by residents, it should allow for some reduced travel through the appellant(s) no longer needing to commute to work. Furthermore, as previously indicated, Policy SWDP2 also recognises that some development will need to take place in rural areas where the potential to use sustainable modes of transport will be more limited.
15. Bringing the above together, I find that the appeal site would be a suitable location for a new live/work unit. As detailed, it accords with Policy SWDP 2, which seeks to focus most new development in urban areas or within defined development boundaries but allows for limited exceptions, including live/work units that accord with the requirements of policy SWDP 8G. Although the proposal would result in some conflict with the aims of Policy SWDP 4, I find that it would not conflict with the SWDP as a whole, nor the overarching sustainable development principles outlined within the Framework.

### **Other Matters**

16. The proposed development was not refused due to conflict with Policy SWDP 8, but the Council has questioned the requirement for the live/work unit in this location. The proposed development has been justified based on needs associated with the applicant's existing business operations, including enabling potential to grow. Moreover, Policy SWDP 8 does not specifically require justification of the business proposals or need for the development.
17. I note the various concerns raised by the Parish Council. In respect of highway safety, neither the highway authority nor the local planning authority have objected to the proposal, subject to the use of appropriate conditions. From the evidence before me, I have no reason to reach an alternative view.

18. In terms of the availability of more suitable business accommodation within nearby areas, there is no requirement for a sequential test to be undertaken in respect of live/work units. While a planning condition can be attached to the grant of permission restricting the development's use, including to Class E(g)iii so that any industrial processes are limited in nature so as not to harm neighbouring living conditions. My decision therefore does not turn on the matters raised by the Parish Council.

### **Conditions**

19. 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 the wording of some of the conditions has been amended, whilst I have also added a condition.
20. As well as the standard time limit condition, I have added a condition specifying the approved plans for clarity and certainty.
21. A pre-commencement condition requiring the approval of detailed ecological mitigation/enhancements is necessary in the interests of biodiversity. Similarly, a condition requiring the details of any external lighting is reasonable to ensure that there would be no adverse impact on protected species.
22. 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 consistency and precision.
23. 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.
24. Conditions in relation to renewable energy/low carbon energy generation is reasonable and necessary on sustainability grounds, having regard to development plan policies. While a condition requiring that the development comply with measures set out in the submitted Water Management Statement is necessary to ensure a suitable form of development with respect to drainage.
25. Conditions requiring the delivery and maintenance of the access, parking and vehicle turning spaces, as well as visibility splays, electric vehicle charging points, and cycle spaces are needed to ensure a satisfactory form of development in the interest of highway safety and sustainability.
26. 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.

### **Conclusion**

27. For the reasons given above, and having regard to all other matters raised, the appeal is 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) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - 234-WB-05 (Rev A) – Location and Block Plans;
  - 234-WB-03 (Rev B) – Proposed Live Work Plan; and
  - 234-WB-02 (Rev B) – Proposed Site Plan and Elevations.
- 3) No development shall take place until a detailed ecological mitigation and enhancement scheme has been submitted to and approved in writing by the Local Planning Authority. The measures so approved shall be carried out thereafter and retained on site.

On completion of works the development shall be inspected by a qualified ecologist and a statement of conformity shall be submitted to the Local Planning Authority to confirm whether all of the measures have been implemented in accordance with the details approved under this condition.
- 4) No development shall commence until full details of the levels of the existing site and the precise floor slab levels of the approved live/work unit, relative to the existing development and vegetation on the boundary of the site, 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.
- 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 commence until the existing access into the application site has been provided with clear visibility from a point 1.05m above the level of the adjoining carriageway at the centre of the access and 2.4m metres from and parallel to the entire length of the site frontage. Nothing shall be planted, erected and/or allowed to grow on the area of land so formed which would obstruct the visibility described above and these areas shall thereafter be retained and kept available for visibility purposes at all times
- 7) Prior to the first use/occupation of the development hereby permitted, the details set out in the submitted Water Management Statement contained in the Planning Statement (ref: J007835/PS) shall be fully implemented and retained thereafter.
- 8) The development hereby permitted shall not be first occupied until the proposed dwelling 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 and 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.

- 9) The development hereby permitted shall not be first occupied until sheltered and secure cycle parking to comply with the Council's adopted highway design guide has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.
- 10) The development hereby approved shall not be brought into use until the access, parking and turning facilities have been provided as shown on approved drawing 234-WB-02 (Rev B) – Proposed Site Plan and Elevations.
- 11) 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.

- 12) Prior to the occupation of the live/work units 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 each live/work unit hereby permitted being first 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.

- 13) Prior to the occupation of the live/work units hereby permitted, details of any external lighting to be provided in association with the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include times when the external lighting will not be switched on. Only external lighting in accordance with approved details shall be provided on the application site. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), there shall be no other external lighting provided on the application site.
- 14) 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 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.