



Appeal Decision

Site visit made on 9 January 2024

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 15 February 2024

Appeal Ref: APP/J1860/W/22/3313980

Upper Howsen Farm, Howsen, Cotheridge, WR6 5LR

- 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 Peter Burgoyne against the decision of Malvern Hills District Council.
 - The application Ref 21/01512/FUL, dated 9 August 2021, was refused by notice dated 13 July 2022.
 - The development proposed is change of use and conversion of an existing barn to a single dwelling, in place of the planning permission 20/00313/FUL for the use of the barn as a Class C1 hotel use.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development provided in the appellant's appeal form in the banner heading above as this more succinctly describes the development proposed.
3. A revised version of the National Planning Policy Framework (the Framework) has been published since the Council issued its decision. In this instance, the relevant changes only relate to paragraph numbering and do not fundamentally affect the substance of the matters under appeal.
4. Following the decision of the Council, a signed Unilateral Undertaking (UU) has been submitted which makes provision for a financial contribution towards affordable housing. The Council has indicated that a signed UU would address the second reason for refusal of the planning application, and I have framed the main issues accordingly, although I return to consider the UU later in my decision.
5. Subsequent to the issuing of its decision, the Council has acknowledged that, following several recent appeal decisions, it is currently unable to demonstrate that it has a 5 year housing land supply; with the most recent appeal decision suggesting a figure of only a 3.7 year supply. The Council has therefore conceded that paragraph 11d of the Framework is engaged. I have therefore proceeded on this basis in considering this decision.

Main Issues

6. The main issues are:

- Whether the appeal site would be a suitable location for a dwelling, having regard to the development strategy for the area and access to facilities and services; and
- If any harm is identified whether that harm would be outweighed by the presence of a fallback position.

Reasons

Location

7. The appeal site is situated off a farm track to the south of the A44 in Cotheridge. Although it is associated with Upper Howsen Farm, the building is physically isolated from the farm grouping, sitting on top of a ridge, surrounded by relatively open agricultural land with long-range vistas. A public right of way runs past the site. The building is of steel portal frame construction with a large opening to the gable frontage alongside an area of hardstanding. The two long sides of the building and rear gable have a hedge immediately alongside with several tall, slim trees.
8. The appeal proposal seeks to convert the building to a 4-bed dwelling and would involve re-cladding the walls in profile metal sheeting and timber boarding, a replacement roof, inserting windows and doors, and the provision of a first floor. The overall form and size of the building would remain the same, and planting would be retained with enhancements where necessary. Parking would be provided for up to 6 vehicles.
9. The Council's development strategy is set out under Policy SWDP 1 of the South Worcestershire Development Plan (2016) (SWDP). This indicates that, when considering development proposals, the Local Authority will take a positive approach that reflects the presumption in favour of sustainable development contained in the Framework. This is supplemented by Policy SWDP 2 which seeks to focus most development in urban areas where housing needs are the greatest and where services and facilities are more readily accessible and seeks to safeguard and enhance the open countryside. The approach of these policies to rural housing broadly aligns with that advocated in the Framework.
10. The appeal site is located outside of any defined settlement boundary and therefore is in the open countryside. Based on the submitted evidence, the proposal has not been demonstrated to comply with any of the exceptions for the development of new dwellings in the open countryside specified in part C of Policy SWDP 2.
11. Paragraph 84 of the Framework seeks to avoid new isolated homes in the countryside unless there are special circumstances. Whilst the Framework provides no definition of 'isolated', it connotes a dwelling that is physically separate or remote from a settlement, and it is for the decisionmaker to determine in relation to the specific circumstances of the case. The site is some distance from any defined settlement boundary, it does not form part of an immediate cluster of buildings, and its setting and siting are such that it is closely related to the surrounding countryside. Furthermore, the site is

accessed via a relatively long farm track and links to a rural road with no pavement or streetlighting. In respect of paragraph 80 of the Framework I therefore find it to be isolated.

12. The appellant suggests that the proposal would comply with Paragraph 84(c), as it would be development which would re-use a redundant or disused building and enhance its immediate setting. The Framework does not set out a definition of 'redundant' or 'disused'. Therefore, I consider it sensible to consider the words in their plain meaning. In this context redundant should be taken to mean 'no longer needed or useful' and disused as 'no longer being used'.
13. At the time of my visit the appeal building was being used for the storage of a large quantity of hay bales and the planning officer also indicated that the building was being used for the storage of hay in their delegated report. This is consistent with the appellant's planning statement which advises that the building was originally constructed as a hay storage barn. In this respect, therefore, from what I have seen and read, it appears to me that the building is continuing to be used for its original purpose and is therefore not disused. The appeal scheme therefore does not comply with Paragraph 84(c), although for the sake of completeness and for the avoidance of doubt I shall go on to consider the other elements of paragraph 84(c).
14. A point of dispute is whether the proposal should be regarded as a 'conversion' or 'new build' as the proposed works would appear extensive. However, paragraph 84(c) provides no clarification as to whether the re-use of a building can include significant reconstruction. In the absence of this clarification and a relevant policy in the SWDP relating to residential conversions, I conclude that the appeal scheme would re-use a building, even though the works would be substantial in their extent.
15. The barn is a typical portal frame structure of simple form and of relatively plain appearance. It benefits from some existing screening vegetation and overall is not an unexpected element in the landscape or especially noticeable. The proposed scheme would predominantly retain the form of the building, and conditions could be attached to any permission to secure the appearance of facing materials and to provide additional landscaping. The Council has concluded that the proposal would not result in a harmful increase in the prominence of the building within the wider landscape or result in the erosion of the characteristics of the landscape type. I have no reason to disagree. However, to comply with paragraph 84(c) it should enhance its immediate setting.
16. The appellant suggests that the term 'enhance' should be interpreted broadly to include the benefits associated with the re-use of a redundant building, ecological benefits and a contribution to affordable housing. However, I consider that, in the context of paragraph 84(c), the development should be more narrowly interpreted to mean a visual or landscape improvement to its immediate surroundings. In this regard, at best, the scheme may be considered to have a neutral impact on its setting but even with conditions to control landscaping and facing materials, I see no adequate evidence that it would bring about any enhancement of that setting. I therefore consider that the proposal would not comply with Paragraph 84(c) and have no adequate evidence that it would meet any of the other exceptions in this paragraph.

17. Any future occupants of the proposed dwelling are likely to have to travel to access facilities and services. From the evidence before me and my observations on site, services and facilities that would sustain day-to-day living are located a significant distance from the appeal site. The site also appears not well served by public transport options.
18. Nearby roads are generally unlit, with little footpath provision and limited surveillance. The distances involved, together with the context of the surrounding highway network and footpaths, are likely to deter many residents from walking or cycling to access facilities or services. Moreso, in periods of bad weather or darkness. Consequently, sustainable methods of travel are unlikely to be routinely used, with any future occupants highly likely to be reliant on the private car. This is the least sustainable means of transport and would further undermine the Council's development strategy.
19. Therefore, for these reasons, I conclude that the appeal site would not be a suitable location for a dwelling having regard to the development strategy for the area and access to facilities and shops. As such, the proposal would conflict with Policies SWDP 1 and SWDP 2. I have also added Policy SWDP4, referred to in the officer's report, which requires proposals to demonstrate that they genuinely offer sustainable transport choices. It would also be contrary to the Framework.

Fallback

20. Both parties refer to a Prior Approval granted in 2019 to change the agricultural building's use to visitor accommodation falling and subsequently an application for operational development to facilitate the building's conversion¹. It appears to me that the appeal proposal would result in a similar external appearance to the proposed visitor accommodation with similar operational works. I accept that the fallback position is available and from the information before me both schemes could be carried out.
21. The appellant has stated their intention to carry out the fallback position should this appeal fail, and I therefore accept that, based on the submitted evidence, there is a greater than theoretical possibility that it would be implemented should the appeal scheme be dismissed. It is therefore a material consideration in the assessment of the proposal. However, for significant weight to be afforded to a fallback position there needs not only to be a real possibility of it being carried out, but it would also need to be equally or more harmful than the appeal scheme.
22. The appellant considers that the appeal scheme would be less harmful as it would be a less intensive use of the site, generate reduced noise and disturbance, and result in fewer traffic movements. It is also suggested that the reduced exterior glazing would minimise its visual impact.
23. Whilst I accept that a single dwelling would potentially represent a quieter and less active use of the site in this rural, tranquil area, I have concluded that it would conflict with the spatial strategy for the area and would not be in a location where a new dwelling would normally be considered acceptable. In contrast, the visitor accommodation was supported by national planning policy in the General Permitted Development Order. Furthermore, Section 6 of the

¹ 19/01753/GPDR, 20/00313/FUL

Framework supports the sustainable growth of businesses and tourism in rural areas, including through the conversion of rural buildings. Policy SWDP 2 and Policy SWDP12 also support employment development in rural areas. In this regard the visitor accommodation would create jobs and support the rural economy and rural tourism. It would also compliment a nearby site which has planning permission for a caravan site. In this regard the proposed scheme would be more harmful.

24. The approved scheme involves a relatively limited number of larger areas of glazing with strong verticality. In contrast the appeal proposal has a greater number of glazed openings, which are scattered throughout the building with variations in their size and more openings at higher level. Therefore, in this regard the proposed arrangement of glazing would, in my view, have a marginally more harmful visual impact on the surrounding area than the approved scheme.
25. For these reasons, I therefore find that the appeal proposal would be more harmful than the fallback position and as such I give the fallback position limited weight.

Other Matters

Affordable housing

26. The Council's Formal Position Statement (June 2019) clarifies the Council's requirement for affordable housing as set out in Policy SWDP 15. The building falls within a Designated Rural Area, therefore the policy requires that on sites of less than 5 dwellings a financial contribution towards local affordable housing should be made based on the cost of providing the equivalent in value to 20% of the units as affordable housing on the site.
27. The UU dated 27 September 2023 submitted by the appellant would provide the contribution sought by the Council. Given this policy context, I am satisfied that the planning obligation for affordable housing is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development. Therefore, it meets the three statutory tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended), Policy SWDP 15 and paragraph 57 of the Framework.

Planning Balance and Conclusion

28. In the absence of a 5 year housing land supply, paragraph 11d of the Framework states that where the policies that are most important for determining the application are out of date, 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 or specific policies in the Framework indicate that development should be restricted.
29. Paragraph 12 of the Framework states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. The Council's shortfall of housing land means that the strategies contained within Policies SWDP 1 and SWDP 2 are out of date. However, this does not mean that they are afforded no weight. The need to carefully manage and limit the number of

new homes in locations with limited sustainability credentials remains valid in the context of the environmental objectives of national and local planning policy. As such, I still afford the harm arising from the conflict with these local plan policies significant weight.

30. The development strategy set out above, appears to me broadly consistent with the general overarching sustainability aims of the Framework by considering where new development should and should not be located, directing housing growth to sustainable settlements, and preventing uncontrolled growth in the surrounding countryside. The SWDP may not have a specific policy on the residential conversion of rural buildings, but this does not fundamentally weaken the Council's position on restricting dwellings in the open countryside.
31. The provision of one extra dwelling would provide only modest social benefits through assisting to meet the Council's housing needs. Related economic benefits would also be modest given the scale of the proposal. It would also provide a contribution towards affordable housing and re-use a rural building.
32. I have also found that the open market house appeal proposal would be more harmful than the fallback position for visitor accommodation and this therefore attracts limited weight. Compliance with other planning policy issues such as design, landscape and residential amenity would amount to neutral matters in the planning balance.
33. It is considered that the environmental harm arising from the isolated location of the site and deviation from the development strategy, as well as the principle of development as set out in the Framework would significantly outweigh the modest benefits. Therefore, bringing the above together, when assessed against the policies in the Framework taken as a whole, even if the housing land supply figure is as low as the appellant suggests, the adverse impacts would significantly and demonstrably outweigh the benefits. It follows that the presumption in favour of sustainable development does not apply.
34. For the reasons outlined above and having regard to the development plan as a whole, and all other relevant material considerations including the provisions of the Framework, the appeal is dismissed.

G Bayliss

INSPECTOR