



Appeal Decision

Site visit made on 7 March 2024

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 April 2024

Appeal Ref: APP/H1840/W/23/3322456

**The Observatory, Badgers Hill to Handgate Lane, Sheriffs Lench,
Worcestershire WR11 4SN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Twoland Ltd. against the decision of Wychavon District Council.
 - The application Ref is W/22/02694/FUL.
 - The development proposed is Conversion of observatory into a single dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was made, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023. I have taken the revised Framework into account as part of the determination of this appeal.
3. A completed Section 106 Agreement (S106) has been submitted with the appeal to secure the required affordable housing contribution. The Council has had the opportunity to comment. I have determined the appeal on this basis.

Main Issues

4. There are 3 main issues. These are:
 - whether the proposed development would provide a suitable location for housing, having regard to the development strategy for the area and the accessibility of services and facilities;
 - whether the proposed development would enhance the immediate setting of the area; and
 - whether appropriate arrangements have been made to secure a financial contribution towards meeting the need for affordable housing.

Reasons

Suitable Location

5. Policy SWDP2 of the South Worcestershire Development Plan (SWDP) (adopted February 2016) sets out the development strategy and the settlement hierarchy for the area. Criteria C of Policy SWDP2 sets out that in the open countryside, development will be strictly controlled and will be limited to dwellings in certain circumstances.

6. The appeal site lies outside of any adopted settlement limits as defined by Policy SWDP2. The proposal would therefore be a new dwelling in the open countryside. The proposal does not fall within any of the exceptions set out by the development plan to enable new development in the open countryside, including the exceptional circumstances set out in Policy SWDP2. It would not be supported by any other policies in the SWDP. As such, it would be contrary to the development strategy for the area.
7. Church Lench, the nearest settlement is approximately 1.87km away and contains some key facilities including a school and shop. Future occupants are likely to have to travel to Evesham, which is 2.2 miles away, to access a greater range of facilities and employment opportunities. However, given the distance to both Church Lench and Evesham, and the nature of the roads, which have no footways or streetlighting, future occupants of the proposed dwelling would be largely reliant on the private motor car to access services and facilities. This lack of accessibility to enable future occupants to carry out day to day activities demonstrates that the site would be an unsuitable location for the proposal.
8. Paragraph 109 of the Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. It is recognised that a suitably worded condition could be attached to secure the provision of an electric vehicle charging point and the provision of secure cycle parking could assist towards promoting more sustainable modes of transport. However, due to the unwelcoming nature of the roads, there would be limited sustainable transport solutions, including a lack of public transport, applicable to the appeal site.
9. Planning permission has been granted for the conversion of the same buildings into holiday accommodation¹. However, whilst there are some similarities between this extant consent, including establishing the principle of their conversion and re-use, both in terms of the suitability of the buildings for conversion and their structural condition, different Development Plan policies would have applied to the determination of the holiday accommodation application. Furthermore, the consent for holiday accommodation would not result in a new market dwelling and is an entirely different proposal. I therefore attach this potential fallback position little weight in regard to the location of the proposal.
10. The holiday accommodation consent would also result in a number of trips using the private car to reach services, facilities and tourist attractions during their stay. However, the frequency of trip generation would be slightly lower and there would be no vehicular journeys associated with employment or education needs. Furthermore, it is recognised that there would be periods when a holiday unit would be empty. In addition, the proposal would not contribute to sustainable travel choices, nor minimise the demand for travel as required by Policies SWDP 4 and SWDP 21.
11. I note that the wording of Policy SWDP 2 has been amended slightly under the SWDP Review. However, it was only submitted for examination in September 2023, and has yet to be tested through examination. Therefore, under the terms of Paragraph 48 of the Framework, I can only attach little weight to the revised wording of Policy SWDP 2.

¹ Application Reference W/22/00307/FUL

12. In view of the above, future occupants of the proposal would therefore be largely reliant on the private vehicle to access services and facilities. This lack of accessibility to enable future occupants to carry out day to day activities demonstrates that the site would be an unsuitable location for new housing, having regard to the development strategy for the area and the accessibility of services and facilities. The proposal would be contrary to Policy SWDP 2 of the SWDP which sets out the overarching development strategy and settlement hierarchy and strictly controlling development in the open countryside. It would also be contrary to Policies SWDP 4 and SWDP 21 of the SWDP which, in combination, seek to ensure that proposals must minimise demand for travel and offer genuinely sustainable travel choices, by maximising opportunities for pedestrian and cycle linkages to the surrounding area.
13. The Council's reason for refusal cites conflicts with Paragraphs 83, 106 and 107 of the Framework. However, it is unclear how these paragraphs would be applicable and therefore any alleged conflict would not be determinative in these circumstances.

Immediate Setting

14. Paragraph 84 of the Framework (formally Paragraph 80) states that decisions should avoid the development of isolated homes in the countryside unless certain circumstances apply, one of which is the re-use of redundant or disused buildings where the proposal would enhance its immediate setting. In this case, there are no other dwellings near to the site, the closest being approximately 130m away. Therefore, the terms of Paragraph 84 would be applicable.
15. The brick built observatory building is a former Royal Radar Establishment outstation and was used as a VHF wireless telegraphy station used by RAF Pershore by the Air Ministry. By 1954 the site was used for tracking ballistic missiles and satellites. Therefore, given its former use, the existing building is relatively utilitarian. However, it sits discreetly in the landscape and consequently, the site retains its rural character and has a neutral impact on the immediate setting of the area.
16. The proposed development would be a sensitive conversion. The external alterations have been thoughtfully designed, with the majority reflecting the existing openings and the retention of the existing brick exterior. There would be no demolition or major rebuilding, with the conversion keeping to the existing footprint of the structures. Overall, the development would have a neutral impact on the character and appearance of the area.
17. However, no proposals have been put forward which would amount to an enhancement to the immediate setting. The development would result in the loss of part of the existing hedgerow and trees due to the proposed access. There would also be a small turning area to the west of the buildings. Very limited landscaping details or boundary treatment details have been submitted. No other details have been provided as to how the proposed development would enhance its setting. Overall, it is considered that the proposal would have a neutral impact upon its immediate setting. Consequently, the development would not align with the objective of the Framework to enhance the immediate setting of the buildings.
18. The appeal site is included on the local list within the Worcestershire Historic Environment Record. The significance of the building derives from its historic

interest outlined above. Consequently, I consider it to be a non-designated heritage asset of moderate significance. Given that the proposal would be a sympathetic conversion of the former observatory building, I am satisfied that the development would not harm the significance of the non-designated heritage asset. Nevertheless, this lack of harm to the non-designated heritage asset would essentially be a neutral factor.

19. The appellant alleges that 'due to the current economic conditions and rising construction costs, conversion of the building for a restricted holiday use is financially unviable'. They further claim that 'without a new use, the building, and the land immediately around it, would be likely to fall into further dereliction'. However, no substantive evidence has been submitted to support this claim apart from stating that the appellant 'has found it difficult to secure development finance to fund the conversion'. Therefore, whilst criteria b of Paragraph 84 of the Framework would also be applicable, an alternative use has already been granted to secure the long term use of the building in the form of the holiday accommodation. I am not convinced, based on the limited evidence before me, that the building, without the proposed consent for a dwelling, would necessarily fall in to further dereliction. Therefore, I am not satisfied that the proposal would represent the optimal viable use of the heritage asset, as stated in criteria b of Paragraph 84.
20. Therefore, for the above reasons, the proposal would fail to enhance the immediate setting of the area. Furthermore, it would not represent the optimal viable use of a heritage asset. Consequently, it would not meet the requirements of the exception in respect of isolated homes in the countryside as set out in Paragraphs 84 b) and 84 c) of the Framework.

Affordable Housing

21. Policy SWDP 15 of the SWDP relates to meeting affordable housing needs. The policy seeks a financial contribution equivalent to 20% for sites involving less than 5 units. The Council have calculated that the relevant amount for the proposal would be £12,797.00 per dwelling. Therefore, a financial contribution towards affordable housing would be necessary.
22. The completed S106 agreement secures the applicable affordable housing contribution accordingly. I have also reviewed the S106, and I am satisfied that the obligation meets the 3 tests set out in Paragraph 57 of the Framework – that it is necessary, directly related to the development, and be fairly and reasonable related in scale and kind to the development.
23. Therefore, with the completed S106 in place, the proposal has made appropriate arrangements to secure a financial contribution towards the provision of local affordable housing. It would be in accordance with Policy SWDP15 of the SWDP which sets out the thresholds and amount of affordable housing that proposals should include to be policy compliant.

Planning Balance and Conclusion

24. The main parties agree that the Council is unable to demonstrate a five-year, nor a four-year, supply of deliverable housing sites. At the time of the decision in April 2023, the Council could only demonstrate 3.68 years supply of housing. The most recent position statement (published in December 2023) confirms that they can only demonstrate 2.65 years supply. Therefore, Paragraph 11 of

the Framework is engaged, which states 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, or there are specific policies in the Framework which indicate that development should be restricted.

25. The proposal would make a small contribution towards the provision of housing, consistent with the Government's stated aim in the Framework of significantly boosting the supply of homes. There would also be economic benefits contributing to building a stronger, responsive and competitive economy, supporting growth with construction and post-construction benefits. The proposal would encourage development and associated economic growth with future occupants contributing to the local economy and continued viability of services in the local area. The proposal would also secure a long-term use for the non-designated heritage asset. The appellant has also drawn my attention to Paragraph 70 of the Framework which recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. Together these benefits carry moderate weight in favour of the development.
26. However, the proposal would not be in a suitable location for housing, resulting in the likelihood of a dependency on the use of the private car for access to services. Furthermore, it would fail to enhance the immediate setting. As such it would be contrary to the aims of the Framework to ensure homes have accessible services and to avoid the development of isolated homes in the countryside unless certain circumstances apply. Therefore, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
27. The appellant challenges the weight to be afforded to some of the policies as 'the policies for the control of new housebuilding are becoming increasingly outdated'. However, under the terms of the Framework, due weight can still be given to them, according to their degree of consistency with the Framework. Therefore, the amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker.
28. It is considered that the relevant policies are broadly consistent with the Framework in terms of promoting a sustainable pattern of development, delivering a sufficient provision of housing and restricting dwellings in the countryside, except for in certain circumstances. They remain part of the development plan. I therefore still afford the relevant policies a significant amount of weight.
29. Finally, my attention has been drawn to two recent appeal decisions². I note the findings of one of the Inspectors who attached 'considerable weight' to the long-term viable use the building which had been identified as a non-designated heritage asset. I also note the recognition of the other Inspector in respect of the social benefits 2 dwellings would be bring and the alleged similarities in regard to the proximity to local services and facilities. However, I do not have full details of these applications before me in order to draw any direct comparisons. Each proposal must be considered on its own merits, and I have found the proposal before me now to be unacceptable for the reasons set

² APP/L3245/A/13/2210381 and APP/C4235/W/22/3292596

out above. Furthermore, a notable difference between the appeal proposal and the other appeal decisions is that there is an extant consent for an alternative use for the buildings in the circumstances before me now.

30. Overall, although the proposal would provide the required affordable housing contribution, the proposal conflicts with the development plan as a whole and there are no material considerations, including the Framework, which outweigh that conflict. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal is dismissed.

Laura Cuthbert

INSPECTOR