



Appeal Decision

Site visit made on 5 June 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 28 June 2024

Appeal Ref: APP/H1840/W/23/3328778

Lower Murcot Farm, Murcot Lane, Broadway, Worcestershire WR12 7HS

- 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 Mr M Jeffs against the decision of Wychavon District Council.
 - The application Ref is W/22/00821/FUL.
 - The development proposed is the proposed conversion of existing cart shed to provide new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether or not the appeal site is an appropriate location for the proposed dwellinghouses having regard to the settlement strategy and development plan and national policies relating to development within rural areas; and
 - whether or not adequate arrangements to secure appropriate affordable housing provision have been put in place.

Reasons

Whether or not an appropriate location

3. The appeal property comprises a dilapidated cart shed within a collection of barns that have been converted to residential dwellings.
4. It is outside the settlement boundary and consequently the appeal site is within the open countryside. Policy SWDP 2 of the South Worcestershire Development Plan adopted February 2016 (SWDP) sets out the development strategy and settlement hierarchy and highlights that within the open countryside development will be strictly controlled and will be limited to certain types of development.
5. The policy refers to Policy SWDP 12 of the SWDP which sets out that where permission is required for the residential conversion of a building as part of a farm diversification project, it will only be granted where a marketing exercise has shown that employment, tourism, leisure and recreation uses are unviable.
6. The appeal site does not meet any of the specific limited types of development set out in SWDP 2. Moreover, the appellant confirms that the proposal is not

presented as a farm diversification scheme. As a result, relevant development plan policies do not support the introduction of a dwelling at the appeal site. Moreover, even though the decision notice makes reference to Policy SWDP 12, as the proposal does not involve a farm diversification scheme, this policy is not strictly relevant in the determination of the appeal.

7. Although the appeal site is located just under a mile from both Wickhamford and Childswickham, the most direct route to both settlements is via public footpaths and not along paved roadside footpaths which, even via Murcot Turn involve a longer route. As a result, I am not persuaded that the proposed development would be located within a convenient walking distance of a local settlement, which in any event do not have extensive facilities. Moreover, although the appellant highlights there is a bus stop approximately 0.5 mile from the site which provides public transport to larger settlements, given this distance and the limited number of buses that travel between that stop and the larger settlements and the fact that according to the submitted evidence, the latest bus in either direction is just after 1600, there is not a convenient public transport system available for future residents of the proposed dwelling.
8. Taking these factors together, I consider that it is more likely than not that future occupiers of the proposed dwellings would be reliant on the private car. The proposed development would therefore not represent a location which is sustainable as contrary to the National Planning Policy Framework it would not be located where the need to travel would be limited.
9. As outlined above, facilities within the local settlements are limited and the proposal would make only a very modest contribution to enhance or maintain the vitality of the rural community. This would be clearly outweighed by the fact that the proposal would not be located where the need to travel would be limited.
10. I therefore conclude that the proposed dwellinghouse would not be located in an appropriate location having regard to the settlement hierarchy and would not accord with development plan and national policies relating to development within rural areas which I afford significant weight in the determination of the appeal. It would therefore conflict with Policies SWDP 2 and SWDP 4 of the SWDP which among other things seek to strictly control development in the open countryside and minimise demand for travel. The proposal would also be at odds with the Framework as the proposal would not be located where the need to travel would be limited.

Affordable Housing

11. In the appellant's appeal statement, they set out that an affordable housing contribution would not be required. However, at the final comment stage of the appeal process, the appellant accepted that an affordable housing contribution would be required, which would need to be secured by way of a legal mechanism. They indicate that this could be secured by a suitably worded condition.
12. However, the Planning Practice Guidance – Use of planning conditions sets out that a positively worded condition which requires the applicant to enter into a planning obligation is unlikely to pass the test of enforceability and further, a negatively worded condition limiting the development that can place until a

planning obligation has been entered into is unlikely to be appropriate in the majority of cases. That is the case here.

13. There appears to be no compelling reason why this matter could not have been resolved much earlier in the process. The late acceptance by the appellant of a need for such a contribution leads to a significant degree of uncertainty as although there is a calculation contained within the Council's delegated decision report, the appellant has not indicated whether they accept this calculation and certainly no heads of terms or principal terms have been agreed.
14. As a result, I am not persuaded that there are exceptional circumstances in this case to justify imposing a negatively worded condition. This is not a particularly complex development scheme where there is clear evidence that the delivery of the development would be at serious risk. Rather this is a straightforward case, where this matter could have been resolved as part of the appeal process and the provision of an obligation provided in accordance with the deadlines set out in the Procedural Guide -Planning appeals – England.
15. I therefore conclude that adequate arrangements to secure appropriate affordable housing provision have not been put in place and I afford that issue moderate weight in the determination of the appeal. It follows that the proposal is at odds with Policy SWDP 15 of the SWDP which sets out that new residential development will contribute to the provision of affordable housing based on certain thresholds.

Other Matters

16. I turn now to consider housing supply. The Council accept that they can only demonstrate a supply of 3.81 years. This is well below Government expectations. Although the proposal would undoubtedly be valuable in boosting housing stock in circumstances where there is an existing shortfall, given that it would only result in the addition of one dwelling that tempers its weight.
17. I accept that the proposal would have a cumulative effect in the supply of housing and would have limited economic, social and environmental benefits. For example, it would provide some jobs and create demand for materials during the construction phase, would broaden the availability of housing in the area and once occupied would support services and local facilities. I have also taken account of the fact that the proposal would result in the re-use of a redundant building. Overall, I afford the provision of one dwelling modest weight in the determination of the appeal.
18. I have also taken account of the fact that the appellant indicates that the proposed development would be a self-build unit. As set out in the PPG Self-build and Custom Housebuilding, in order for me to be satisfied that the proposed dwelling would be a self-build or custom build home it is necessary that the initial owner of the proposed development would have primary input into its final design and layout. There is no indication that that is the case.
19. The appellant also indicates that this matter could be addressed by a suitably worded condition. However, I am not so sure. The appeal plans already contain a design and layout. At this stage it may not be possible for any initial owner to have primary input into the final design and layout. That said, even if I am wrong, for the purpose of the planning balance that I will undertake later, I'll assume it does meet the necessary criteria.

20. The Council has a duty under the Self Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet identified demand for the district.
21. The Framework supports small sites to come forward for self-build and custom-build housing. However, the Council indicate that they are only 1 self-build unit short of their target. The appellant does not dispute that evidence and on that basis the Council has fallen just short of meeting demand but have some time to make up that very minor shortfall.
22. The addition of a self-build dwelling would help to address the current shortfall and would result in the Council meeting the target. However, the weight afforded is significantly tempered by the fact that only one dwelling is proposed. Consequently, the provision of a self-build/custom-build dwelling would amount to a benefit of limited weight.

Planning Balance

23. I have afforded some matters weight as outlined above and I afford the totality of the benefits moderate weight in the determination of the appeal.
24. On the other hand, I have found that contrary to the relevant policies of the development plan, the appeal site would not be suitable for residential development. Moreover, adequate arrangements to secure appropriate affordable housing provision have not been put in place. I have afforded these matters significant and moderate weight respectively. As a result, the proposal would conflict with the development plan and the Framework as a whole.
25. As set out above, based on the available evidence the Council accept that they can only demonstrate a supply of 3.81 years. As a result, Paragraph 11(d) of the Framework is engaged. However, for the reasons set out above, the adverse impacts of granting permission for the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
26. Consequently, the scheme would not represent sustainable development within the meaning of paragraph 11(d) of the Framework and this weighs substantially against the scheme.
27. In reaching that view I have taken account of the other planning appeal decisions that have been brought to my attention. However, the circumstances of these other cases are materially different from the proposal before me. For example, in relation to the case Bretforton Road, Badsey¹, although Paragraph 11(d) of the Framework is also engaged, the proposal was for 100 dwellings and therefore the weight given to the benefits of the proposal relative to the harm were significantly different from the case before me.
28. In the case at Drakes Broughton, Pershore², I note that the Inspector in that case found that the proposed development would have walkable access to village services, and that overall, the appeal site in that case was suitable for

¹ APP/H1840/W/21/3266573

² APP/H1840/W/20/3251766

housing having regard to the location. That is materially different to my findings.

29. Similarly, in the case at Shrewsbury Road, Hadnall³, the Inspector found that the appeal site was located within a village, adjacent to existing development and within easy reach of local services and facilities and consequently future occupants would be able to walk or cycle to them rather than relying on private motor vehicles. Again, this is materially different from the situation in the case before me. As a result, the other examples are materially different as is the weight that the Inspectors have afforded the relevant ingredients that they have had to balance. Consequently, these other decisions do not alter my overall view, nor do they justify harmful development at the appeal site.

Conclusion

30. The proposal conflicts with the development plan and the Framework and material considerations do not indicate that the appeal should be decided other than in accordance with the development plan. Therefore, the appeal should be dismissed.

S Rawle

INSPECTOR

³ APP/L3245/W/22/3310764