The Planning Inspectorate

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: 02 July 2024

Appeal Ref: APP/H1840/W/23/3336020
Lower Portway Farm, Winchcombe Road, Sedgeberrow WR11 7UB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Sandels Developments Limited against the decision of Wychavon District Council.
- The application Ref is W/23/00789/FUL.
- The application sought planning permission for the demolition of agricultural buildings with Class Q consent and erection of 4 dwellings without complying with a condition attached to planning permission Ref 21/01183/FUL, dated 23 September 2022.
- The condition in dispute is No 2 which states that: Unless where required or allowed by other conditions attached to this permission/consent, the development hereby approved shall be carried out in accordance with the information (including details on the proposed materials) provided on the application form and the following plans/drawings/documents – 21-04-01rev A Location Plan; 21-04-11rev B Planning Site Plan; 21-04-12revA Unit 1 Floor Plans; 21-04-13revA Unit 1 Elevations; 21-04-14revA Unit 2 & 3 Floor Plans; 21-04-15revA Unit 2 & 3 South East & South West Elevations; 21-04-16revA Unit 2 & 3 North West & North East Elevations; 21-04-17revB Unit 4 Floor Plans; 21-04-18revB Unit 4 Elevations
- The reason given for the condition is: To define the permission.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of agricultural buildings with Class Q consent and erection of 4 dwellings at Lower Portway Farm, Winchcombe Road, Sedgeberrow WR11 7UB in accordance with the application Ref W/23/00789/FUL, without compliance with condition number 2 previously imposed on planning permission Ref 21/01183/FUL, dated 23 September and subject to the following conditions:

    1) The development hereby permitted shall be carried out in accordance with drawing nos: 3897 01 A; 3897 02C; 3897 03B; 3897 04C; 3897 05C; 3897 06; 3897 07B; 3897 08A;23-04-22; and 23-04-23.

    2) Prior to the first use/occupation of the development hereby permitted, the details set out in the Water Management Statement submitted with the original application shall be fully implemented and remain thereafter.

    3) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority. The applicant is advised to immediately seek the advice of an independent geo-environmental consultant experienced in contaminated land risk assessment, including intrusive investigations and remediation.

No further works should be undertaken in the areas of suspected contamination, other than that work required to be carried out as part of an approved remediation scheme, unless otherwise agreed by the Local Planning Authority, until requirements 1 to 4 below have been complied with:

1. Detailed site investigation and risk assessment must be undertaken by competent persons in accordance with the Environment Agency's 'Land Contamination: Risk Management' guidance and a written report of the findings produced. The risk assessment must be designed to assess the nature and extent of suspected contamination and approved by the Local Planning Authority prior to any further development taking place.

2. Where identified as necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to identified receptors must be prepared and is subject to the approval of the Local Planning Authority in advance of undertaking. The remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. The approved remediation scheme must be carried out in accordance with its terms prior to the re-commencement of any site works in the areas of suspected contamination, other than that work required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.

4. Following completion of measures identified in the approved remediation scheme a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval of the Local Planning Authority prior to the occupation of any buildings on site.

4) The Development hereby approved shall not be occupied until the access, turning area and parking facilities shown on the approved plans have been provided. These areas shall thereafter be retained and kept available for their respective approved uses at all times.

5) 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.

6) The Development hereby permitted shall not be first occupied until the proposed dwellings have been fitted with an electric vehicle charging point. The charging points 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 points shall be retained for the lifetime of the development unless they need 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.

7) Prior to any works above ground level, details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The details to be submitted shall include: - type, colour, texture, size, brickwork; - a precise specification of the proposed external cladding, including any decorative panels; - details of the approved windows, doors, including drawings showing design, materials and profile. The development shall be carried out using the materials as approved.

8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking, re-enacting, substituting, amending, extending, consolidating, replacing or modifying that Order), nothing under Schedule 2 Part 1 Class A – enlargement, improvement or other alteration of a dwellinghouse other than those expressly authorised by this permission shall be constructed/carried out on the application site following the completion/first use of the development hereby permitted.

9) No development above ground level shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

10) All planting and seeding/turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding season following the first occupation/use of the development or the completion of the development, whichever is the sooner. All planting shall be watered as necessary and competitive weed growth controlled to ensure successful establishment. Any trees or plants that die or are removed; or become seriously damaged or diseased within a period of five years from the completion of the planting, shall be replaced in the next planting season with others of similar size and species.

11) No development above ground level shall commence until details of a bat roosting feature and bird nesting box shall be submitted to and approved in writing by the Local Planning Authority. The details to be submitted shall include an implementation timetable. The features shall be provided in accordance with the approved details and in accordance with the approved timetable.

12) Prior to the occupation of any part 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 any part of the development 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 first occupation of the development hereby approved full details of a management plan for the use and maintenance of any areas of open space shall be submitted to and agreed in writing by the local planning authority. The management plan shall include details of the arrangements for implementation of landscaping, management responsibilities and maintenance schedules for all landscape areas (excluding domestic gardens). The approved landscape maintenance schedule shall be fully implemented.

14) (A) The development hereby permitted shall be carried out in accordance with the recommendations set out in the Written Scheme of Investigation (strip, map and sample) & Archaeological Monitoring and Recording report carried out by Archaeology Warwickshire dated March 2024.

(B) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation referenced in condition 14(A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Preliminary Matters

2. Although the description of the development refers to the demolition of agricultural buildings, I observed at the site visit that these have largely been demolished and I have determined the appeal on that basis.

Background and Main Issue

3. The appellant seeks to erect four dwellings on the appeal site with a different design and orientation of the dwellings to that approved.

4. The main issue is whether or not the retention of condition 2 is necessary to ensure that the proposed changes to the development do not harm the character and appearance of the area.

Reasons

5. The appeal site is located outside, but adjacent to the settlement boundary of Sedgeberrow and the surrounding area has a mixed character comprising agricultural fields and farmland to the south and south-west and residential dwellings, including a housing estate to the north and north-west. Access would be provided by the existing access track from Winchcombe Road and there would be a significant set back from the existing residential dwellings to the east.

6. During the application process, the appellant constructively consulted with the Council and particularly with the relevant assistant urban designer.

7. The Officer's Planning Committee Report (the report) set out that the proposed development would be similar in scale, height, and massing to that originally approved, and would be considerably smaller than the original agricultural buildings that were on the site. As a result, the report highlighted that as the orientation and layout continued to take its cue from the agricultural farm complex, the proposal would be acceptable in terms of siting and layout and would not appear out of place within the setting.

8. In terms of materials and appearance, the report emphasised that the use of black timber cladding would be in keeping with the rural setting of the site, with red brickwork being a predominant finishing material within the village of Sedgeberrow. It noted that overall, the design approach would provide a more modern appearance, but the proposed details and finishing materials would continue to reflect an agricultural appearance and layout within the farm complex. Overall, the report concluded that the proposed amendments to the design and appearance of the dwellings would not result in any visual harm to the locality.

9. I agree with that analysis. It follows that the proposed materials, architectural design and layout would be entirely compatible with the surrounding area. As a result, the proposal would not harm the character and appearance of the area.

10. I therefore conclude that retention of conditions 2 in its current form is not necessary as, for the reasons set out above, the proposed changes to the proposed development would not result in any material harm and would not conflict with Policy SWDP21 of the South Worcestershire Development Plan adopted February 2016, which among other things seeks to ensure that all development is of a high design quality that integrates effectively with its surroundings and that the detailing and materials of development should be of high quality and appropriate to its context.

11. The proposal would also comply with the National Planning Policy Framework which seeks to ensure development is sympathetic to local character.

Conditions

12. By allowing this appeal a new planning permission is created. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.

13. As the development has already started it is unnecessary for me to attach the commencement of development condition. Although some conditions may have been discharged, I have limited information before me about the status of the conditions imposed on the original planning permission. Accordingly, I shall impose all those that I consider remain relevant. If some conditions have in fact been discharged, that is a matter which can be addressed by the parties.

14. On that basis, I shall grant a new planning permission and will amend the disputed condition to secure compliance with the amended approved plans. I shall also amend other conditions to ensure that they refer to the approved plans. In relation to the condition that deals with archaeology it has been amended to reflect the fact that a Written Scheme of Investigation which was required to be submitted under a condition imposed on the original permission has been approved by the local planning authority.

15. Notwithstanding the conditions proposed by the Council I will also retain those non-disputed conditions from the previous permission that appear still to be relevant. However, in the case of landscaping, as a landscaping work specification does not appear to have been provided based on the amended plans, in the interests of the character and appearance of the area it is necessary to require that a landscaping scheme is submitted and approved.

Conclusion

16. For the reasons given above I conclude that overall, the proposed amendments do not conflict with the development plan and therefore the appeal should be allowed. I will therefore grant a new planning permission with all the changes as shown on the revised plans and subject to the specified planning conditions.

S Rawle

INSPECTOR