

Appeal Decision

Site visit made on 18 July 2024

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 August 2024

Appeal Ref: APP/H1840/W/24/3341594

Hawford Grange, Hawford, Worcester WR3 7SG

- 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 & Mrs S Loveridge against the decision of Wychavon District Council.
 - The application Ref is W/23/00803/FUL.
 - The development proposed is the construction of a live/work unit.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a live/work unit at Hawford Grange, Hawford, Worcester WR3 7SG in accordance with the terms of the application Ref W/23/00803/FUL subject to the conditions set out in the attached Schedule.

Application for Costs

2. The appellants have made an application for costs against the Council. This is the subject of a separate decision.

Main issue

3. The main issue is whether the site is an appropriate location for a live/work unit having regard to the provisions of the development plan read as a whole and access to services.

Reasons

4. The appeal site is set within the verdant grounds of Hawford Grange a short distance to the east of the dualled A449 which connects Worcester to Kidderminster and beyond. Although there are clusters of dwellings off the nearby Chatley Lane, the site lies in countryside both physically and for policy purposes.
5. The Council's officer report on the application lists a number of development plan¹ policies and these provide the main policy context for assessing the various aspects of the proposal. To my mind, however, in the particular circumstances of this appeal, the most relevant are SWDP2; SWDP4 & SWDP8.
6. Policy SWDP2 (C) seeks to protect the open countryside, where development will be strictly controlled. The various exceptions to the policy of constraint are

¹ South Worcestershire Development Plan (SWDP)

identified and listed, and this includes development specifically permitted by other SWDP policies, including SWDP 8.

7. Policy SWDP 8 (G) relates to live/work units and provides the criteria or guidelines for gauging their acceptability. Paragraph 15 of the explanatory text to the policy indicates that such units can be expected to be built in rural areas outside settlement boundaries in the countryside. Indeed, the appellant has provided several examples of such units granted planning permission in South Worcestershire in countryside locations, including one in relatively close proximity to the appeal site².

8. In their report on this application officers concluded, with regard to Policy SWDP8 and other aspects, that:

The proposed development would meet the criteria outlined in Policy SWDP8³, is considered to be of an appropriate scale and design for its location and would preserve the nearby heritage assets. The proposal would not give rise to concerns over residential amenity or issues around highway safety or parking.

9. This indicates strongly to me that the Council consider the proposal to be compliant with policy SWDP8 with specific regard to live/work proposals, and that this form of development can be properly regarded as an exception to the general policy of restraint on development in rural areas under the terms of policy SWDP2.
10. Although there is a bus service within reasonable walking distance of the appeal site along the A449, I share the Council's view that most journeys to and from the site would be likely to be undertaken by car. On its face, this may bring it into conflict with that provision of policy SWDP4 which the Council highlights, that is, '*Proposals must demonstrate that: the layout of development will minimise demand for travel, they offer genuinely sustainable travel choices..*'
11. It strikes me, however, that if this aspect of policy were always to be strictly or literally applied, most of the rural exceptions allowed for in under the terms of policies SWDP2 and SWDP8 may not see the light of day. Thus, the purpose of identifying exceptions would largely be negated, which I feel sure was not the intention when the Plan was drafted and adopted. To my mind, the development is compliant with policy SWDP8 and accordingly falls to be considered as an acceptable exception to the policy of restraint normally found in rural areas and as set out in policy SWDP2.
12. I am also mindful that the Framework⁴ advises that all aspects of sustainability should be considered in planning decisions, that local circumstances should be taken into account, and that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. I acknowledge too that the site is not isolated in the terms of the Framework, and that there is an available bus service nearby. Although the site lies in designated countryside it is reasonably well-located regarding access to services, being about 2 miles distant from Worcester.

² Ref 22/01227/FUL

³ Notwithstanding the reservations expressed as to the precise usage proposed in the work section of the building and the relationship with an established business

⁴ The National Planning Policy Framework

13. I therefore conclude that the proposal is compliant with development plan policy read as a whole and that the site is reasonably well located to services, including by means other than the car.

Conditions

14. The Council belatedly submitted a list of suggested condition upon which the appellant has commented. Most will be imposed, albeit amended in some cases, and for the reasons set out below I consider that some additional conditions are necessary.
15. A condition to the effect that the development shall be carried out in accordance with the approved plans shall be imposed in the interests of certainty.
16. A condition regarding further details of the materials to be used externally is necessary to safeguard the character and appearance of the area.
17. A condition is necessary to ensure that the development is provided with a satisfactory means of drainage, and to ensure that it does not interfere with the trees or hedges either on or on the periphery of the site.
18. Conditions to ensure that the live/work unit is not occupied until an electric vehicle charging point is installed and that secure cycle parking is provided are both considered necessary to encourage the use of more sustainable modes of transport.
19. Notwithstanding the Council's suggested condition, no landscaping scheme has been submitted and contrary to the information in the planning application form, there are trees on the site as well as on its periphery. Having regard to the semi-parkland nature of the site; to ensure that existing trees are not damaged or removed and that the local landscape is enhanced a landscape condition is necessary in the interests of protecting the character and appearance of the area.
20. A condition relating to renewable/low energy generating facilities is necessary to minimise carbon emissions and secure sustainable energy solutions.
21. Having regard to the ecological information submitted with the application, a condition requiring an ecological mitigation and enhancement scheme to be submitted and approved in writing by the local planning authority is considered necessary to ensure that the development contributes to the conservation and enhancement of biodiversity.
22. A condition to ensure that details of any external lighting is submitted for the Council's approval is necessary to ensure that there would be no adverse impact on ecological interests and the rural character of the area.
23. The sound of traffic on the A449 was clearly audible when I visited, and I therefore consider, to safeguard the living conditions of future residents of the unit, a variation of the Council's suggested condition in respect of noise shall be imposed.
24. Having regard to the significant archaeological potential of the site, as identified in the response to consultation by the Council's Archaeological

advisor dated 5 October 2023, the conditions recommended in that response are considered necessary.

25. A condition is necessary to ensure that the live/work unit complies with the relevant criteria in Policy SWDP 8 since residential development would not normally be allowed on this rural site.

Other matters

26. I have considered the representations made by local residents, the Parish Council, Historic England and other regulatory consultees. I have already dealt with many of the points raised. I have noted the points raised in relation to access, heritage assets and ecology, but for the same reasons as set out in the officer report on the application and having regard to the submitted evidence and my site visit, I do not consider that objections on these grounds are sustainable.
27. I have been made aware of the provisions of the emerging SWDP Review and the changes proposed to the policy provisions in respect of live-work units. I note from the latest update⁵ on the Examination website that various reports are still in preparation and aspects of the evidence base are not yet in place. The date for the commencement of hearings is still to be announced. I take the view that since the published draft is subject to change, it attracts limited weight. I note that the Council was of a similar view when the application was determined.
28. I have taken account of all other matters raised but no other matter raised is of such strength or significance as to outweigh those considerations that led me to my conclusions.

G Powys Jones

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: PLAN MAB1); PLAN MAB2 & PLAN MAB3.
3. No development shall commence until details and samples of the form, colour and finish of the materials to be used externally on the walls and roof of the live/work unit hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.
4. The development hereby permitted shall not be occupied until the proposed live/work unit have been fitted with an electric vehicle charging point. The

⁵ As at 31 July 2024

electric vehicle charging point shall be retained for the lifetime of the development unless it 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.

5. Prior to the occupation of any part of the development hereby permitted, details of sheltered and secure cycle parking to comply with the Council's adopted highway design guide shall be submitted to and approved in writing by the local planning authority. The approved cycle parking shall be provided prior to any part of the development hereby permitted being first occupied and thereafter the approved cycle parking shall be kept available for the parking of cycles only.
6. Before the development hereby permitted is commenced, a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The landscaping scheme shall include: -
 - a plan(s) showing details of all existing trees and hedges on and on the fringes of 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.
 - measures for the protection of trees during the construction period
 - a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas.
 - a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants.
 - a written specification outlining cultivation and other operations associated with plant and grass establishment.
 - a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.
 - A written statement demonstrating how the landscaping scheme complements the Ecological Mitigation and Enhancement Scheme⁶ for the site.

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.

⁶ Subject of condition 9

7. Prior to the occupation of the live/work unit 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 the 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. The approved facilities shall be implemented and thereafter retained in operation.
8. (A) No development shall take place until a programme of archaeological work, including a Written Scheme of Investigation, has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
- The programme and methodology of site investigation and recording.
 - The programme for post investigation assessment.
 - Provision to be made for analysis of the site investigation and recording.
 - Provision to be made for publication and dissemination of the analysis and records of the site investigation.
 - Provision to be made for archive deposition of the analysis and records of the site investigation.
 - Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- (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 approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
9. No development shall take place until an Ecological Mitigation and Enhancement Scheme, which shall be based on the findings and opportunities identified in the Preliminary Ecological Assessment produced by Focus Environmental Consultants (July 2023) has been submitted to and approved in writing by the local planning authority. The approved mitigation and enhancement scheme shall be carried out within the same time frame as the approved landscaping scheme⁷ in strict accordance with the approved scheme. On completion of the scheme, it shall be inspected by a qualified ecologist and a written statement shall be submitted to the local planning authority confirming that all of the measures contained in the approved scheme have been implemented in accordance with the details approved under this condition. The implemented mitigation and enhancement scheme shall thereafter be retained.

⁷ Subject of condition 6

10. Before the development hereby permitted is first occupied, 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 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.
11. Before the development hereby permitted reaches the superstructure construction stage, a noise assessment, including specification details for the glazing and ventilation to be used on all facades, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be undertaken in accordance with the approved details and retained as such in perpetuity.
12.
 - i. The work/business element floorspace of the live/work unit hereby permitted shall be finished and ready for occupation before the residential floorspace is occupied and the residential use shall not precede commencement of the work/business use.
 - ii. The business floorspace of the live/work element of the development hereby approved shall not be used for the sale of goods to visiting members of the public and shall not be used for any purpose falling outside Use Classes E(g)(i), E(g)(ii) or E(g)(iii) 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 unit 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 and work spaces shall remain entirely separate with separate entrances and toilet facilities.
 - vii. The live/work unit hereby permitted shall have access to superfast broadband or equivalent infrastructure in accordance with details previously approved in writing by the local planning authority.