The Planning Inspectorate

Appeal Decision

Site visit made on 20 August 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th September 2024

Appeal Ref: APP/H1840/W/24/3340516
Stables and land at Saleway Lane, Dunhampstead

- 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 Ms M Thorndike against the decision of Wychavon District Council.
- The application Ref is W/23/02487/FUL.
- The development proposed is development of a live/work unit.

Decision

1. The appeal is allowed, and planning permission is granted for development of a live/work unit at stables and land at Deansbrook Stud, Saleway Lane, Dunhampstead in accordance with the terms of the application, Ref W/23/02487/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Council advise that the existing stables are restricted by condition to be used privately and not for any trade, business, or equestrian purposes. The change of use of the existing stables, or removal of the restrictive condition, to allow business use is not a matter before me and is for the main parties.

3. The site address in the banner above is taken from the description of the site on the planning application form. I note that the Council altered the address to refer to Himbelton, however, site is closer to Dunhampstead than to Himbleton. I have, therefore, used the address as described above.

Main Issues

4. The main issues are:

   - Whether the site would provide a suitable location for live-work development, having regard to the development strategy for the area and the accessibility to services and facilities; and

   - the effect of the development on the character and appearance of the area.

Reasons

Suitability of location

5. The appeal site comprises a parcel of land currently used for grazing horses adjacent to existing stables, a barn and manège. It lies outside any of the identified settlements set out within the South Worcestershire Development Plan, adopted 2016 (the LP). Consequently, it falls within land that, in planning terms, should be considered as countryside.

6. Part C of Policy SWDP 2 of the LP seeks to limit development in the countryside but also provides a number of exceptions to this strict control. The final sentence of Part C supports other developments specifically permitted by other policies and refers to footnote 3. The proposal is for a live-work unit which is a form of development specifically permitted under

7. Policy SWDP 8 of the LP, specifically Part G, advises that proposals for live-work accommodation would be permitted providing the scheme meets the seven criteria listed. Policy SWDP 8, is included in the list in footnote 3 of Policy SWDP 2 of the LP.

8. The reasoned justification for Policy SWDP 8 advises that the support for live-work units would help to deliver the economic prosperity objective of the LP. Paragraph 3 of the reasoned justification notes the diversity of the economy is characterised by, amongst other things, the inclusion of live-work arrangements dispersed throughout the rural areas. Paragraph 15 advises that live-work units can help support small and start-up businesses and provide sustainability benefits in the more rural areas. The supporting text to the policy also advises that the criteria set out in Part G is intended to ensure that proposals are genuinely intended for employment purposes.

9. The National Planning Policy Framework (the Framework) is also generally supportive of live-work developments within the section seeking to build a strong, competitive economy where, under paragraph 86, planning policies should allow for such accommodation. Moreover, paragraph 88 supports a prosperous rural economy by enabling growth and expansion of all types of business in rural areas through conversion and well-designed, beautiful, new buildings and also development of agricultural other land-based businesses.

10. It is not uncommon for policies to pull in different directions. Policy SWDP 2 supports some forms of development in the countryside whilst also seeking to safeguard and enhance the open countryside and focus development to the most accessible locations. Consequently, although there would be some conflict with the aims of Policy SWDP 2, in that the proposal would result in development in the open countryside, it is for a form of development which is specifically permitted by Policy SWDP 8, as is allowed as an exception by the last sentence of Part C of Policy SWDP 2.

11. Both main parties agree that the floor space split complies with Part G i) of Policy SWDP 8 of the LP. The submitted floor plans show that the residential accommodation contains three bedrooms and that the residential and work spaces are separate with their own entrances and toilet facilities in compliance with ii) and iii). The submitted Planning Statement provides evidence that the property would have access to superfast broadband as required by v).

12. The Council has confirmed that the development would not need to provide affordable housing under iv) and, due to only providing one live-work unit there is no requirement for shared business space under vi).

13. However, the Council has raised concerns about whether the appeal proposal complies with Part G, criteria vii), of Policy SWDP 8 of the LP. This criteria seeks to resist development that involves the sale of goods to visiting members of the public. Although the business proposed would not fall within any of the Use Classes listed in criteria vii) it would involve the sale of ponies.

14. The appellant contends that the sale is not to passing members of the public. However, although sales are carried out on an appointment only basis, that only 50% deposit is paid at the appointment time, and that the purchaser would not take away the pony at the point of sale as it would be delivered later, there would still be a sale. Moreover, that sale would be to a member of the public who would have to visit the site to view the pony they are interested in. The whole of the appellant's business case is based on the sale of ponies to customers wanting a pony for sport or for breeding. The business case states that the aim of the business is to breed and sell high quality competition ponies.

15. Consequently, I find that the development would fail to comply with Policy SWDP 8, Part G, criteria vii) in that the proposed use would involve the sale of goods to visiting members of the public.

16. However, the sale of ponies would be a use that would be expected in a rural area, especially given that the sale of ponies would be expected on a site where there is access to paddocks and stables. It would not be a use that would be suitable on an employment site or in a retail area. The sale of ponies would be something that members of the public would expect to travel to a rural area for.

17. Although customers would visit the site, from the appellant's proposed breeding plans, such visits would be infrequent and not result in significant vehicle movements to and from the site. On this basis the proposal, although not strictly complying with Part G criteria vii) of Policy SWDP 8 of the LP would meet with the thrust of the policy in only attracting limited visitors.

18. The Framework also advises that, to meet local business needs, sites in rural areas may have to be found that are beyond existing settlements and in locations that are not well served by public transport. Moreover, the limiting of development in the open countryside to specific policy exceptions, via policy SWDP 2 Part C, includes an explicit recognition that it is likely that at least some of them would be in rural locations more remote from services and facilities leading to a reliance on the private motor car.

19. Although the appeal proposal would result in residential development in the countryside the residential element of the scheme is connected to the business part of the proposal. The proposed live-work unit would reduce the need for the occupant of the residential element to have to travel to commute to work. A condition would be imposed to ensure that at least one

of the occupants of the residential element is primarily employed in the work element of the unit.

20. Furthermore, albeit that there may be another adult commuting from the site and potential for children needing to access schools the live-work scheme would remove one commuting car from the highway network. Due to the site being outside of any defined development boundary and away from services and facilities all of the occupants would need to use a car for access to services and facilities. However, the drive from the site to Droitwich Spa is only short and most journeys to access services and facilities, albeit by car, would be short. The proposal also includes an electric charging point which would encourage the ownership of an electric vehicle and, therefore, encourage more sustainable car travel.

21. Albeit that the development would not offer genuinely alternative travel choices it would not result in a significant demand on travel. The provision of a live-work unit would reduce the demand for travel by private car, as required by Policy SWDP 4 of the LP. Furthermore, the proposal would not have an unacceptable impact on local roads and, therefore, complies with paragraph 89 of the Framework.

22. Whilst there would be a reliance on the private motor car to access services and facilities, and customers would also be dependent on private vehicles to visit the site, the live-work nature of the unit would avoid many of the commuter journeys and the customer journeys would be limited. In any case, the possibility of car journeys resulting from the rural nature of sites outside development boundaries is implicitly accepted within the reasoned justification of policies SWDP 2 and SWDP 8. Moreover, policy SWDP 8 allows for up to three bedrooms and therefore allows for occupation by a family, even in areas that would not be appropriate for a family dwelling without the provision of workspace. I find that the policy exceptions within the LP and the potential benefits to the rural economy outweigh the harm from a reliance on the private motor car to access services and facilities.

23. I have taken into consideration the existing use of the site, what is proposed to be sold from the site, and the wider policy support for live-work units. For these reasons, although there is conflict with one of the criteria in Part G of Policy SWDP 8 of the LP, the development complies with the thrust of Policy SWDP 8 as a whole and with the aims of Policy SWDP 4.

24. For the above reasons, I conclude that the proposed site would provide a suitable location, having regard to the development strategy for the area and the accessibility to services and facilities. It follows that it would comply with Policy SWDP 2 of the LP, which seek to focus most development in more urban areas and within development boundaries, whilst allowing for limited exceptions for development specifically permitted by other policies such as live-work accommodation in accordance with policy SWDP 8. Whilst there would be some conflict with policy SWDP 4's general requirement to minimise demand for travel and provide genuinely sustainable travel choices and some conflict with Policy SWDP 8, the development would not conflict with the LP as a whole or its overarching sustainable development principles.

Character and appearance

25. The proposal is for a three bedroom residential element, to be provided in a two-storey building, linked by a corridor to the work space, which would provide equestrian based business space on the ground floor and an office and WC in the roof space. The external appearance would be viewed as one building as the roof of the work space would run into the roof of the residential space.

26. Both parts of the building have been designed to reflect other rural buildings with timber cladding and a standing seam metal roof. Although the design of the residential part includes large window openings, a balcony and flue, these would appear similar in design to converted barns across the country and to the other houses in the rural area around the appeal site.

27. From the road passing the site I noted glimpsed views of the appeal site, mainly from the existing access and from a gateway at the opposite end of the land within the appellant's ownership. The appeal site is not highly visible and would be mostly screened by existing roadside hedges. The existing single storey stables and barn are not prominent in views from the road and I have not been made aware of any views from public rights of way. Passengers of trains passing along the nearby train line may catch passing views of the site, though these would be fleeting and read alongside the existing buildings.

28. I accept that the proposed building would be taller than the existing stables and barn, however it would be set at a lower ground level to take advantage of the sloping nature of the site. Moreover, when viewed from the road it would be seen within the backdrop of the trees beyond the site and as part of a cluster of buildings with the stables and barn. The proposal also includes additional hedge planting to further mitigate the visual effect.

29. Although the proposal would introduce a large building within the rural landscape it would not be visible from wide ranging views in the open countryside around the site, other than the views of the appellant and the adjacent land owners. There would not be significant public views of the development. The introduction of domestic paraphernalia around the site is also implicitly accepted in rural areas as part of the exception allowed for live-work proposals. Furthermore, the additional landscaping would also assist in screening such features.

30. The appeal site is within the countryside. However, it is also not far from the group of houses in Saleway which I saw include some substantial sized dwellings and other agricultural buildings. Large rural buildings are part of the character of the open countryside in the wider area. The design and materials of the proposal would reflect the rural nature of the area and are of a high quality. In my judgement the proposal would integrate effectively with its wider surroundings, reflect the characteristics of the rural area and the site itself, and complement the surrounding buildings and landscape quality of the area as required by Policies SWDP 21 and SWDP 25.

31. For the above reasons, I find that the proposed development would not have a detrimental effect on the character and appearance of the area and would, therefore, not conflict with Policies SWDP 2 or SWDP 21 of the LP which, amongst other matters, seek to strictly control development in the open

countryside and ensure that development is of a high quality and integrates effectively with its surroundings.

32. I note that the Council has advised that it is seeking to restrict the size of the residential elements of live-work schemes in the emerging South Worcestershire Development Plan Review (SWDPR). However, although it was submitted to the Planning Inspectorate for examination in September 2023, I cannot be certain if any of the policies are to be modified, whether there are any outstanding objections, or when the SWDPR is likely to be adopted. I, therefore, have considered the appeal against the adopted development plan policies.

Other Matters

33. From the evidence before me the appeal site lies near to Lower Saleway Farm Meadows Site of Special Scientific Interest (SSSI). Neither main party have advised that the development would harm the SSSI and I have no evidence to suggest otherwise.

34. The appellant has drawn my attention to other planning permissions and appeal decisions for live-work units in Wychavon. Some of these cover similar main issues to the appeal before me. It would not be practical for me to individually address all of these; however, I have considered them carefully. Nevertheless, I have assessed the proposals before me on its own merits, taking into account the information submitted and my own observations on site.

Conditions

35. The Council has provided a list of conditions that it considers would be appropriate and the appellant has commented on this. I have considered these in light of the Framework and the Planning Practice Guidance, and I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity.

36. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. I have also included the water management strategy statement plan, construction environment management plan and planting schedule in this condition as these documents provide some of the detail of the development. However, I have not included the Planning Statement or the Business Plan as these documents do not provide any information that needs to be complied with to carry out the development.

37. I have included a condition to require connection to superfast broadband, or a similar equivalent, as this is a specific criteria requirement of Policy SWDP 8 of the LP to support the business element of the scheme.

38. In the interests of highway safety, I have included conditions to require the access and parking area to be provided prior to occupation of the development. I have also included a condition to require details of an electric vehicle charging point to be submitted to encourage sustainability and the use of electric vehicles. Whether the details comply with the British

Standards and County Council Guide will be a matter for the Council to assess at the time of the submission of the details. This information is not required in the condition.

39. To further encourage sustainability and cycling as an alternative means of travel I have also included a condition requiring the details of cycle storage to be provided. It is necessary for the appellant to submit this detail as cycle storage is not indicated on the proposed plans and needs to be proportionate to the scale of the development without causing greater harm to the area.

40. To ensure that the development is provided with the energy and carbon reduction measures and the water management measures proposed I have included conditions to ensure that it is carried out in accordance with the submitted details.

41. The appeal has been submitted with a detailed Ecological Report by Chelmarsh RG and the details of the bat roosting feature and bird nesting box are provided on the proposed elevation drawing. As part of the approved plan these features would need to be provided prior to the first occupation of the development and retained for the lifetime. For these reasons, I consider it is not necessary for further information to be provided.

42. Details of the existing and proposed landscaping is also shown on the proposed site plan and within the planting and maintenance schedule. I have included both of these within the list of approved plans. Consequently, I consider it is not necessary to impose a condition requiring the submission of further landscaping details. I have, however, included a condition requiring the planting to be carried out within the first planting season following occupation and for any landscaping to be replaced within the first five years. This would provide time for the landscaping to establish and ensure that the development is appropriate in the rural area.

43. Notwithstanding the appellant's assertion that the proposal is a sui generis use and would, therefore, not benefit from permitted development rights, the proposal includes a residential element which is functionally separate from the work element and is capable of being used as a dwellinghouse. I have no substantive evidence that the proposal would be a sui generis use and I have, therefore, imposed a condition removing some of the permitted development rights.

44. However, I have not removed all of the permitted development rights that would normally be available and have limited what rights I have removed to those Classes which would otherwise result in an increase in the size of the residential element of the scheme. I have, therefore, removed the rights for Classes A, AA and E of Part 1 as extensions and alterations to the residential element or residential outbuildings would increase the live part of the scheme and exceed the percentage limits set out in Policy SWDP 8 of the LP. I have also removed the right to change the use of the work space to residential as permitted under Class MA of Part 3 as this would also effect the percentage split between live and work uses.

Conclusion

45. For the reasons given above the appeal should be allowed, subject to the conditions set out in the attached schedule.

K Townend

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 drawing nos p2023_32/06, p2023_32/03, p2023_032/04, p2023_032/05, p2023_032/07, p2023_032/08, and the Inside Out Architecture planting and maintenance schedule dated 27/11/2023.

3) The development shall not be occupied until connection to superfast broadband, or a similar equivalent, have been provided in accordance with details to be submitted to and approved in writing by the local planning authority. The details shall include an implementation programme. The approved scheme shall be installed in accordance with the approved details and shall thereafter be maintained for the lifetime of the development.

4) The development shall not be occupied until electric vehicle charging points have been provided in accordance with details to be submitted to and approved in writing by the local planning authority. The details shall include an implementation programme. The electric vehicle charging points shall be installed in accordance with the approved details and shall thereafter be maintained for the lifetime of the development.

5) The development shall not be occupied until secure and covered space for bicycles to be stored has been provided in accordance with details to be submitted to and approved in writing by the local planning authority. The cycle storage shall be provided in accordance with the approved details and that space shall thereafter be kept available for the storage of bicycles.

6) The development hereby permitted shall be carried out in accordance with the details provided in the Addison Rees Planning Consultancy Ltd Energy Statement and shall thereafter be maintained for the lifetime of the development.

7) The development hereby permitted shall be carried out in accordance with the details provided in the Water Management Statement, as shown on drawing p2023_32/07, and shall thereafter be maintained for the lifetime of the development.

8) The development hereby permitted shall be carried out in accordance with the details provided in the Chelmarsh RG Ecological Survey dated 14 December 2023 and the submitted details shown on the proposed plans drawing p2023_032/04. The approved bat roosting feature and bird nesting box shall be provided prior to the occupation of the development hereby approved and shall thereafter be maintained for the lifetime of the development.

9) The development hereby permitted shall not be occupied until the access and vehicle parking spaces have been provided in accordance with drawing no. p2023_032/03. Thereafter those spaces shall be retained for the parking of vehicles only.

10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, AA or E of Part 1 of Schedule 2 to the Order, or any change of use permitted by virtue of Class MA of Part 3 of Schedule 2 to the Order, shall be undertaken.

12) The business floorspace of the live-work unit shall be finished ready for occupation before the residential floorspace is occupied and commencement of the residential use shall not precede commencement of the business use.

13) Other than for the sale of ponies or horses the business floorspace of the live-work unit shall not be used for the sale of goods to visiting members of the public and shall not be used for any purpose other than purposes within Class E (c)(ii), Class E (c)(iii) or Class E (g) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

14) The residential floorspace of the live-work unit shall not be occupied other than by a person solely or mainly employed, or last employed, in the business occupying the business floorspace of that unit, a widow or widower or surviving civil partner of such a person, and to any resident dependants.

*** END OF CONDITIONS ***