



Appeal Decision

Site visit made on 3 September 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2024

Appeal Ref: APP/H1840/W/24/3338664

Land and Barn east of Clayfield Road, Bretforton, Evesham WR11 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 and Mrs A Rogers against the decision of Wychavon District Council.
 - The application Ref is W/23/00846/FUL.
 - The development proposed is demolition of existing barn, erection of one self-build/custom build dwelling, new vehicular access, and all associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Both main parties have referred to the South Worcestershire Development Plan Review (SWDPR). The Council has advised that the plan was submitted to the Planning Inspectorate for examination in September 2023 and therefore the SWDPR, and the policies therein, are a material consideration in the determination of planning applications. However, I cannot be certain if any policies are to be modified or when it is likely to be adopted. I, therefore, only give limited weight to the emerging policies.
3. A signed Unilateral Undertaking has been submitted with the appeal in respect of ensuring the proposed dwelling is provided as a self-build unit and in respect of affordable housing. This is a matter which I will return to.

Main Issues

4. The main issues are:
 - whether the site is an appropriate location for the proposed housing, having regard to the development strategy for the area;
 - the effect of the proposed development on the character and appearance of the area; and
 - whether the site is an appropriate location for the proposed housing, having regard to the accessibility of services and facilities.

Reasons

Suitability of location

5. The appeal site is a parcel of agricultural land with an existing agricultural building. It lies outside any of the settlement boundaries identified in the South Worcestershire Development Plan, adopted 2016, (the SWDP). It is, for

- planning purposes, considered to be within open countryside. Policy SWDP 2 of the SWDP seeks to safeguard and, wherever possible, enhance the open countryside and focus most development on the urban areas, where both housing need and accessibility to lower-cost public services are greatest.
6. Part C of the policy seeks to strictly control development in the open countryside. It sets a number of exceptions to this strict control including, amongst others, replacement buildings. The appellants are seeking to argue that the proposal would fall within the exception allowed for replacement buildings as the proposal would replace the existing agricultural building with a new dwelling.
 7. However, there is no specific policy for replacement buildings beyond Policy SWDP 2 and no definition of what should be considered as a replacement building. In the absence of any clarity in the policy, it would be reasonable to expect that for a replacement to comply with this policy that there would be some like-for-like or similarity between the scale and position of the new building and the existing building. Replacement is generally understood to be putting something back, for something new to take the place of the thing it is to replace.
 8. In this case I accept that the demolition of the agricultural building is to take place in tandem with the construction of the dwelling. However, the proposed new dwelling is in a significantly different position. I acknowledge that the position is different so as to place the proposed dwelling outside of the area at risk of flooding. However, that of itself is not sufficient to mean it can be treated as a replacement, and in any event the proposed position would be well outside rather than just outside the flood zone. Moreover, the proposed dwelling would not reflect the design or scale of the building it is seeking to replace.
 9. The purpose of Policy SWDP 2 is to help inform where new development should take place. It promotes new housing within the settlements listed in the settlement hierarchy and within settlement boundaries so as to focus most development on the urban areas and seeks to restrict development in the countryside so as to safeguard and enhance the countryside. Accordingly, while SWDP 2 would not entirely rule out proposals which fall outside the listed exceptions, the list gives a clear indication of the kind of development that is permissible.
 10. To interpret this exception of Policy SWDP 2 as to allow replacement of one building with another in a different position and of a different form would, in my judgement, go against the thrust of the policy. The proposed development would undermine the purpose of Policy SWDP 2 and the proposal would not fall within the exception set out in the policy for replacement buildings. Therefore, in the absence of it falling under any other exception, the site would not be an appropriate location for the proposed housing, having regard to the development strategy for the area and would be contrary to Policy SWDP 2 of the SWDP.
 11. The proposal would also be contrary to the National Planning Policy Framework (the Framework) which promotes a plan-led system to identify areas suitable for development.

Character and appearance

12. The appeal site is an agricultural field with an agricultural building on one edge. On the opposite side of the road is a group of buildings around a detached dwelling. There are other dwellings located sporadically along the road. The housing in the area is typical of the countryside where dwellings are separated by agricultural fields. The existing agricultural building on the site is prominent in views from the road.
13. However, and notwithstanding the comments from interested parties, given the nature of the existing building it is an accepted part of the rural landscape, and it does not detract from the character and appearance of the countryside. The appeal before me is not proposing to retain and convert the existing building, as suggested by some interested parties.
14. Bretforton is a village made up of groups of houses set in small estates and along the village roads with green gaps in between. The appeal site is divorced from the settlement and separated by several open fields. The development would not appear as part of Bretforton and would be a new dwelling in the open countryside.
15. The appeal site is also located within the Landscape Type - Principal Village Farmlands, as identified in the County Council's Landscape Character Assessment. The Primary Key Characteristics of this Landscape Type are 'nucleated pattern of expanded rural villages' and 'arable/cropping land use.' Landscape Guidelines for the Landscape Type include 'retain pattern of strongly nucleated villages with associated low dispersal of settlement in between.' The appeal site lies beyond the nucleated village and within the area of arable/cropping land use.
16. Although there is a dwelling and a group of buildings on the opposite side of the road this group forms part of the character of the open countryside and the sporadic housing. I have not been made aware of any other groups or pairs of houses outside of Bretforton that are situated on opposite sides of the road in a similar layout to how the appeal proposal would relate to the property opposite. In that regard the appeal before me, albeit close to another house, would not reflect the character of the area.
17. The proposal would result in a new dwelling in the landscape and the loss of quite a sizeable part of the agricultural field as the proposal would include an access driveway, parking area, domestic garden, and the planting of a new orchard. As the new dwelling would be materially larger in footprint, height, and massing than the existing agricultural building the development would also increase the overall built form. The proposed dwelling, albeit including materials that reflect the house opposite and the existing agricultural building would not reflect the simple character and appearance of the existing building it is contended it will replace.
18. The proposal would involve substantial built development and associated works and domestic gardens around the building. It would result in encroachment into the countryside and the urbanisation of a currently undeveloped agricultural field. The new dwelling would, therefore, be prominent and harmful in the immediate landscape and detrimentally alter the character and appearance of the area. The additional built form and domestication would not safeguard the countryside, as required by Policy SWDP 2.

19. A public right of way (PROW) crosses the appeal site from Clayfield Road to the railway line where it slopes up the railway embankment and crosses at the level of the line. From the point where the PROW crosses the railway, up to the proposed new orchard, the new dwelling would be prominent in the view for users. It would clearly be read as a new dwelling introduced onto agricultural land which would be harmful to the views from the PROW and harmful to the open countryside.
20. The retention of the roadside hedge and the planting of new trees, hedgerows, and the orchard, would provide biodiversity benefits to the area and would help to reduce the visual effect of the proposed dwelling. However, the perspective drawings submitted also clearly show that the dwelling would continue to be prominent in views from the road over the hedgerow. Moreover, the proposed position of the dwelling on the site would not allow for space to screen the views from the PROW.
21. Wider views of the proposal would be read alongside the cluster of buildings opposite and screened by other landscaping, as shown within the images in the Landscape and Visual Impact Assessment (LVIA)¹. However, that the dwelling would not be visually harmful in views from further afield would not mitigate the harm that the proposal would have on the views immediately around the appeal site, especially from the PROW and the road.
22. Consequently, although I accept the findings of the LVIA with regard to the effect on views from the wider area, I do not agree that the proposal would enhance the overall landscape quality and character of the area. Furthermore, the removal of the existing building, and the proposed landscaping, would not be of such a benefit as to outweigh the harm that would arise from the construction of the proposed dwelling.
23. My attention has been drawn to the number of letters of support that were received by the Council during the consideration of the application. I have also received interested party representations during the appeal. However, the level of local support is not determinative in the appeal. Moreover, that the appellants have a local connection would not justify a new dwelling or the harm to the character and appearance of the area.
24. For the above reasons, the proposed development would harmfully affect the character and appearance of the area and the Principal Village Farmlands Landscape Type. The development would, therefore, be contrary to policies SWDP 21 and SWDP 25 of the SWDP which, taken together, seek to ensure that development integrates effectively with its surroundings, reinforces local distinctiveness, complements the character of the area, takes account of the latest Landscape Character Assessment and guidelines, and is appropriate to the landscape setting.
25. The proposal would also be contrary to the aims of the Worcestershire County Council Landscape Character Assessment which, amongst other matters, seeks to retain the pattern of strongly nucleated villages and to retain the notable contrast between the concentrations of dwellings in villages and the relatively unsettled land between them.

¹ ISL Associates Landscape Architects Landscape and Visual Appraisal, report no 24.1833.R1A, dated 08.02.24

26. For the same reasons, the proposal would also be contrary to Chapter 15 of the Framework which requires development to contribute to and enhance the natural and local environment and recognise the intrinsic character and beauty of the countryside.

Accessibility of services and facilities

27. Bretforton is defined in Annex D of the SWDP as a Category 2 village. These are settlements which have at least two key services, including a shop, and access to at least a daily bus service to a designated town. The services and facilities within Bretforton are, in the most, situated within the clusters of houses which make up the main, nucleated, built form of the village. There are a good number and range of services and facilities in the settlement which have been noted within the evidence. However, the appeal site lies outside Bretforton on a narrow country road with no footways and no street lighting.
28. The Chartered Institute of Highways and Transportation Guidelines (CIHT) Planning for Walking 2015 indicates that most people would walk if a destination were less than a mile away. Manual for Streets advises that walkable neighbourhoods are typically characterised by having a range of facilities within ten minutes' walk, or approximately half a mile.
29. The nearest bus stop, the sports club and recreation field are approximately half a mile from the appeal site, the shop and school are just under a mile away and the public house is approximately one mile from the appeal site. Although most of the services and facilities, including the bus stop, are less than a mile from the appeal site, several are over half a mile from the site. Consequently, although the services and facilities would be within walking distance this would not be considered as a walkable neighbourhood. Moreover, the road is unlit and does not have pavements until you get to Bretforton.
30. Based on the evidence before me there is a regular bus service between Evesham and Honeybourne which passes through Bretforton at times that would be appropriate to access work or school. However, the bus does not pass the appeal site and access to the bus stop requires the same walk along the road as to access any other services in the village.
31. The appellants' Site Access Visibility Technical Note provides evidence of speed surveys carried out showing the 85% percentile speeds are less than 30mph and I have no compelling evidence to the contrary. The evidence is, therefore, that the road is lightly trafficked and with low speeds.
32. Interested parties have also advised me that Clayfield Road is used for walking, cycling and horse riding. The lack of pavement and street lighting does not deter walkers. I also noted at my visit that the field on one side of the road is not enclosed with a hedge and that pedestrians could, therefore, step off the road in the event of a vehicle needing to pass.
33. However, I have little compelling evidence that Clayfield Road is used regularly for anything more than leisure use by walkers or cyclists. That people use it for a walk in the countryside, to walk dogs, or to access the public right of way across the site, would not provide sufficient evidence that the future occupants of the site would regularly walk to access day to day services and facilities, especially during hours of darkness or in inclement weather, even considering the speed and level of traffic.

34. Although a similar distance from services and facilities to the appeal at Lea Haven², the appeal before me is materially different to that proposal. The residential occupation of the existing caravan was noted as having a similar level of vehicle movements to the proposed dwelling. In regard to the appeal before me the existing building would have some vehicle movements, however these would not be to the same extent as the proposed dwelling. Consequently, the Lea Haven appeal is materially different.
35. The appeal scheme is also materially different to the approval for two holiday caravans³ as the vehicle movements to and from holiday accommodation would not include daily commuting to work or school or the same level of use of local services and facilities as an open market dwelling. Furthermore, holiday accommodation would not necessarily be occupied all year round and tourists are more likely to have leisure time to walk to local services and facilities. Tourist accommodation and its vehicle and pedestrian movements are not comparable to open market housing. Moreover, that planning application was assessed against the policies relating to tourist accommodation rather than housing.
36. Notwithstanding the above, I am aware that, due to the self-build nature of the proposal and the personal circumstances of the first occupants, that the evidence shows that they would be likely to walk to Bretforton and at least one occupant would be able to cycle to work. I have taken into consideration the appellants' personal statements in coming to this view. Nevertheless, the personal circumstances of the first occupants would not justify a dwelling in a location that is divorced from the settlement and services and facilities. Even if I accept that the first occupants would be likely to walk and cycle for some trips, I have no evidence that this would significantly reduce the reliance on private vehicles. Moreover, it would not mean that all of the future occupants of the property would.
37. Furthermore, although the first occupants of the site could walk or cycle to the services and facilities in the village and also to the bus stops, the occupants of the property would still be heavily reliant on private vehicles to access higher order services and facilities and are still likely to use a car when needing to combine trips or during hours of darkness and inclement weather. The appeal site's accessibility to higher order services and facilities would be similar to nearby developments within the settlement. Even so, this in itself is not a reason to encourage further development in an area with poor accessibility.
38. For the above reasons, the site would not be an appropriate location for the proposed housing, having regard to the accessibility of services and facilities. It would fail to comply with the requirements of Policies SWDP 2 and SWDP 4 of the SWDP which, taken together, seek to minimise the demand for travel, offer genuinely sustainable travel choices, and seek to maximise opportunities for pedestrian and cycle linkages to the surrounding area.
39. I also find that the proposal would not comply with the guidance within the Framework and specifically paragraphs 83, 109 and 114 which, taken together, seek to promote sustainable development in rural areas, manage patterns of growth and ensure that appropriate opportunities can, or have been, taken to promote sustainable transport modes.

² APP/H1840/W/23/3319304

³ Council reference W/22/01422/CU

Other Matters

40. The proposal would provide one additional self-build plot. The Housing and Planning Act 2016 sets out that local planning authorities have a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period.
41. The appellants have questioned the Council's figures, based on the appeal decision at Corner Mead⁴. However, that appeal decision was from 2020 and was determined on the basis of earlier evidence and calculations on the supply and demand for self/custom build dwellings.
42. Based on the submitted Wychavon District Self-Build and Custom Housebuilding Register Progress Report, dated November 2023, the Council's cumulative supply of such plots is set out in table 1 as 81 units against a demand requirement of 83 units for up to the end of October 2024. The number of permissions given for self/custom-builds is, therefore, only marginally below the level of demand and this base period has not yet ended. However, the provision is not a maximum and I accept that the demand figure will increase over future base periods. Moreover, there is little evidence that the permissions would all be built out. The provision of one additional unit of this type would accord with Paragraph 63 of the Framework through providing housing for people wishing to commission or build their own homes.
43. My attention has also been drawn to the positive benefit of the proposed dwelling in terms of providing support to the appellants' parents who live in Bretforton. Although support would be available, I have no compelling evidence that the appeal scheme before me is the only means to achieve this outcome.
44. The maintenance of the agricultural land and that the dwelling would deter fly tipping and illegal activity has been noted by the appellants and interested parties. However, I have no compelling evidence, that such issues are prevalent, and I saw no evidence of such issues at my visit. Moreover, the appeal before me has not been put forward as a rural workers dwelling to support the maintenance of the land. I also have no compelling evidence that the new dwelling is required to allow for the landing of air ambulance helicopters.
45. Both main parties have referred to pre-application advice and I have been provided with the details of the scheme submitted at that stage, and the Council's response. However, the appeal scheme is materially different to the scheme considered at pre-application stage. Moreover, I have made my decision based on the evidence before me.
46. A completed Unilateral Undertaking has been provided by the appellants to bind the construction of the proposed dwelling as a self-build unit and to require the appellants to pay a financial contribution towards off-site affordable housing. These comply with the statutory tests, and I am satisfied that the agreement would provide sufficient assurance in binding the self-build method of construction and the affordable housing contribution.

⁴ APP/H1840/W/19/3241879

Planning Balance

47. Both main parties agree that the Council cannot currently demonstrate a five-year housing land supply. As the Council's emerging Local Plan is now at Regulation 19 Stage, the latest revisions to the Framework require a four-year housing land supply. However, given the substantial shortfall, of 2.65 years, I find that the Council would not be able to demonstrate a four-year housing land supply. Paragraph 11d) of the Framework therefore applies.
48. There was also much in the submissions about whether the Council's policies were out-of-date or silent with regard to self/custom build dwellings, including reference to the Corner Mead appeal and the Barlwyth Cottage appeal⁵. From the evidence before me this will be addressed in the SWDPR, but this has not yet been adopted and, therefore, carries little weight. Even if I found the cited policies to be out-of-date and so afforded limited weight to the development plan conflicts, given the housing land supply situation paragraph 11d) is engaged in any event.
49. Policies SWDP 2, SWDP 4, SWDP 21 and SWDP 25 of the SWDP are the most relevant in considering the proposal. Paragraph 225 of the Framework confirms that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Furthermore, policies are not automatically out-of-date due to their age.
50. As far as the policies seek to limit development in the countryside to that which protects its character, they are broadly in accordance with the Framework which seeks to ensure that development contributes to and enhances the natural and local environment, by recognising the intrinsic character and beauty of the countryside. Policy SWDP 2 does not seek to prevent all development outside of settlements. Moreover, the adopted policies, including SWDP 4, are broadly consistent with the Framework as a whole and specifically paragraph 83 in seeking to ensure sustainable development in rural areas by locating housing where it would enhance or maintain the vitality of rural communities.
51. The proposal would accord with paragraphs 60, 70 and 83 of the Framework which seek to boost the supply of housing, make effective use of land, and support the rural economy. The site would also be deliverable within a short timeframe and provides self/custom build housing in accordance with paragraphs 63 and 70 of the Framework. Moreover, the proposal would also provide economic benefits both during and post construction.
52. However, although I afford significant weight to the provision of new housing, as only one dwelling is proposed this benefit is limited when weighing the merits of the scheme. I therefore afford significant weight to the limited benefit the development would make to addressing the housing shortfall. Moreover, unlike the Corner Mead appeal, the appeal before me would not make a significant contribution to the supply of self/custom build plots.
53. The signed unilateral undertaking secures a financial contribution towards affordable housing, and I give this moderate weight. That there are no objections on the grounds of effect on heritage assets, green infrastructure,

⁵ APP/H1840/W/19/3244074

highway safety or parking and that there is local support does not weigh for or against the development.

54. The proposal would provide biodiversity and ecology improvements to which I give moderate weight. The appellants also suggest that there are environmental benefits from removing a building from within the flood zone. However, I have no compelling evidence that the removal of the building and the landscaping works proposed would improve flooding conditions within the site, or elsewhere, and no detail of the gain in flood storage volumes noted in the submitted Flood Risk Assessment. I, therefore, give this limited weight in favour of the development.
55. On the other side of the balance, the proposal would result in environmental and social harm from the effect of the development on the character and appearance of the area. The proposal would also undermine the Framework's aim of promoting sustainable patterns of development and the aims of promoting genuine choice of alternative transport modes to reduce the reliance on private vehicles. These adverse impacts would be significant, and I afford them significant weight. Even if I found the cited policies to be out-of-date and so afforded limited weight to the development plan conflicts, the harm would significantly, and demonstrably outweigh the benefits that would arise from the development, when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour does not apply.

Conclusion

56. For the reasons given above the appeal should be dismissed.

K Townsend

INSPECTOR