



Appeal Decision

Site visit made on 18 September 2024

by C Billings BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 December 2024

Appeal Ref: APP/J1860/W/24/3341346

Haymeadow, Easinghope Lane, Berrow Green, Martley WR6 6PL

- 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 James Crankshaw against the decision of Malvern Hills District Council.
 - The application Ref is M23/01520/FUL.
 - The development is for a proposed live-work unit.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed live-work unit at Haymeadow Easinghope Lane, Berrow Green, Martley WR6 6PL in accordance with the terms of the application, Ref M23/01520/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. It is undisputed between the main parties that the Council does not have a 5 year housing land supply. On seeking confirmation of the housing supply shortfall, the Council advised they have a supply of 3.83 years as of April 2024. The appellant asserts that the housing land supply is considerably lower than this because they understand the figure was 3.31 years in April 2023 and believe it could have increased. However, I have no reason to dispute the figure provided by the Council and have not been provided with any substantive evidence to the contrary. Therefore, I have considered the proposal on the basis of the housing land supply figure provided by the Council.

Main Issues

3. The main issues are:
 - whether or not the proposal would meet the relevant development plan policy to comprise live-work accommodation; and,
 - whether or not the proposed development would be in a suitable location, having regard to development plan and national planning policy for the delivery of housing, including sustainable travel choices.

Reasons

Live-work accommodation

4. The appeal site is located within the open countryside. Policy SWDP 2 of the South Worcestershire Development Plan (SWDP) (February 2016) sets out the development strategy and settlement hierarchy for the area. Part C of Policy SWDP 2 relates to the open countryside and sets out that development will be

strictly controlled in such areas and be limited to certain types of development. This includes development specifically permitted by other SWDP policies, with a footnote explaining that Policy SWDP 8 is one such policy. Part G of Policy SWDP 8 sets out that proposals will be permitted for live/work accommodation provided certain criteria is met.

5. The appeal proposal is for live/work accommodation, proposing an extension to an existing agricultural building, to provide a one-bed¹ dwelling in association with the existing use of the site and the appellant's existing landscaping and tree surgery based business. However, the criteria under part G of Policy SWDP 8 does not require details to be submitted about of the end user of the live/work unit.
6. There is no dispute between the parties that the development would be in accordance with criteria (ii), (iv) and (vi) of part G of Policy SWDP 8. The provision of separate toilet facilities in the workspace and access to superfast broadband (criteria (iii) and (v)) could be secured by condition. The floor space split between residential space and employment space is not fully in accordance with criteria (i), but the residential use would be an ancillary element of the building and the Council is satisfied that there is no harmful conflict in this respect. Also, a restriction on the sale of goods to visiting members of the public and use classes could also be the subject of a planning condition to meet criteria (vii). On this basis the appeal scheme would meet the relevant criteria set out in part G of Policy SWDP 8.
7. The supporting text of Policy SWDP 8 sets out that for live/work units, policy criteria needs to be set to ensure that proposals are genuinely intended for employment purposes. Notwithstanding that much of the current landscaping/horticulture, forestry and agricultural machinery business operations of the appellant are undertaken off site, a large proportion of related works are also evidenced to be undertaken from the appeal site. This includes maintenance and preparation works, and horticulture associated with the main operations of their business. Additionally, the evidence before me, including the site history and my site observations shows that there are already established business operations at the site. The existing building is being used for storage and workshop maintenance purposes and, there is some log storage and sales and horticultural operations evident within the site.
8. While the main operational elements of the appellant's business may currently take place off site, such are related to the on-site business operations. The appellant has evidenced that they need to visit the site twice daily in association with their business operations. This does not mean that going forward, the appellant would not focus more work operations at the site once they are living there, to allow the expansion of their existing business, as proposed.
9. Even though the appellant's further evidence, as submitted with the appeal, shows that they undertake much of their current landscaping works off-site in the surrounding local area, this does not consequently mean the proposed development would not satisfy the criteria of Policy SWDP 8 to be a live/work unit. I have found the criteria of Part G of Policy SWDP 8 would be met, subject to conditions. Additionally, the supporting policy text explains that the provision of live/work units can help support small and start-up businesses as

¹ Based on the internal floor plans of the proposed dwelling, although it could be occupied as a two-bed property.

well as provide sustainability benefits particularly in the more rural parts of south Worcestershire.

10. In view of the above, the appellant has demonstrated that the proposal would be genuinely intended for employment purposes. While not all of the appellants work would be carried out at the appeal site, there are appreciable elements of their business that would be. Therefore, the proposal would be designed as a unit to enable occupiers to live and work within the same premises.
11. In 2014² the Inspector in dismissing an appeal for an agricultural storage building within the appeal site noted the appellants work took place away from the appeal site at such time. However, since then a subsequent agricultural storage building has been permitted and built on the site and the business operations taking place at the site have increased, as appreciated from the evidence provided and my site observations.
12. Having regard to the above, subject to conditions, I find the appeal proposal would meet the relevant criteria of part G of Policy SWDP 8 of the SWDP and so, would comprise live/work accommodation. Also, in terms of this main issue, the proposal would not conflict with Policy SWDP 1 of the SWDP and it would accord with part C of Policy SWDP 2 of the SWDP, as the proposal is for a proposed development specifically permitted by other SWDP policies.

Whether suitable location

13. While Policy SWDP 2 supports development in the open countryside that is specifically permitted by other SWDP policies, as is the case with regard to Policy SWDP 8 of the SWDP, Policy SWDP 4 of the SWDP is also of relevance. Policy SWDP 4 requires that, amongst other things, proposals must demonstrate that the layout of the development will minimise demand for travel and that, they offer genuinely sustainable travel choices. The supporting text highlights that rural residents are more reliant on the use of cars than those in urban areas and that the SWDP aims to improve transport choice to enhance rural accessibility in the area.
14. While the appellant asserts there are local services and facilities near to the appeal site, from my site observations and the evidence before me, there are no nearby local facilities and services which would be easily accessible via sustainable travel choices. Therefore, I find that the appeal site would not be close to, nor well served by local services and facilities.
15. The appellant has referred to examples of other sites in the locality at Allsetts Farm ref 19/01888/FUL and Mountflirt ref 22/00639/FUL and also an example at Bradley Green appeal ref APP/H1840/W/17/3176897, whereby it is asserted the proximity to local services and/or these appeal proposals are not dissimilar to the appeal proposal. However, I have not been provided with any substantive information to allow full comparison between the appeal proposal and the examples referred to by the appellant. Therefore, I have considered the appeal proposal based on its individual merits.
16. The site is accessed via a minor, single width country lane leading from the main B4197. There are no evident footways along the main road in the vicinity of the appeal site and so, pedestrians would need to share the busy, unlit

² Appeal Reference APP/J1860/A/14/221911

main road with traffic, which would not be safe. I have not been provided with any substantive evidence about bus routes nearby either. Therefore, the occupiers of and visitors to the proposed live/work unit would be heavily reliant on private vehicles.

17. In the case example referred to for a single live/work unit at Oak View Cottage/land adjacent Oak Farm, it was demonstrated that the proposal met all of the criteria of Policy SWDP 8 of the SWDP and that there were sustainable travel choices evident, due to a proposed footpath to the main road, close proximity to bus stops and an urban extension with local services and facilities. However, no substantive evidence has been provided to show that the appeal proposal and its site context are directly comparable in such respects to this example.
18. Consequently, in view of the appeal site context, including that it is not close to local services and facilities and, that there is a lack of sustainable travel choices evidenced, the proposed development would not be in a sustainable location.
19. The proposal is for a small one/two bed unit, to be occupied solely by the appellant who works generally within the surrounding local area and the accommodation would unlikely be for family accommodation. Therefore, such factors would limit any required daily commute, including to schools and other related facilities. Particularly, in having regard to the appellants assertion that the proposal would reduce their personal daily commute by as much as 300 miles per week and that the appellant's business operations are generally centred around the local area.
20. While the Inspector in the Bell Acre³ appeal decision example provided, found that that proposed live/work units would provide some reduced daily commute by living on site, the proposal was found to conflict with Policy SWDP 4 of the SWDP, due to the unsustainable location and limited sustainable travel choices. Similarly, I find that the proposed live-work unit would not be in a sustainable location, nor offer genuine sustainable travel choices, in conflict with Policy SWDP 4 of the SWDP.
21. For the reasons set out above, the proposed live-work unit would not be in a sustainable location, having regard to development plan and national planning policy for the delivery of housing, including sustainable travel choices. In such regard there would be conflict with Policies SWDP1, SWDP2 and SWDP4 of the SWDP.

Other Matters

22. In respect of the case example referred to at Bell Acre, this was for 2 rather than 1 live/work unit and there were other harms caused by the proposal. This included in regard to the character and appearance of the area and setting of the Malvern Hills and AONB. These matters contributed together with the conflict found with Policy SWDP 4 of the SWDP, in the planning balance, weighing against the proposal in dismissing the appeal. Also, at such time of that decision, the Council could demonstrate a 5 year housing land supply.
23. At Land off the A456 in Mamble for 4 live/work units, the Inspector found the occupiers would need to rely on private vehicles to access services, due to the separation distances to them from the site and lack of suitable footways.

³ Ref APP/J1860/W/19/3232499, Bell Acre, Druggers End Lane, Castlemorton.

However, there were also other harms found, including in relation to the character and appearance of the area, the setting of heritage assets, and ecology. Therefore, in that case, in addition to the conflict found with Policies SWDP 2 and 4 of the SWDP, there were significant other harms which weighed against the proposal in dismissing the appeal.

24. With regard to the fallback position, in terms of the conversion of the existing agricultural storage building on the site to residential accommodation under class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO). The Council set out that permitted development rights were removed when the building was originally permitted. Therefore, this is not a realistic fallback position and so, I do not attribute weight to it.

Conditions

25. The Council has suggested conditions, should I be minded to allow the appeal, which I have considered, making minor changes, where necessary, to ensure compliance with the tests contained within the Planning Practice Guidance (PPG) and the National Planning Policy Framework (the Framework). In addition to the standard implementation clause, it would be necessary in the interests of certainty to define the plans with which the scheme should accord.
26. To satisfy the criteria under part G of Policy SWDP 8 of the SWDP, it would be necessary to impose various restrictions on the live/work unit and accommodation contained therein, as noted above, and including limiting the number of bedrooms and requiring the provision of separate toilet facilities and superfast broadband. Also, it would be necessary to restrict the use of the employment element of the proposal to ensure it is not used for certain uses beyond those applied for, which would encourage visiting members of the public to the appeal site.
27. Additionally, in accordance with the requirements of Policy SWDP 29 of the SWDP, a condition would be necessary and reasonable to ensure compliance with the submitted Water Management Statement.

Planning Balance

28. The appeal site has an established access and use. The various employment activities taking place at and associated with the appeal site, require the appellant to access the site at least twice daily, to undertake their business operations. This includes in relation to the horticulture and forestry operations at the appeal site and in connection with some of the other works the appellant undertakes principally off site.
29. While much of the appellants' current business operations related to landscaping and forestry activities are undertaken away from the appeal site, this is the nature of such works and does not subsequently mean that the appellant does not need a base to maintain and prepare for such works. The appellant has evidenced that they grow plants and construct items at the appeal site, which are related to their off-site landscaping and forestry operations. The traffic movement to and from the site to undertake such related works would undoubtedly be reduced by the appellant living at the appeal site.

30. There would be a level of traffic movement associated with the occupants of the proposed small dwelling, in terms of day to day activities, including accessing local services and facilities, although this would be relatively low for the proposed one/two bed unit, which is unlikely to be for family accommodation. Therefore, the level of movement by private vehicles to and from the appeal site associated with the established business operations at the site and other related off-site business operations of the appellant would, in part, be offset by the appellant living on site. Consequently, the proposal would help minimise the demand for travel to and from the appeal site, which I give significant weight to.
31. Not only have I found that the proposal would, subject to conditions, be an appropriate live/work unit, supported by Policy SWDP 8 of the SWDP, the proposal would relate to an existing established rural based business and so, would align with the broad aims of the Framework with regard to supporting a prosperous rural economy. Paragraph 88 of the Framework supports the sustainable growth and expansion of business in rural areas and the development and diversification of agricultural and other land based rural business, which the appeal proposal would achieve and support.
32. Also, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and that this should be taken into account in both plan-making and decision taking. Paragraph 89 of the Framework sets out that, decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.
33. Therefore, as there would be no conflict with Policy SWDP 8 of the SWDP and the proposed live-work unit would support an existing rural business, while small, it would deliver local economic benefits, aligned with the Framework. I provide moderate weight to these matters.
34. While location-wise, in terms of the relative distance to local services and lack of more sustainable travel choices nearby, the appeal proposal may be similar to some of the examples provided by the Council, such as at Bell Acre. Where, the Inspector found conflict with Policy SWDP 4 of the SWDP, due to lack of footpath, bus route and the sites location on a busy main road away from facilities and services, there would be reliance on private vehicles. However, due to the particular merits of the appeal site, with an established use and associated existing traffic movement thereto, it differs from this case example.
35. As undisputed by the Council, it cannot demonstrate a 5 year housing land supply, with an evidenced housing supply of 3.83 years from April 2024. Therefore, paragraph 11 d) of the Framework is engaged. In these circumstances, footnote 8 of the Framework establishes that the policies which are most important for determining the application are deemed out-of-date. Accordingly, the presumption of sustainable development applies unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.

36. Having regard to footnote 7 of the Framework, I do not have any substantive evidence to show that there are specific landscape, heritage, or habitat designations applicable to the appeal site, nor that the site is in an area at risk of flooding or coastal change.
37. Despite that the proposal is only for 1 small dwelling unit, it would deliver housing in an area where there is a significant housing supply shortage compared to the level required by national policy and align with the overall housing delivery objectives of the Framework. Therefore, I give considerable weight to this consideration.
38. Balanced against the particular merits of the appeal proposal, together with the support provided by the Framework, including with regard to the rural business benefits and the benefits of housing delivery, which is a key aim of the Framework, I find that the harm arising from the proposed development by virtue of its location is significantly and demonstrably outweighed by the benefits in this instance and the presumption in favour of sustainable development applies.

Conclusion

39. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it.
40. Accordingly, I conclude the appeal should be allowed.

C Billings

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the drawings and documents submitted with it, including the existing site Block Plan 1:500 and Site Plan 1:2500; drawing no JC3; and the Water Management Statement and Energy Statement.
3. Notwithstanding the requirements of condition 2, before the first occupation of the live/work unit hereby permitted, a separate toilet facility shall be provided within the employment element of the building, in accordance with details to be first submitted to and approved in writing by the local planning authority. A toilet facility shall thereafter be retained within the employment element of the building for the lifetime of the development.
4. Before the residential accommodation hereby permitted is first occupied, the employment element of the live/work unit hereby permitted, including the provision of a separate toilet facility within it, pursuant to condition 3, shall be finished and ready for first use.

5. Before the first occupation of the living accommodation hereby permitted, the live/work unit shall have access to superfast broadband or equivalent infrastructure provided. This shall thereafter be retained for the lifetime of the development.

6. Before the first occupation of the living accommodation hereby permitted, the details set out in the approved Water Management Statement shall be implemented in full and, such details shall thereafter be retained as such for the lifetime of the development.

7. The employment floorspace of the live/work unit hereby permitted shall not be used for the sale of goods to visiting members of the public or for any use falling within Use Classes A3, A4, A5, B2, C1 or C2 of the Town and Country Planning (Use Classes) Order 1987, or any order revoking and re-enacting that Order with or without modification.

8. The living accommodation of the live/work unit hereby permitted shall only be occupied by a person solely or mainly employed, or last employed in the business occupying the employment floorspace of the associated live/work unit hereby permitted, or by a widow or widower of such person, or any resident dependants of such person.

9. The employment floorspace hereby permitted shall be occupied and used by a person or persons solely or mainly occupying the associated living accommodation of the live/work unit hereby permitted and shall not be sold and/or let or sublet to any other person/s.

10. The living accommodation of the live/work unit hereby permitted shall not contain more than 3 bedrooms.

End of Schedule