



Appeal Decision

Site visit made on 28 April 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 June 2025

Appeal Ref: APP/H1840/W/25/3359628

Granary, Lenchwick, Evesham, WR11 4TG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Robert Styler against the decision of Wychavon District Council.
- The application Ref is W/24/00544/CU.
- The application sought planning permission for change of use from farm building into additional accommodation without complying with a condition attached to planning permission Ref W/89/0882, dated 31 August 1989.
- The condition in dispute is No 2 which states that: *The building hereby permitted shall be occupied solely in conjunction with the occupation of the adjacent dwelling known as Manor Farmhouse and shall not form part of a separate curtilage.*
- The reason given for the condition is: *To preserve the amenities of the locality.*

Decision

1. The appeal is allowed and planning permission is granted for the change of use from farm building into additional accommodation at Granary, Lenchwick, Evesham, WR11 4TG in accordance with the application Ref W/24/00544/CU, without compliance with condition number 2 previously imposed on planning permission Ref W/89/0882 dated 31 August 1989 and subject to the following conditions:
 - 1) Unless where required or allowed by other conditions attached to this permission, the development hereby permitted shall be carried out in accordance with drawing nos 24/031 – 1 Rev A (Swept Path Site Access), 24/031 – 2 Rev A (Swept Path Internal Layout), 1:2500 scale Location Plan; UK Planning Maps 1:500 scale (Proposed Site Plan) and outdoor building floor plan.
 - 2) The development hereby permitted shall provide the access, turning area and parking facilities shown on drawings 24/031 – 2 Rev A and 24/031 – 1 Rev A. These areas shall be kept available for their respective approved uses at all times and to be retained thereafter.
 - 3) Within three months of the date of the permission hereby permitted, details of sheltered and secure cycle parking to comply with the Council's adopted cycle parking standards shall be submitted to the local planning authority for approval. The approved cycle parking shall be kept available for the parking of bicycles only and retained thereafter.

Preliminary Matters

2. The address given on the appeal form refers directly to the appeal dwelling unlike the address given on the application form which relates to the Manor Farmhouse. Therefore, I have used this address in the banner heading above for clarity.
3. The description of development on the decision notice reads '*Change of use from farm building into additional accommodation as approved under planning reference 89/00882 - removal of condition 2.*' I have removed words from the description of development that are not related to acts of development in the banner heading.
4. In determining this appeal, I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who do and do not share a protected characteristic. From the evidence, my decision has the potential to affect persons with a protected characteristic for the purposes of the PSED.

Background and Main Issues

5. Planning permission was granted for the change of use of a farm building into additional accommodation¹. The appeal scheme before me seeks to vary condition two of the original permission.
6. The Council indicate that condition two is necessary to ensure that the creation of an open market dwelling is not located in an unsuitable location outside of the development boundary of Lenchwick. Additionally, the Council also considers that there is an inadequate provision of a contribution towards off-site affordable housing.
7. Taking into account the background, the main issues are, whether as a consequence of the removal of condition two:
 - the appeal site would be a suitable location for the proposed development having regard to local and national policy;
 - the proposal makes an adequate contribution towards the provision of affordable housing; and
 - the consequences of a refusal of permission for the appellant's family.

Reasons

Emerging Policy Context

8. The Council has referred to an emerging plan: the South Worcestershire Development Plan Review (the SWDPR). The Council highlight that the SWDPR proposes to abolish category four settlements such as Lenchwick. This would result in them being regarded as open countryside or lying beyond any designated settlement boundary for planning purposes. However, given the plan-making stage of the SWDPR and the potential for it to change, it carries limited weight in relation to this appeal.

¹ Planning Application Ref: W/89/0882

Suitable Location

9. Policy SWDP2 of the South Worcestershire Development Plan (the DP) establishes the current settlement hierarchy for the plan area. The appeal dwelling, known as The Granary, is located outside the settlement boundary of Lenchwick which is a category 4b settlement. Consequently, it is categorised as within the open countryside for planning purposes.
10. The DP strictly controls development in the open countryside and Policy SWDP2(c) of the DP outlines the type of development that would be supported. In particular, the policy provides support for development if it is permitted by other policies within the SWDP as outlined in footnote 3. The appeal scheme does not meet any of the exceptions outlined within the Policy. Consequently, the removal of condition 2 would not adhere to the DP insofar as it would conflict with SWDP2(c).
11. Policy SWDP4 which seeks to ensure, amongst other things, that developments minimise demand for travel. The Institution of Highways and Transportation's – Providing For Journey's on Foot (2000) provides guidance regarding acceptable walking distances for trips to bus stops and local shops.
12. I acknowledge that Lenchwick has limited services and facility provision, however, the Granary benefits from a formal footpath which, whilst unlit, gives access to bus stops linking Lenchwick to larger settlements within a reasonable walking distance of approximately 300m and 600m.
13. Consequently, The Highways Authority considers, as do I, that the dwelling is therefore served by a genuine choice of transport modes to prevent any future occupants being reliant on private car use. Moreover, no specific policies from the SWDPR have been drawn to my attention by the Council. Therefore, given I have identified above the limited weight I attach to the SWDPR, there is limited substantive evidence to demonstrate that the appeal scheme would not minimise demand for travel.
14. Therefore, whilst the removal of condition 2 would result in the appeal scheme conflicting with Policies SWDP1 and SWDP2(c) of the DP insofar as they seek to ensure residential development accords with a settlement hierarchy, the development would benefit from a genuine choice of transport modes and consequently, would comply with Policy SWDP4 of the DP. The overall suitability of the location of the appeal scheme is a matter I return to in the planning balance.

Affordable Housing

15. The National Planning Policy Framework (the Framework) states that the provision of affordable housing should not be sought for residential developments that are not major developments, it does however provide an exception for designated rural areas in which policies can set a lower threshold for affordable housing. The appeal site is within a designated rural area.
16. Policy SWDP15 of the DP requires for residential development on sites of less than five dwellings a financial contribution towards local affordable housing provisions based on the cost of providing the equivalent in value to 20% of the units as affordable housing on site.

17. The removal of condition 2 would not result in the construction of a new dwelling but would, for planning purposes, result in a new dwelling in a designated rural area. Given that the Granary is located within a rural area, it is notable that the supporting text for Policy SWDP15 refers to stresses on the housing market including acute affordability issues particularly in more rural areas.
18. Section five of the Affordable Housing Supplementary Planning Document 2016 (the AHSPD) pertains to issues regarding viability and developments. Whilst I acknowledge the reasons as to why the appellant wishes to remove condition two, there is limited substantive evidence before me to adequately demonstrate that it would not be viable for the appellant to provide an adequate contribution towards the provision of housing.
19. The appellant considers that the SPD is out of date given it is dated 2016. However, the Town and Country Planning (Local Planning) England Regulations 2012 requires that policies in an SPD do not conflict with the adopted development plan. The AHSPD policies accord with the DP as well as the Framework. Therefore, it remains a material consideration in this case.
20. The Council acknowledge the manner in which the legal agreement was requested and that it was late in the application process. However, this is not a determinative material planning consideration for this case, given the aforementioned policy requirement.
21. Therefore, given that the appellant has not provided a complete Section 106 agreement and there is no appropriate legal mechanism to secure the required financial sum, it follows that the proposal does not make an adequate contribution towards the provision of affordable housing. Consequently, it would conflict with Policies SWDP15 and SWDP1 of the DP insofar as they seek to provide the supply of housing required to meet the needs of residents including contributions towards affordable housing provision.
22. The Council has referred to Policies SWDP7 and SWDP39 of the DP in its reason for refusal. These relate to infrastructure and the provision of green space and outdoor community uses in new development respectively. These are therefore not determinative for the appeal before me.

Consequences Of A Refusal Of Permission For The Appellant's Family

23. From the evidence my decision has the potential to affect a person with a protected characteristic for the purpose of the PSED such as a disability. The appellant's granddaughter provides ongoing care for her partner. Her partner has since having had their employment terminated been unable to find suitable employment due to their disability. Consequently, the removal of condition 2 would be beneficial to ensure that should the appellant be no longer in control of their estate or wish to sell their dwelling, it would not result in the Granary being sold and consequently the appellant's granddaughter and her partner would not need to move home or become homeless. Consequently, there is a potential for an adverse impact upon a person with a protected characteristic.

Other Matters

24. A road separates the appeal site from the Manor House, which is a Grade II listed building. The special interest and significance of the Manor House is derived in

part from its architectural interest. Notwithstanding the appeal site's proximity to the Manor House, and there is some intervisibility between the two, in my judgement, the appeal proposal would preserve the setting of the Manor House, the significance of which would not be harmed. A lack of harm in this respect, however, does not alter my overall conclusions.

25. The Council has stated that they are able to demonstrate a housing land supply of 1.10 years. This is significantly below the housing land supply the Council is expected to deliver in line with the Framework. Whilst the proposal would deliver one unit this would nonetheless boost the housing stock in circumstances where there is a shortfall.

Planning Balance

26. The conflict with Policies SWDP1, SWDP2(c) and SWDP15 results in the proposal conflicting with the development plan when read as a whole. Thus, there would be a conflict with Development Plan policies. Due to the Council's housing land supply position, paragraph 11 d) of the Framework is engaged.
27. Given the Council's existing housing land supply position results in a significant shortfall, it follows that the DP's development strategy is not delivering its aim to meet the need of housing within the District as well as failing to support the Government's objective to significantly boost the supply of homes. The Council has indicated that the SWDPR would seek to address the issue. However, given the appeal site is immediately adjacent to the Lenchwick settlement boundary as well as the plan-making stage of the SWDPR and the potential for it to change, I attach limited weight to the conflict of the appeal scheme with SWDP2(c).
28. The conflict with the development plan policies insofar as they relate to affordable housing attracts moderate weight in this case given the relatively small scale of the contribution that would be received by the Council for affordable housing.
29. The appeal scheme would result in one open market dwelling in a District that is falling significantly below the level of housing supply required by national policy and therefore attracts significant weight. I have found above that the proposal would benefit from a genuine choice of transport modes to prevent any future occupants being reliant on private car use.
30. Furthermore, I have identified above that the removal of condition 2 would provide the opportunity to further the aims of the PSED and therefore attracts moderate weight in this case.
31. On balance, I am satisfied that the addition of one open market dwelling, with a genuine choice of travel modes in a District with a significant housing shortfall would significantly and demonstrably outweigh the harm which I have identified in relation to the conflict with Policies SWDP1, SWDP2(c) and SWDP15.
32. Additionally, I have had regard to the PSED and the personal circumstances of the appellant and their family. Consequently, it is also necessary and proportionate to allow the appeal.
33. In conclusion, the appeal scheme represents sustainable development and permission should be granted in accordance with the presumption in favour of sustainable development.

Conditions

34. The Council has provided a list of suggested conditions which I have considered against the Framework and advice contained in Planning Practice Guidance. I have ensured both parties have had the chance to comment on the proposed conditions and I have had regard to any comments made. I have amended the wording of suggested conditions for clarity and to ensure accordance with the tests set out in paragraph 57 of the Framework.
35. I have attached a condition specifying the approved plans to provide certainty (1). Additionally, conditions requiring the provision of the access, turning area and parking facilities as well as the submission of details regarding sheltered and secure cycle parking are necessary to ensure compliance with the Council's parking standards (2 and 3).

Conclusion

36. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition.

B Astley-Serougi

INSPECTOR