



Appeal Decision

Site visit made on 18 September 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 15 November 2017

Appeal Ref: APP/H1840/W/17/3176897

Land off Church Road, Bradley Green, Worcestershire B96 6SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr JR Evans against the decision of Wychavon District Council.
 - The application Ref W/16/02419/OU, dated 11 October 2016, was refused by notice dated 10 March 2017.
 - The development proposed is outline application with all matters reserved apart from access, for the construction of a live/work unit.
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Decision

1. The appeal is allowed and outline planning permission is granted for the construction of a live/work unit at Land off Church Road, Bradley Green, Worcestershire B96 6SN in accordance with the terms of the application, Ref W/16/02419/OU, dated 11 October 2016, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr JR Evans against Wychavon District Council. That application is the subject of a separate Decision.

Procedural Matters

3. The application was in outline only with all matters reserved, apart from access. I have considered the appeal on that basis.

Main Issue

4. The main issue is whether the proposed development would be in a suitable location, given that the appeal site is outside any development boundary.

Reasons

5. The appeal site is roughly rectangular plot in the corner of a small field. It comprises an area of mainly hardstanding and is occupied by an open-sided, steel-framed Dutch barn with a metal sheet roof. The barn was being used to store hay at the time of my site visit. The site includes an access off Church Road. Apart from at the entrance, the site is mostly screened from the road with planting to the east, north and west. There is some residential development on the western side of this part of Church Road along with a grade II listed building, St John the Baptist Church, further to the west but the surrounding area is predominantly characterised by agricultural fields and open

- countryside. It is proposed to replace the Dutch barn with a live/work unit from which the appellant's daughter would operate her floristry business.
6. Policy SWDP 1 of the South Worcestershire Development Plan (SWDP)¹ advocates a positive approach to development proposals in accord with the sustainable development principles of the National Planning Policy Framework (the Framework).² Another key policy in the SWDP is SWDP 2 which articulates the Council's development strategy and settlement hierarchy and seeks to focus most development on urban areas '*where both housing needs and accessibility to lower-cost services are greatest*'. It also recognises, amongst other things, the need to safeguard the open countryside, defined as land outside any development boundary.
 7. Policy SWDP 2, part C, says that development will be strictly controlled in the open countryside and limited to a number of exceptions, including dwellings for rural workers (SWDP 19), employment development in rural areas (SWDP 12), rural exception sites (SWDP 16), buildings for agriculture and forestry, replacement dwellings (SWDP 18), replacement buildings and renewable energy projects (SWDP 27) and '*development specifically permitted by other SWDP policies.*' Footnote 3 of the policy gives examples of those other SWDP policies which range from employment land (SWDP 8) and farm shops, garden centres or petrol filling stations (SWDP 10) to tourism development (SWDP 34), visitor accommodation (SWDP 35) and caravan and camping sites (SWDP 36).
 8. Amongst those exception policies, the policy relevant to the appeal proposal is SWDP 8 'Providing the Right Land and Buildings for Jobs'. Part G of that policy states that proposals for live/work accommodation will be permitted providing a list of specific criteria are met, including a requirement that the residential use is ancillary with floor space split at least 60% employment and no more than 40% residential. The Council Officer's Planning Committee Report states that those criteria are defined to ensure that any live/work unit is genuinely intended for employment purposes. The Council accepts that as the appeal proposal is in outline only, the relevant criteria could be secured by imposing suitable conditions if outline permission was given.
 9. Moreover, the 'reasoned justification' for policy SWDP 2, which it is legitimate to utilise in interpreting the policy, states in paragraph 4 that: '*The high quality of the open countryside is an important planning attribute of the area. Sites beyond development boundaries generally are less sustainable as access to local services and employment opportunities tends to be poorer and therefore it is appropriate that development in the open countryside is restricted to proposals which are supportive of more specific SWDP policies..*'.
 10. Therefore, it is clear from the above that the limiting of development in the open countryside to specific policy exceptions, via policy SWDP 2 C, includes an explicit recognition, that as they are outside development boundaries, it is likely that at least some of them will be in rural locations more remote from services and facilities leading to a reliance on the private motor car. The exceptions are limited partly for that reason.
 11. That is supported by the 'reasoned justification' for policy SWDP 8 which states in paragraph 3 that: '*The diversity of the local economy is characterised not*

¹ Adopted February 2016

² Published March 2012

only by a strong focus on employment opportunities within the main urban areas, but also on a number of employment areas and small businesses, including home-work/live-work arrangements, dispersed throughout the rural areas. Home working accounts for over 11% of all employment in south Worcestershire. There is a need to continue to diversify the local economy to create a wider employment base so that south Worcestershire is less vulnerable to international and national economic changes.' At paragraph 15 it states that: *'The provision of live / work units can help support small and start-up businesses as well as provide sustainability benefits particularly in the more rural parts of south Worcestershire.'* The proposal would provide such a unit in a more rural part of south Worcestershire.

12. As recognised in the original Council Officer's report relating to the appeal application, the criteria of policy SWDP 8 are intended ensure that any live/work unit is genuinely intended for employment purposes. There is no requirement within the SWDP for any form business case to be submitted in connection with live/work units. However, it is indicated that the appellant's daughter has an existing floristry enterprise, which involves the preparation of flowers for events such as weddings, for which premises and a permanent base is being sought. The appellant advises that the business would be relocated to the site, providing opportunities for expansion and further employment in the area. According to the appellant, the live/work unit would consist of a workshop area, meeting room and an office as well as separate living accommodation. As detailed in the Council Officer's report, as this is an outline application, the relevant criteria of policy SWDP 8 (G) would need to be secured by condition.
13. The proposal would accord with the Framework's promotion, at paragraph 28, of a strong rural economy and support for the sustainable growth and expansion of all types of business and enterprise in rural areas, including through well-designed new buildings, albeit the design would be dealt with at the reserved matters stage. Additionally, the development would facilitate flexible working practices such as the integration of residential and commercial uses within the same unit, as advocated by paragraph 21 of the Framework. Moreover, it would accord with the Framework's core planning principles, at paragraph 17, which include supporting thriving rural communities.
14. Policy SWDP 4 of the SWDP requires that, amongst other things, proposals must demonstrate that the layout of development will minimise the demand for travel and that they offer genuinely sustainable travel choices. The Council's reason for refusal refers to the site as being in an isolated location. Although, there is residential development along Church Road and within about 25-30 metres to the south, the site is separated by a small field from other residential dwellings approximately 80 metres to the north. However, the appellant advises that it is only about 250 metres south of the development boundary of the rural village of Bradley Green, which has not been disputed by the Council.
15. Nevertheless, the Council's primary concern is that it holds that the appeal site is in a location where access to services would depend on private car use. According to the Council, the site is about a mile from the nearest bus stop with services running to Droitwich, Redditch and other destinations. The Council also refer to a previous planning application, dating from 2013, for a

residential dwelling at the site and its associated appeal.³ Although I have not been provided with a copy of the appeal decision, in extracts quoted within the Council's submissions, the Inspector finds that despite the 30mph speed limit along Church Road, the lack of footways and street lighting would discourage people from making their way on foot into Bradley Green and make such a journey potentially unsafe. Furthermore, that the facilities in Bradley Green are limited. Consequently, the Inspector concludes that future occupants would need to use a private car to access services and facilities and I see no reason to disagree with that conclusion.

16. However, that reliance on the private car to access services and facilities or for business needs to be balanced against the fact that, as the proposal is for live/work unit, there would be no daily commute. I note that the 'reasoned justification' for policy SWDP 4 refers to the rural nature of most of South Worcestershire and the extent of commuting. It is reasonable to suppose that commuting makes a significant contribution to overall car journeys in the area. The appellant suggests that there would be a meeting room to meet existing and future clients, which if confirmed at the reserved matters stage, would also be likely to generate some additional car journeys. However, the level of such journeys would be difficult to predict. There would, in accord with policy SWDP 8, be no sale of goods to members of the public so the unit would not attract visitors for that purpose.
17. Policy SWDP 4 also acknowledges within its 'reasoned justification' that: *'Improved access to new technology (such as broadband) may help to reduce rural isolation without increasing travel demand.'* Policy SWDP 8 G includes in its criteria for live/work units a requirement for access to superfast broadband or equivalent infrastructure which could be secured by condition.
18. Moreover, the Framework says at paragraph 29 that: *'The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.'* It seems to me, therefore, that policy SWDP 2 of the development plan and the Framework reflect a recognition that whilst protection of the countryside, focussing most development on urban areas and providing genuine sustainable transport options are all desirable primary objectives some limited exceptions, taking account of the realities of rural economy and its geography will be legitimate. SWDP 2 part C provides those policy exceptions which include policy SWDP 8 and its part G live/work accommodation provisions.
19. The Council also refers to paragraph 55 of the Framework which states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. The appeal relates to a live/work unit where the residential element is defined in SWDP 8 criterion G (i), as 'ancillary' and limited to no more than 40% of the floor space of the unit. Therefore, the predominant use of the building would be for business/employment purposes. Such use in a rural area is supported by paragraphs 28 and 21 of the Framework and recognised in the exceptions created in policies SWDP 2 and SWDP 8 of the SWDP. The live/work nature of the unit also provides the

³ W/13/01901/OU and APP/H1840/A/14/2212244

- potential to enhance or maintain the vitality of rural communities and provide support for services in nearby villages, in accord with paragraph 55.
20. The planning history of the site is considered relevant by the Council. However, the previous application and appeal, already referred to, was for a dwelling rather than a live/work unit and, it would appear, was determined some time before the adoption of the SWDP in 2016. Therefore, I consider that its relevance to the current proposal for a live/work unit under a different development plan is limited.
21. A more recent planning application approved by the Council is referred to by the appellant.⁴ It related to a change of use for the siting of a log cabin as a live/work unit off Mill Lane, Radford. That site was also outside any defined development boundary. In fact, according to the appellant it was between 1-2 kilometres from the development boundary of the nearest villages, which has not been disputed. However, policy SWDP 4 is not referred to within the relevant Council Officer's report. Rather, the report acknowledges that the site is considered to be in the open countryside but applies the exception in policy SWDP 2 (C) referring to policy SWDP 8 and part G, relating to live/work units.
22. The Council suggests that there are clear differences between that application and the appeal scheme again referring to the planning history of the appeal site and the findings of the Inspector in the previous appeal concerning accessibility of services and facilities. However, the Officer's report relating to the Mill Lane application recognises that future occupiers would be likely to be reliant on private vehicles to access services and facilities. Given the above, I find that there are clear similarities in terms of locational sustainability between that planning application and the appeal before me. The Council also suggests that it has refused other live work applications on a similar basis to the reasons for refusal in this appeal. However, no specific examples have been provided. Overall therefore, although I recognise that it is only one application, that each case must be decided on its own merits and there may be some differences in the schemes, I give the Council's approach in that approved application moderate weight in my deliberations.
23. The Framework specifies, at paragraph 7, three dimensions to sustainable development: economic, social and environmental. In economic terms, there would be benefits during the construction period and future occupiers would contribute to the local economy. More importantly the proposal would comply with the promotion of live/work units in rural areas in policy SWDP 8, part of the 'economic growth' segment of the SWDP. As policy SWDP 2 (C) specifically identifies that policy and live/work units as an exception to the general prohibition on development outside development boundaries, it and the potential contribution to the diversity of the rural economy should be given significant weight.
24. Socially, the residential element of the proposal would make an indirect contribution to the supply of housing and future occupants would be likely to participate in the local community. Environmentally, although the ageing Dutch barn does not appear incongruous in a rural environment, there is no reason why a sympathetically designed live/work unit, which can be secured at the reserved matters stage, would not conserve and enhance the natural environment.

⁴ W/16/02055/PN

25. Whilst there would be likely to be a reliance on the private motor car to access services and clients might also be dependent on private vehicles to visit the site, the live/work nature of the unit would avoid many of the commuter journeys normally associated with small scale employment sites. In any case, the possibility of car journeys because of the rural nature of sites outside development boundaries is implicitly accepted within reasoned justification of policy SWDP 2 and SWDP 8. I find that the considered policy exceptions within the SWDP and the potential benefits to the rural economy outweigh the reliance on the private motor car to access services and facilities.
26. Therefore, I conclude that the proposed development would be in a suitable location. It follows that it would comply with policies SWDP 1 and SWDP 2 of the SWDP, which seek to focus most development on more urban areas and within development boundaries, but allow for limited exceptions for development specifically permitted by other SWDP policies such as live/work accommodation in accord 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, it would not conflict with the SWDP as a whole or its overarching sustainable development principles.

Other Matters

27. Although St John the Baptist Church, a grade II listed building, is located to the west, it is some 150 metres away and there is already some screening. Therefore, given the scale of the development, I am satisfied that any possible effects on the setting of a listed building could be dealt with satisfactorily at the reserved matters stage when appearance, landscaping, layout and scale would need to be carefully considered.
28. In addition to the issues already dealt with, a third party has raised a number of other matters. It has been suggested that the access track would be unsuitable for deliveries associated with the proposed business use and that there would be insufficient space for turning and parking. Moreover, that the access is close to an unsighted bend on a road where the 30mph speed limit is not observed. Whilst I have considered those aspects, the site is almost immediately off Church Road so there would be no requirement to travel any significant distance along the access track. The access was also a reasonable distance from the bend in the road. I also note that the District Council and the county highway authority were both satisfied with the access element of the proposal and I see no reason to take a different view. Appropriate parking arrangements could be secured by condition.
29. Any public rights of way in the area would be protected from encroachment or obstruction under separate legislation. There is no reason to suppose that deliveries would be at unsociable hours or necessarily more frequent than deliveries of food, household goods or other items to residential properties or farms in the area. Given that the unit would have a residential element it is unlikely that future occupiers would wish to be disturbed at unsociable hours or be adversely affected by excess lighting.
30. It is suggested that the proposed live/work unit would be far more visible from the road than the existing Dutch barn. As the application is in outline only, the appearance, scale and associated landscaping would be considered at the reserved matters stage. Illustrative or indicative plans are not required at the

outline stage, and as none have been submitted there is no basis at this stage to come to a conclusion on the visual effect on the area. The existing Dutch barn is a tall structure visible from the road at the entrance to the site and, whilst it is not incongruous in a rural location, it has no particular architectural merit. Therefore, I share the Council's view that there is no reason why a suitably designed unit could not fit in with the rural surroundings. Trees and hedgerow, which in part screen the site, would be considered within the landscaping element at the reserved matters stage, as would design, appearance and layout.

31. Whilst the site has a planning history including other types of proposal, that is not uncommon. I am required to consider the current proposal on the basis of the evidence before me, the policies the SWDP and any other material considerations. Although there may be alternative residential accommodation available in the area and/or separate business premises, there is no requirement in policy SWDP 8 to demonstrate that such premises are unsuitable or that they should be considered in preference to such live/work proposal. A Water Statement was submitted with the original planning application and surface water and foul drainage arrangements could be addressed by means of a suitably worded condition.
32. No persuasive evidence has been presented to indicate that the proposal would have significant adverse impact on the living conditions of nearby occupiers with regard to noise or disturbance. The Council does not consider that the existing barn would be a suitable habitat for bats but a condition could be imposed to secure some biodiversity enhancements.

Conditions

33. The Council has suggested conditions which I have considered, making minor amendments, if necessary, to ensure compliance with the tests contained in the Planning Practice Guidance. Conditions regarding reserved matters and time limits are required by statute. It is necessary for there to be conditions concerning floor slab levels, landscaping and materials to safeguard the character and appearance of the area. A condition relating to the Water Management Statement is necessary to ensure that suitable drainage arrangements are in place. A plans condition is necessary for certainty.
34. Conditions relating to car and cycle parking are necessary in the interests of highway safety and to comply with the Council's parking standards. A condition relating to renewable energy is appropriate to minimise carbon emissions and secure sustainable energy solutions. As this is an application in outline only, conditions are required to ensure that the live/work unit complies with relevant criteria in policy SWDP 8. An occupational condition is necessary to ensure that the residential element of the live/work unit is occupied by a person in connection with the associated business. A pre-commencement condition concerning the conservation and enhancement of biodiversity on the site is necessary to ensure that appropriate arrangements are agreed before construction begins.
35. The Council has suggested a condition restricting permitted development rights but the proposal is for a live/work unit rather than a dwellinghouse for the purposes of the GPDO. Therefore, I have not included that condition.

Conclusion

36. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathan Tudor

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Application for the approval of all reserved matters shall be made to the local planning authority before the expiration of three years from the date of this decision. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 2) Approval of the details of the access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced. The development shall be carried out in accordance with approved reserved matter details.
- 3) Details of the levels of the existing site and the precise floor slab levels of the approved live/work unit, relative to the existing development on the boundary of the site, shall be submitted for approval as part of the reserved matters.
- 4) The following details shall be submitted for approval as part of the landscaping reserved matters:-
 1. survey information of all existing trees and hedges on the application site, and branches from trees on adjacent land that overhang the site. The survey shall include for each tree/hedge:
 - a) the accurate position, canopy spread and species plotted on a plan;
 - b) an assessment of its general health and stability;
 - c) an indication of any proposals for felling or pruning;
 - d) details of any proposed changes in ground level, or other works to be carried out, within the canopy spread.
 2. a landscape scheme which shall include:
 - a) a plan(s) showing the planting layout of proposed tree, hedge, shrub and grass areas;
 - b) a schedule of proposed planting – indicating species, size at time of planting and numbers/densities of plants;
 - c) a written specification outlining cultivation and others operations associated with plant and grass establishment;
 - d) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting. The landscaping shall be provided and maintained in accordance with the approved details.
- 5) Prior to the first use/occupation of the development hereby permitted, the details set out in the submitted Water Management Statement shall be fully implemented and remain thereafter.

- 6) Details of the form, colour and finish of the materials to be used externally on the walls and roofs shall be subject to the approval in writing of the local planning authority before any work on the site commences.
- 7) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan 1:2500; Block plan 1:500.
- 8) Before the commencement of construction works on the development hereby permitted, details of a bat roosting feature and a bird nesting box shall be submitted to and approved in writing by the local planning authority. The details to be submitted shall include an implementation timetable. The feature(s) shall be provided in accordance with the approved details and in accordance with the approved timetable.
- 9) Prior to the first occupation of the dwelling hereby approved, an area shall be laid out within the curtilage of the property for the parking of 2 cars in line with County Council standards and this area shall be properly consolidated, surfaced and drained in accordance with details to be submitted to and approved in writing by the local planning authority. This area shall not thereafter be used for any other purpose than the parking of vehicles.
- 10) Prior to the first occupation of the dwelling hereby approved secure parking for 4 cycles to comply with the Council's standards shall be provided within the curtilage of each dwelling and these facilities shall thereafter be retained for the parking of cycles only.
- 11) Prior to the occupation of any part of the development 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 any part of the development 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.
- 12)
 - (i) The work element floorspace of the live/work unit(s) hereby permitted shall be finished ready for occupation before the residential floorspace is occupied and the residential use shall not precede commencement of the business use.
 - (ii) The business floorspace of the live/work unit 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 as defined under 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.
 - (iii) 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 the associated unit, a widow or widower of such a person, or any resident dependants.
 - (iv) The residential use of the live /work unit shall be ancillary with the floor space split at least 60% employment and no more than 40% residential.

- (v) The residential accommodation within the live/work unit shall contain no more than three bedrooms.
- (vi) The residential and work spaces shall be entirely separate with separate entrances and toilet facilities.
- (vii) All units shall have access to superfast broadband or equivalent infrastructure.

END OF SCHEDULE