
Appeal Decision

Site visit made on 26 September 2016

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 18th October 2016

Appeal Ref: APP/J1860/W/16/3153619

Land at Ashfields, Leigh Sinton, Worcestershire WR13 5DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs S Harper against the decision of Malvern Hills District Council.
 - The application Ref 16/00178/FUL, dated 21 January 2016, was refused by notice dated 5 May 2016.
 - The development proposed is the erection of a detached super-eco house with stables and associated landscaping and access.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has raised concerns regarding the way the Council handled the case including difficulties in getting the application validated and discussing the proposal with officers. However, these are matters that would need to be pursued with the Council in the first instance, and in determining the appeal I have only had regard to the planning merits of the proposal.

Main Issue

3. The main issue is whether the proposed development represents a sustainable form of development having regard to its location in the open countryside.

Reasons

4. The appeal site forms part of a smallholding, with a variety of animals and a metal framed barn. Adjacent to the road the site is relatively flat but drops away quite steeply. The surrounding area is largely undulating agricultural land. Although there is a scattering of housing along the adjacent road, the Council have indicated that the site lies outside the settlement boundary of Leigh Sinton and it is agreed by both parties that the site is located in the open countryside.
 5. In order to achieve sustainable development and economic prosperity Policy SWDP2 of the *South Worcestershire Development Plan (adopted February 2016)* (SWDP) seeks to direct the majority of development to Worcester and the main towns in the area, although some growth is also directed to Category 1, 2, and 3 villages that have a reasonable range of local services.
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6. In the open countryside the policy indicates the development will be strictly controlled and new housing is limited to dwelling for rural workers, rural exception sites and replacement dwellings. Although it is proposed that the wider site would continue to be operated as a smallholding, and the appellant is currently an agricultural worker and that this would be the appellants' retirement home, it has not been argued that the dwelling would be for a rural worker. As such, the appeal scheme does not meet any of these criteria and so would be contrary to this policy.
7. A core planning principle of the *National Planning Policy Framework* (the Framework) is to focus significant development in locations which are, or can be made, sustainable. With the aim of promoting sustainable development in rural areas, paragraph 55 directs housing to areas where it will enhance or maintain the vitality of rural communities, and seeks to avoid isolated new houses in the countryside. This is consistent with the policies in the Framework on sustainable modes of transport and recognising the intrinsic character and beauty of the countryside.
8. However, paragraph 55 of the Framework indicates that one of the special circumstances to justify isolated new homes in the countryside is that the design of the dwelling is of an exceptional quality or innovative nature. The paragraph goes on to state that such design should be truly outstanding or innovative, helping to raise standards of design more generally in rural areas; reflect the highest standards in architecture; significantly enhance the immediate setting; and be sensitive to the defining characteristics of the local area.
9. Whilst accepting that the site is in the open countryside the appellants have argued that the site is not isolated as it forms part of a historic settlement and the existing ribbon development along the road. I acknowledge that there are other houses scattered along the road, but there is generally open fields between them and the appeal site itself is surrounded by other agricultural land. As such the dwelling would still be an isolated house in the countryside.
10. It is not disputed that the dwelling would be a highly sustainable house. It has been designed to reduce the need for energy and to be very energy efficient, and residual energy requirements would be met through the use of low or zero carbon energy generating technologies. The smallholding itself would be used as part of the strategy, for example by using sheep's wool for insulation, and routine management of the wooded areas to provide building and heating materials. The aim is that the dwelling would be carbon neutral, and in addition it would be totally wheelchair accessible.
11. These sustainability and accessibility credentials are commendable, and are far higher than is currently required by either national or local policies or regulations. Nevertheless, even though examples of such dwellings may be rare in the area, in general terms the delivery of this level of sustainability, or accessibility, in a purpose built contemporary house is no longer innovative in itself. Moreover, there is no indication that the way these features are incorporated into the design of the dwelling, or that the specific materials to be used, are particularly innovative or exceptional. Whilst it is suggested that the proposal could act as a case study of what can be achieved, most of the lessons could be learned in a more sustainable location within a settlement boundary.

12. The appeal scheme would demolish the existing barn and replace it with an L-shaped dwelling situated in a similar position. An L-shaped stable block would be situated between the house and the road, and is located in such a way as to enable good visual links between the two structures.
13. The design of the dwelling is contemporary and utilises the changing levels of the site to create some accommodation space on a lower level, whilst appearing from the front to be a single storey dwelling. The scale and mass of the proposed dwelling would be similar to that of the new stable block, and would not be out of keeping with nearby properties. The limited height would reduce the visual impact of the scheme from outside the site, and would ensure the buildings would not have an overbearing impact on users of footpaths in the vicinity.
14. The overall form and structure of the dwelling is simple, with the larger part of the dwelling sharing characteristics of the agricultural buildings in the area, whereas the smaller part is more domestic. Nevertheless the large areas of glazing found on many of the elevations would be out of keeping with both these types of building. I note the Council's concern regarding the external chimney, but I observed that a number of other houses in the immediate locality had similar external chimneys. As such I do not consider this would be an incongruous or discordant feature.
15. A core planning principle of the Framework (paragraph 17) is that developments should always seek to secure a high quality of design. Given this, in terms of paragraph 55, to have an exceptional quality of design a development needs to be more than just high quality design. This is a very high bar.
16. Overall, I consider that the proposal is well-considered and has much to commend it. To that end I am satisfied that it would be the high quality of design required by paragraph 17 of the Framework and Policy SWDP21 of the SWDP. However, whilst the design of the dwelling is bespoke and unique, I am not persuaded that it is truly outstanding or innovative so that it can be considered to be of exceptional quality.
17. As part of the proposal essential tree management works, new tree planting and ecological enhancements such as planting that would encourage wildlife, would take place. Nevertheless, the site is currently agricultural land appropriate to the countryside and many of these enhancements could take place without the proposal going ahead. Furthermore, the creation of a dwelling, its associated curtilage, albeit limited in size, and the more formal access and parking area, would change the character of the site from agricultural to domestic. Whilst, the existing barn on the site cannot be described as attractive, and has permission to be enlarged, it is a typical agricultural building and what one expects to find in the open countryside. As such the proposal falls short of the requirements in paragraph 55 of "significantly enhancing" the immediate setting.
18. In the light of the above, I consider that the proposal does not accord with paragraph 55 of the Framework, and the approach of the development plan to new dwellings in the countryside must prevail.

Other Matters

19. The construction of the dwelling would provide some temporary work for local contractors, although as it is indicated this would be a self-build project this may be limited. Moreover, the desire for the smallholding to be self-sufficient would reduce the benefits to the local economy from future residents.
20. The nearest village has a limited range of local services, but the site is some distance from this, and in the absence of any public transport, future occupiers would be heavily reliant on the use of the car. However, this needs to be set against the fact that the appellants currently make at least two trips a day to the site to tend to their animals, and the desire to be as self-sufficient as possible would reduce the need to travel to a certain degree.
21. The proposal would make a very small contribution to housing supply in the area. Although the Council have stated they can demonstrate a 5 year housing land supply, the government's aim is to significantly boost the supply of housing. To this end, I note the support for the scheme from the Parish Council and local people, who prefer to see organic growth rather than large scale addition to settlements.
22. The final reason for refusal relates to a lack of any contribution towards affordable housing. Following the Court of Appeal judgement in May 2016¹, the *Planning Practice Guidance* (PPG) was updated to indicate that contributions for affordable housing and tariff style planning obligations should not be sought from developments of 10 units or less, and which have a maximum combined gross floorspace of no more than 1000sqm. The Council has not suggested any reason why this change of national policy should not apply to the appeal proposal, to which it is clearly relevant. In the light of this, I consider that it is no longer necessary to require these contributions in this case.
23. The appellants have suggested that the site represents previously developed land. However, the definition of such land given in the Framework specifically excludes land that is or has been occupied by agricultural buildings which is the case here.
24. I note that the appellants have a long association with the area and wish to be able to remain there so that they can continue their smallholding when they retire. However, I have not been provided with any substantive evidence to show that the appeal scheme represents the only way this would be possible. In any event personal circumstances will seldom outweigh more general planning considerations, and it is likely that the building would remain long after the current personal circumstances cease to be material.

Conclusion

25. To conclude: the scheme would have some limited economic and biodiversity benefits, and would make a small contribution to housing supply. However, it would be contrary to national and local policies on the sustainable location of development, and the special circumstances to justify a decision other than in accordance with policy, have not been demonstrated. The modest benefits of the proposal would not outweigh this harm. Consequently, the proposal would not represent sustainable development.

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441

26. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR