
Appeal Decision

Site visit made on 24 October 2016

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 29 November 2016

Appeal Ref: APP /J3720/W/16/3153407

Depot Site, Low Road, Rough Hill, Church Lench, Evesham WR11 4UH.

- 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 John Ranson against the decision of Stratford on Avon District Council.
 - The application Ref 15/02964/FUL, dated 28 July 2015, was refused by notice dated 30 November 2015.
 - The development proposed is the demolition of existing industrial building; erection of one detached dwellinghouse with associated curtilage and amenity land; formation of new access drive to serve new dwellinghouse and adjacent agricultural land; and all other associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application site straddles the boundary between Stratford on Avon and Wychavon District Councils and consequently two applications were submitted, one to each authority. Both applications were refused and I have considered the current appeal alongside that relating to the access works within Wychavon District Council¹.
3. Following determination of the application the Council adopted the "*Stratford-on-Avon District Core Strategy (2011-2031)*" (the CS) on the 11 July 2016. The Council has confirmed that Policies CS.1, CS.2, CS.4, CS.5, CS.6, CS.9, CS.15, CS.16, CS.22, CS.26 and AS.10 of the CS are relevant to the appeal scheme. These replace those policies of the "*Stratford-on-Avon Local Plan Review*" cited in the Council's refusal reasoning. I have considered the appeal on this basis and there is no prejudice to the interests of any party in doing so.

Main issues

4. The main issues are:
 - Whether the dwelling would be a sustainable form of development, having regard to paragraph 55 of the "*National Planning Policy Framework*" (the Framework);
 - Whether the development would accord with local and national planning policy aimed at protecting employment sites, and;
 - The effect on protected species with particular regards to bats.

¹ PINS Ref: APP/H1840/W/16/3153402

Reasons

Sustainable form of development

5. The appeal site comprises a modest single-storey, brick industrial building and associated compound accessed from an unmade track from Low Road. The site forms part of a wider tract of agricultural land under the appellant's ownership that rises away from Low Road. Despite the presence of other dwellings nearby, the surrounding area is lightly settled and unmistakably rural. There is no dispute between the parties that the site is located in the open countryside and therefore the proposed development would fall squarely into the category of an *'isolated dwelling in the countryside'*.
6. Paragraph 55 of the Framework states that *'...new isolated homes in the countryside ...'* should be avoided unless there are special circumstances. To be justified in terms of both national and local policy, the proposed dwelling therefore needs to meet at least one of the four such special circumstances quoted, of which the first three – provision for a rural worker, securing the future of a heritage asset and re-use of a redundant or disused building – are not applicable.
7. The appellant's case therefore rests on the fourth circumstance quoted in Paragraph 55 which states that the dwelling's design should be of *'...exceptional quality or innovative nature...'*. Four criteria are put forward by which such design might be recognised – I) that the design be truly outstanding or innovative and help to raise the standards of design more generally in rural areas; II) that it reflects the highest standards in architecture; III) that it significantly enhances its immediate setting; and IV) that it is sensitive to the defining characteristics of the local area. To meet the special circumstances required, all four criteria must be achieved.
8. At the local level these aims are reflected in Policy AS.10 which amongst other things states that a *'new single dwelling in open countryside which is of exceptional quality and design and makes a positive contribution to the character of the local area'* will be permitted.

Criterion I - A truly outstanding or innovative design

9. The appeal proposal is put forward on the basis that the dwelling would be *truly exceptional* in the way the design concept and narrative has responded to the site constraints and opportunities. According to the appellant this narrative comprises four parts; firstly, the use of a farm complex typology at the inception of the scheme; secondly, the volumes associated with this typology have been reconfigured for a domestic dwelling; third, is how the volumes are arranged on site; and fourth is the way the courtyard spaces have been incorporated into the overall design.
10. Perhaps more than any other, the first criteria is inherently subjective. Moreover, the addition of the adjective *'truly'* implies that the bar that has to be crossed is particularly high and that few projects are likely to succeed in meeting this criterion. In my view, it has to be the manner in which design and innovation are combined that provide evidence for this criterion having been met.
11. There is little doubt the scheme has been carefully considered and the Design and Access Statement (the DS) submitted with the application describes at

some length the design credentials and innovative aspects of the proposed scheme. However, I suspect that for most the notion that the dwelling is inspired by a traditional farm complex is difficult to fathom given its size, and contemporary appearance which comprises a combination of single and two storey flat roof elements dominated by an irregular fenestration pattern. Whilst I have no doubt that a traditional agricultural dwelling was the starting point, the design '*narrative*' has evidently evolved to such a degree that the scheme before me is almost indistinguishable from a humble farmhouse.

12. Irrespective of how the design has been arrived at, there is nothing in the Framework which restricts the style of a property which may be permitted under the provisions of paragraph 55. The dwelling would be a functional and attractive building that would make a refreshing change from the traditional housing forms that prevail in the locality. Although it would be incompatible with the local vernacular, in meeting the exceptional quality tests, a degree of departure from the ordinary or commonplace is inevitable. Consequently, I find nothing particularly objectionable in the modern design approach per se.
13. However, whether the dwelling could be held up as an example of truly outstanding or innovative design is questionable. Whilst the design is impressive and draws support from outside agencies, there is little of any substance in the DS nor the supporting letters from the architect panel '*MADE*' which adequately explains why the design would be '*truly outstanding or innovative*'. Indeed the Council argue that there is nothing which would set it apart from other contemporary dwellings that have been approved in the district. I have carefully considered the design narrative set out in the DS to which appellant attributes significant weight, but I do not find anything tangible in the process described that would allow me to conclude the design process is truly innovative.
14. I appreciate that the scheme includes the closure and landscaping of the existing access, together with ecological enhancements, including wildflower meadows and orchards. Collectively these modest benefits provide some support for the scheme. I also acknowledge the dwelling would be constructed to 'Passivehouse' principles and incorporate a variety of measures with regard to renewable energy and energy efficiency with the aim of securing a house which would meet the requirements of the former Level 6 of the Code for Sustainable Homes. Whilst this is to be applauded, the Passivehouse movement is well-established as a means of achieving the highest standards of environmental construction. Whilst, such properties may not yet be commonplace, neither are they any longer rare and, in themselves, can no longer be described as truly innovative.
15. In any event, I have concerns that the sustainability credentials to which the project aspires to, are significantly undermined by its isolated location remote from built-up areas where future occupiers would lack transport choice and be largely, if not, totally reliant on lengthy car borne trips. This would be contrary to the Framework's aspirations to support a move to a low carbon economy and to '*actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are or can be made sustainable*'.
16. Despite its many positive features, there is nothing unique or exceptional in the form, use of space or layout/orientation of the building, nor outstanding in the

way it relates to context or in the way the scheme has evolved. I am therefore hard pressed to accord it either the '*truly outstanding or innovative*' accolade.

Criterion II - The highest standards in architecture

17. In terms of the second criterion. The design of the dwelling is unusual and distinctive and utilises the contours of the site as it slopes down towards Low Road. The use of materials and the quality of the detailing are also commendable. I also note that the Authority does not find fault with the architectural design. However, whilst the design of the house may be very good, somewhat out of the ordinary and likely to be found acceptable in other situations or locations, that is not quite enough to justify an exception to normal planning policy as defined in the Framework.
18. In my opinion, a building of outstanding architectural quality must possess what can best be described as the 'wow' factor. I simply do not see that in the development before me. That being the case, it cannot really be described as reflecting '*the highest standards in architecture*'.

Criterion III - The significant enhancement of its immediate setting

19. I saw from my site visit that the appeal site is set in attractive countryside, defined by gently undulating fields punctuated by hedgerows and woodland. Although the existing building and yard are of little aesthetic merit, they are largely concealed from public viewpoints by existing vegetation across the site frontage and therefore there is nothing detracting from local landscape character and attractiveness of the surrounding countryside.
20. The submitted plans show that two areas to the south and west of the dwelling would be cleared to facilitate 'framed views' over the surrounding landscape. This would allow for increased public exposure of the site particularly from Low Road.
21. I accept that the dwelling would be set back from the road and the clearings would be fairly modest in their extent. However, it is inevitable that the erection of the dwelling together with the residential occupation of the land around it, associated retaining structures and domestic paraphernalia as well as the long circuitous access road would collectively completely transform the rural character of the land. Moreover given the extent of glazing, the building is likely to be prominent at night as well as by day. Consequently, the scheme would neither enhance its immediate setting nor respect the defining characteristics of this rural area. The third criterion is not therefore met.

Criterion IV - Sensitivity to the defining characteristics of the local area

22. As I have already noted the scheme bears little resemblance to the more traditional dwellings that prevail in the immediate area. Nevertheless, it cannot really be said that these buildings display any defining characteristics that ought to be reflected in the design of a new house. Accordingly, I consider that the scheme would accord with the fourth criterion.

Conclusion on Paragraph 55

23. Based on all of the foregoing, I find that the proposed development fails to meet the exceptional quality/innovative tests invoked by paragraph 55 of the Framework. Consequently, I conclude it would not amount to sustainable

development and would conflict with Policies CS.1 (sustainable development), the second bullet of CS.2 (climate change and sustainable construction), CS.5 (landscape), CS.15 (distribution of development) and AS.10 of the CS.

Loss of employment land

24. It is common ground that the site currently benefits from a B1 use. Policy CS.22 of the CS states an existing employment site should not be converted to a non-employment use unless it is no longer viable or appropriate for a business purpose as evidenced by a rigorous assessment. In a similar vein Paragraph 22 of the Framework seeks to avoid the long term protection of employment sites where there is no realistic prospect of a site being used for that purpose.
25. Although the appellant states that marketing has taken place by a local commercial agent, there is no evidence before me to this effect. Nonetheless, bearing in mind the site's remote location well outside any recognised settlement, poor connectivity to major roads and the size/condition of the building, the site appears intrinsically unsuited for modern employment purposes. With that in mind, I am not convinced the level of conflict with Policy CS.22 would be sufficient by itself to justify withholding planning permission.
26. I have noted the appellant's argument that a viable fallback position has been established by recent changes to permitted development rights for buildings and land falling within Class B. However, these changes are not due to come into effect until 2017 and therefore this is not a material planning consideration to which I can ascribe any degree of weight.
27. On the second main issue, I conclude that despite some conflict with Policy CS.22, the loss of the existing B1 use does not weigh significantly against the proposal.

Impact on biodiversity

28. A survey has been undertaken which has identified the presence of a roost used by Pipistrelle bats in the existing building which would be lost as part of the development. All species of bat are protected by law. No mitigation measures have been identified in the survey report, instead it is highlighted that a European Protected Species Licence would be required from Natural England to allow disturbance of the roost. As part of that process a detailed mitigation strategy to ensure protection of the bats would be required.
29. The Council argue that a mitigation scheme is required before the impact can be fully assessed. Natural England has not commented on whether it is satisfied that the proposed development would be compliant with Article 12(1) of the Habitats Directive and can be licensed. There is no other information before me which would enable me to reach a conclusion on these matters.
30. In light of the strict protection afforded to bats, I have therefore adopted a precautionary approach and conclude that without details of the mitigation, it is not possible to fully assess the impact of the development on a protected species. I cannot be sure therefore that there would not be a material adverse effect on the protected species. The proposal would therefore be contrary Policy CS.6 of the CS and paragraph 109 of the NPPF which seek to prevent development that is detrimental to the biodiversity of protected species.

Conclusion

31. Overall I consider that the adverse impacts of the scheme would significantly and demonstrably outweigh the modest benefits. Assessed against the Framework as a whole, the appeal scheme would not therefore constitute sustainable development for which there is a presumption in favour.
32. For the reasons given above, I conclude that the appeal should be dismissed.

D. M. Young

Inspector