
Appeal Decision

Site visit made on 24 April 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 11th May 2017

Appeal Ref: APP/B3410/W/16/3165073

Church Lane, Wychnor, Burton upon Trent, DE13 8BY

- 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 Ivor Smith against the decision of East Staffordshire Borough Council.
 - The application Ref P/2016/01175, dated 24 August 2016, was refused by notice dated 28 October 2016.
 - The development proposed is a two storey house and demolition of single storey former stables, track room, and viewing room.
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Decision

1. The appeal is dismissed.

Main Issues

2. In their reasons for refusal the Council only refer to the effect of the development on the Council's housing strategy. However, the Delegated Report also refers to the effect of the development on visual amenity, to which the appellant has also responded.
3. In light of the above, the main issues in this appeal are whether the development would accord with the Council's housing strategy and its effect on the character and appearance of the area.

Reasons

Housing Strategy

4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
5. Strategic Policy 1 of the East Staffordshire Borough Council Local Plan 2012-2031 (the LP) states that development proposals will be required to demonstrate the principles of sustainable development and will be assessed against the presumption in favour of sustainable development. Strategic Policy 2 goes on to state that development will be directed towards the most sustainable locations and identifies a settlement hierarchy including Main Towns; Tier 1: Strategic Villages; Tier 2: Local Service Villages; and, Tier 3: Small Villages and other settlements. Individual settlements are identified under each of these tiers. Wychnor is not identified and therefore it falls under

Tier 3, which the policy states are treated as open countryside where development will be permitted only in exceptional circumstances.

6. The appellant argues that 'marked boundaries' were removed two 'location plans' ago and that the Council are able to determine settlement boundaries on an application by application basis and in this instance they have incorrectly excluded the appeal site from such a boundary. Whilst I have not been presented with any examples of settlement boundaries defined in the LP, presumably because the appeal site does not fall within one, there are numerous references to them in the LP, in particular para 3.18 refers to settlement boundaries on the Policies Maps.
7. I have had regard to the appellant's suggested settlement boundary for Wychnor. The appellant has also referred to settlement boundary criteria for other local planning authorities. However, settlement boundaries are defined as part of the local plan preparation. It is not for me in determining a S78 appeal to consider whether or not such a boundary should encompass Wychnor.
8. Based on the evidence before me, I am satisfied that the Council does have defined settlement boundaries which form part of the LP. Furthermore, there is no evidence that the Council cannot demonstrate a five year supply of deliverable housing land and, given the LP's relatively recent adoption (15th October 2015), paragraph 49 of the National Planning Policy Framework (the Framework) and the related criteria in paragraph 14 applicable when a development plan is absent, silent or out of date, are not engaged. Accordingly, as the site does not fall within a settlement boundary, as defined in the LP, for the purposes of the LP it must be located within the open countryside.
9. Strategic Policy 4 sets out a Development Requirement for Tier 3 settlements, which will be delivered on windfall sites such as Exception Sites under Strategic Policy 18, in rural areas in accordance with Strategic Policy 8 or in accordance with a Made Neighbourhood Plan. The appellant confirms that the proposal is not for an affordable dwelling and it is evidently not for a Traveller pitch. Therefore, it is not considered to be an Exception Site under Strategic Policy 8. Furthermore, there is no evidence that there is a Made Neighbourhood Plan covering the appeal site.
10. Strategic Policy 8 of the LP lists a number of exceptions to the general presumption against development outside settlement boundaries. There is no evidence before me that the proposed dwelling would satisfy any of these exceptions. The appellant argues that the policy is not relevant to a one-off dwelling where it does not introduce considerable form. However, the policy refers to all development, and therefore must be relevant to one-off dwellings, regardless of their visual effect. Accordingly, the proposal would not satisfy Strategic Policy 8.
11. Furthermore, Strategic Policy 16 of the LP requires development in open countryside locations to provide a dwelling to best meet local need according to a housing needs survey. I have not been presented with any evidence that the proposed dwelling would meet any identifiable need.
12. I have had regard to the previous commercial use of the site. Whilst the Framework promotes the re-use of previously developed land, in this instance,

it does not outweigh the LP's general restriction on development within the open countryside.

13. I find therefore, that the appeal site is located in the open countryside where housing development is strictly controlled. As such, the development would fail to accord with the Council's housing strategy, as embodied by Strategic Policies 1, 2, 4, 8, 16 and 18 of the LP and the housing objectives of the Framework.

Character and Appearance

14. The proposed dwelling would be two-storey in height and would be in linear form with a pitched roof. To the north east is a row of two-storey cottages and to the east is Manor Park Barn, which is a single-storey property. These properties form part of a courtyard development comprising a number of converted properties which have retained the agricultural heritage of the overall building complex.
15. The proposed two-storey dwelling would be higher than the neighbouring property, Manor Park Barn, which forms a large portion of the neighbouring courtyard development. As a result of its height, it would compete with, rather than complement, the main courtyard. This would be exacerbated by the orientation of the dwelling with its long, broadside elevation facing the main lane, appearing unduly prominent in views when approaching the site along the lane. Moreover, it would be positioned forward of the neighbouring properties, further emphasising its prominence.
16. I appreciate that it would have a similar footprint to the existing building. However, the existing building has a significantly lower profile and is read as an agricultural building which is in keeping with the surrounding agricultural heritage context. Whilst the design of the dwelling appears to have a traditional agricultural form with its simple linear shape and solid to void ratio, its overall bulk does not reflect or sympathise with its immediate setting. I acknowledge that there are two-storey dwellings neighbouring the site to the south. However, the proposal is read in the context of the immediate setting of Church Farm and its converted buildings.
17. I find therefore that the development would significantly harm the character and appearance of the area, contrary to Policies SP24 and DP1 of the LP, which, amongst other matters, seek to ensure that developments contribute positively to the area, reinforce character and identity, and have regard to the context of the development.

Other Matters

18. I have had regard to the appellant's reference to a planning proposal granted permission in 2015¹. The application was for reserved matters and there are no details regarding the Council's consideration of the outline application². Nevertheless, I note that the site was 'sandwiched' between a defined settlement boundary. As the appeal site is not on the edge of a defined settlement boundary I cannot draw any direct comparison between the two schemes.

¹ LPA Ref P/2015/01645

² LPA Ref P/2014/01490

19. The appeal site lies close to the Wychnor deserted medieval settlement and moated site, which is a Scheduled Ancient Monument. The Council have raised no objection to the proposal in respect of its effect on the significance of the heritage asset. I find no evidence that would draw me to a different conclusion. However, this does not outweigh the harm I have identified above.
20. I acknowledge the apprehension of the occupants of Manor Park Barn with regard to the effect of the development on their living conditions. However, I am satisfied that there would be sufficient distance between the properties to ensure that there would not be any significantly harmful overlooking or loss of light.

Conclusion

21. The proposal would have links to the local highway network and the wider area and would only be a short drive from the nearby settlements of Barton under Needwood and Alrewas, which contain a number of services and facilities. However, these matters do not outweigh the failure to comply with the Council's overall housing strategy for delivering sustainable growth in the Borough. As a result, it does not represent sustainable development.
22. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR