
Appeal Decision

Site visit made on 5 February 2018

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2018

Appeal Ref: APP/J1860/W/17/3181534

Pendock Garage, Redmarley Road, Pendock, Gloucester, GL19 3PG

- 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 David Andrew Wyatt against the decision of Malvern Hills District Council.
 - The application Ref 16/01674/FUL, dated 11 October 2016, was refused by notice dated 19 May 2017.
 - The development proposed is stated on the application form as "erection of 2 dwellings (Demolition of Pendock Garage)".
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The Design and Access Statement submitted with the application indicates that the proposal is for 2 self-build dwellings.

Main issues

3. The main issues are firstly, whether the proposal would represent an acceptable form of development, having regard to its location outside of any development boundary; and secondly, the effect of the proposed development on the character and appearance of the surrounding area.

Background and site description

4. The appeal site comprises some 0.2 hectares of relatively flat land, located to the south of the C2219 (Redmarley Road), immediately outside the development boundary of Pendock. It contains a derelict, largely brick-built garage building towards its western corner, and a derelict breeze-block toilet/washroom in the centre of the site. Much of the north-western part of the site is cleared, rough earth, with some areas of concrete hardstanding, whilst the south-eastern part of the site is largely overgrown with brambles and other vegetation. Hedging and trees line the roadside boundary, from where access to the site is obtained. Similar vegetation lines the south-eastern and south-western boundaries, with vegetation and wooden panel fencing along the north-eastern boundary.
5. The submitted evidence indicates that the north-western part of the site has an extensive planning history, dating back to the 1950s, when planning permission was given for a repairs garage and workshop, but that there is no relevant planning history relating to the south-eastern part of the site.

6. I understand that the repairs garage use ceased in the late 1980s and that activity on the site in more recent years has been a mixed use consisting of scrap storage and handling, vehicle sales activities, vehicle storage and vehicle repairs. The Council took enforcement action against this use, requiring it to cease and for the scrap and other items to be removed from the land. This Enforcement Notice was upheld on appeal¹ and appears to have been complied with, as the site had been cleared of scrap and other items at the time of my visit.

Reasons

Whether an acceptable form of development

7. Policy SWDP 1 of the South Worcestershire Development Plan² ("SWDP"), sets out the "Overarching Sustainable Development Principles" against which the Council will assess proposals for development. It echoes paragraph 14 of the National Planning Policy Framework ("the Framework"), which states that there is a presumption in favour of sustainable development at the heart of the Framework.
8. This paragraph goes on to make it clear that proposals that accord with the development plan should be approved without delay; and that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless (i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or (ii) specific policies in the Framework indicate that development should be restricted. In this case there is no suggestion that part (ii) comes into play.
9. Paragraph 49 of the Framework is also relevant as it states that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites. In this case there is no dispute that the Council has a deliverable 5-year housing supply, and there is therefore no suggestion that its housing policies should not carry full weight.
10. One such policy is SWDP 2 of the SWDP which deals with "Development Strategy and Settlement Hierarchy", and sets out where development will be acceptable within the District. The SWDP identifies Pendock as a Category 3 village, with the Planning Officers' delegated report explaining that this means it has at least one key service (other than a parish/village hall) and access within the settlement to at least a daily bus service to a "designated town", or to 3 specified journey types. That said, this delegated report indicates that Pendock no longer has a bus service, and no evidence to the contrary has been placed before me on this point.
11. As the appeal site lies outside the development boundary of Pendock it is considered to be in the open countryside for planning purposes, as is made clear in part "C" of Policy SWDP 2. This policy indicates that development will be strictly controlled in the open countryside and limited to a number of specified categories, none of which apply in this case.
12. This places the proposed development in conflict with the adopted, up-to-date development plan and, as such, it cannot benefit from the presumption in favour of sustainable development set out in paragraph 14 of the Framework. This is

¹ Ref: APP/J1860/C/16/3150562

² adopted in February 2016

made clear in the “Barwood” judgement³ which indicates, amongst other things, that if a proposal is inconsistent with paragraph 14 of the Framework it cannot be a “sustainable development” as understood in the context of that paragraph.

13. This view is supported by a consideration of Policy SWDP 4, which is entitled “Moving Around South Worcestershire” and is referred to in the Officers’ delegated report, although I note that it is not included specifically in the reasons for refusal. Part A, under “Managing Travel Demand” states, amongst other matters, that proposals must demonstrate that the layout of development will minimise demand for travel, offer genuinely sustainable travel choices, and address road safety.
14. I acknowledge that Pendock has a village shop/post office, school and church, but these are fairly limited facilities, meaning that residents undoubtedly have to travel further afield to access many other services and facilities. It seems to me that in the absence of a regular bus service, many of these journeys would be made by the private car. Moreover, even for the very local journeys, there are no footways or street-lights along Redmarley Road, such that it would not be a particularly attractive or safe route for pedestrians, especially after dark. Taken together, it is my view that the proposed development would not serve to achieve the SWDP 4 policy objectives set out above.
15. In view of all the above points I conclude that the appeal proposal would not represent an acceptable or sustainable form of development in this countryside location. Accordingly, I find it to be in conflict with the development plan policies to which I have already referred.

The effect on character and appearance of the surrounding area

16. The development boundary of Pendock coincides with the access driveway to Orchard House, which runs alongside the site’s north-eastern boundary. The northern side of Redmarley Road opposite the appeal site has a distinctly rural character, being undeveloped and with a fairly large area of water, known as Cromer Pit, just to the north of the roadside vegetation. To the west, the appeal site’s front boundary hedging and trees merge with similar roadside vegetation bounding an area of undeveloped land, with the next residential property – Honey Pot Cottage – being some 80m or so away from the appeal site’s entrance.
17. Although the cleared nature of the front part of the appeal site and the presence of small remnants of scrap are signs of the recent vehicle and scrap storage, the tall, front boundary hedging and trees, and generally undeveloped nature, means that the site has a clear, rural feel. Moreover, the garage building itself has a rather utilitarian appearance which, in my opinion, is not out of keeping in a rural setting. These features give the site a clearly different character and appearance to the development within the settlement boundary, to the east, where the existing residential development is typified by low, neat hedging, ornamental vegetation, low walls, well-tended front gardens, and parking areas.
18. The appeal proposal seeks to demolish the existing buildings on site and construct 2 detached 2-storey dwellings. The submitted plans indicate that the houses would have a ridge height of about 7.8m, and although the application form states that the dwellings would each have 3 bedrooms, the submitted plans show that each could quite easily provide 4-bedroom accommodation. The new dwellings would be clad with facing brickwork and would have tiled roofs. Off-street car

³ East Staffordshire BC v SSCLG and Barwood Strategic Land [2016] EWHC 2973 (Admin), dated 22 November 2016

parking would be located to the front of the houses with private gardens located to the rear. The dwellings would share a single vehicular access from Redmarley Road, and although not shown on the submitted plans (and contrary to the assertions of the appellant), I consider that a significant amount of the frontage vegetation would likely need to be removed or severely trimmed to accommodate the necessary visibility splays of 2.4m by 43m, as requested by the highway authority. This would increase the prominence of the new dwellings.

19. With these points in mind I consider that if viewed in isolation, the proposed houses would quite likely be of an acceptable design and appearance and would therefore accord with many of the criteria in Policy SWDP 21, which deals with various, wide-ranging aspects of design. However, when seen in the context of their surroundings, it is my assessment that the dwellings would be out of keeping in this clearly rural setting. They would therefore fail to complement the character of this rural area and respond to the quality of the surrounding landscape; and would also fail to safeguard the distinct identity and character of this settlement, all as required by criteria B(ii) and B(v) of this policy.
20. Furthermore, although not specifically referred to by the Council, it seems to me that the proposed development would do little to maximise opportunities for pedestrian linkages to the surrounding area and local services, so there would also be a conflict with criterion B(ix). As the proposed development would not integrate effectively with its surroundings, for reasons just given, I am also not persuaded that the appeal proposal would accord with part A of this policy.
21. In view of the above points, I conclude that the appeal proposal would have an adverse impact on the character and appearance of the surrounding area. It would therefore be at odds with those parts of Policy SWDP 21 referred to above.

Other matters

22. On other matters raised, I have noted the appellant's assertion that substantial weight should be given to the fact that the appeal proposal would re-use previously-developed land (PDL), although I also note that there is some dispute as to how much of the site should be seen as PDL. The appellant initially claimed that PDL takes up most of the site area, but this does not appear to be borne out by information submitted by the Council, relating to the last 3 applications lodged for the site, which show a much smaller area of assumed garage use – admittedly incorporating all of the site frontage along the public highway.
23. Nevertheless, a significant proportion of the site can be regarded as PDL, and I acknowledge that one of the Framework's core planning principles is to encourage the effective use of land by reusing PDL, provided that it is not of high environmental value – a point reiterated in paragraph 111 of the Framework. However, it does not automatically follow that PDL should be re-developed – that will depend on the circumstances of the particular case. Moreover, whilst the reasoned justification to Policy SWDP2 makes it plain that the re-use of PDL is consistent with the principles of sustainable development, it also indicates that there is nothing in the Framework to say that PDL sites should be prioritised.
24. Taking these points into account, I share the Council's view that whilst some positive weight can be attributed to the appeal proposal because of its re-use of some PDL, this should not be an over-riding factor. In my opinion it should only carry modest weight.

25. The appellant also maintains that the appeal proposal should be seen as a windfall development, which the SWDP's Glossary defines as PDL sites that have not been specifically identified through the SWDP process, but have unexpectedly become available. Importantly, though, the definition goes on to indicate that such sites may (in some cases) be suitable for certain forms of redevelopment. It does not indicate that any form of development would be acceptable, nor that the use of the site would be appropriate for re-development in all cases. In this case I have already found that there is no policy support for the particular form of development proposed, on this site.
26. Like the Council, I acknowledge that the proposed dwellings would not be isolated homes, as discussed in paragraph 55 of the Framework. But they would, nevertheless be sited in a countryside location where Policy SWDP 2 states that development should be strictly controlled, and where they could not offer genuinely sustainable travel choices. In this regard I have noted the appellant's comment that these self-build houses have been designed with home working in mind, and I accept that genuine home/work proposals are capable of reducing the number of commuting journeys from a property. However, in the current case there is no certainty that future residents would work at home, and this point therefore does not add any material weight in the appeal proposal's favour.
27. With regard to the appellant's contention that the development could be viewed as "infill", there is no definition of this term either in the SWDP or the Framework, but it is usually taken to relate to built-up areas, and to comprise vacant plots in an otherwise developed frontage. Because of the relative sporadic development on the southern side of Redmarley Road, and the large gap between Walnut Cottage to the east and Honey Pot Cottage to the west, I am not persuaded that the proposed development could reasonably be seen as infilling. As such, I do not consider that this matter adds any weight in support of the appeal proposal.
28. I have also noted the various points raised in objection by neighbours, but do not consider that they add anything material to the matters I have covered in the main issues. Similarly, whilst I have noted the one representation in support of this proposal and the general approval by the Pendock Parish Council, these matters do not go to the heart of the main issues in this case, and add no material weight in support of the proposed development.
29. Finally, I have been referred to a number of Council planning decisions and appeal decisions in the locality – some allowed and some not. The Council has explained that insofar as planning permissions 15/00340/FUL and 15/01346/OUT are concerned, the assessment of both proposals was undertaken before the SWDP was adopted in a period when, in accordance with paragraph 49 of the Framework, the Council's relevant policies for the supply of housing were not considered up to date. That is not the situation now, and decisions taken in these different circumstances can have no real bearing on the current case.
30. The appeal decisions at Brookend, Pendock⁴, and Brookmead, Pendock⁵, were both issued prior to the aforementioned Barwood judgement, which has provided further guidance on how proposals which do not accord with an up-to-date development plan should be considered. In any case, I note that the Inspector in the Brookend appeal considered that the proposed development would not harm the character and appearance of the locality and that the present nursery use

⁴ Appeal Ref: APP/J1860/W/15/3135877 – dated 6 April 2016

⁵ Appeal Ref: APP/J1860/W/16/3155541 – dated 8 November 2016

already attracted vehicle trips; whilst the Inspector in the Brookmead appeal found that those proposals would not result in landscape harm. These points show that there are clear differences between all of the above cases and the current proposal.

31. I have also noted the appeal decision at Alma Cottage, another site just outside the Pendock settlement boundary. This decision was made after the Barwood judgement was issued, and whilst there are many differences in the detail of that case and the proposal before me, the Inspector who determined that appeal seems to have taken a similar approach to Policy SWDP 2 as the one I have taken in this decision. That said, I have decided this appeal on its own planning merits.

Planning balance and overall conclusion

32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. In this case I have found clearly against the appeal proposal on the 2 main issues, and insofar as the other matters are concerned, I consider that the re-use of PDL only adds modest weight in the appeal proposal's favour, with the other points raised offering no real support to the proposed development.
33. As noted above, the Barwood judgement indicates that a proposal cannot be a sustainable development if it is inconsistent with paragraph 14 of the Framework, and I consider that this is borne out in this case by an assessment of the proposal against the 3 dimensions of sustainable development – economic, social and environmental – set out in the Framework.
34. I accept that the proposed development would give rise to some modest economic benefits from employment during the construction phase, and from subsequent Council Tax revenue. However, these benefits would not be exclusive to this proposal, but would arise from any similarly-sized development in the District. In addition there would be some social benefits from the new housing and the increased expenditure on local services, but these would be very limited as the site would only have poor accessibility to services and facilities by sustainable transport modes, as detailed above. Furthermore, the proposal would not satisfy the environmental role of sustainable development as it would have an adverse effect on the character and appearance of the surrounding rural area.
35. Drawing all the above points together, my overall conclusion is that the proposed development would not represent an acceptable or sustainable form of development in this countryside location, and would have an adverse impact on the surrounding area. Accordingly, it would be in conflict with the relevant sections of Policies SWDP 1, SWDP 2 and SWDP 21 of the SWDP, and none of the other matters put forward amount to material considerations of sufficient weight to outweigh the harm so caused.
36. I therefore dismiss this appeal.

David Wildsmith

INSPECTOR