
Appeal Decision

Site visit made on 20 August 2019

by Brendan Lyons BArch MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 12th September 2019

Appeal Ref: APP/R0660/W/19/3224915

The Long Barn, Sandbach Road, Congleton, Cheshire CW12 4TE

- 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 Ron Dalton against the decision of Cheshire East Council.
 - The application Ref 18/4001C, dated 30 July 2018, was refused by notice dated 1 November 2018.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application that has led to this appeal was submitted in outline form. The Council states that all matters except access are for detailed approval. I have considered the appeal on that basis.
3. Since the appeal was submitted Jodrell Bank Observatory was inscribed by UNESCO as a World Heritage Site ('WHS'). The parties to the appeal did not avail themselves of the opportunity given to comment on the implications for the appeal decision of this designation.

Main Issues

4. The main issues in the appeal arising from the reasons for refusal of the planning application are whether the proposed dwelling would be an appropriate form of development in the countryside and its effect on the efficiency of operation of the Jodrell Bank radio telescope.
5. A further issue arises with regard to its effect on the significance of the Jodrell Bank WHS.

Reasons

6. The Long Barn is a former agricultural building that has been converted to residential use. It stands in a rural location outside the town of Congleton. It is separated from the road by the former farmhouse, which appears to be in separate occupation, and by a former shippon that has also been converted. The appeal site comprises land to the north of the shippon, including part of the footprint of a large open-fronted shed. It is now proposed to demolish the shed and to erect a detached house.

Development in the countryside

7. The Cheshire East Local Plan Strategy 2010-2030 ('CELPS') was adopted in 2017 and forms the key component of the development plan for the purposes of this appeal. The reasons for refusal of the planning application refer also to saved policies of the Congleton Borough Local Plan First Review ('CBLP'), adopted in 2005, but these are now of considerable age and not all the relevant policies necessary to assess the proposal have been saved. Accordingly, I consider that compliance with the saved policies should receive reduced weight in this appeal.
8. The protection of the Cheshire countryside from urbanising development is one of the principal objectives of the Local Plan Strategy. CELPS Policy PG6 seeks to limit development in the open countryside, which is defined as the area outside any defined settlement boundary, to essential rural and public infrastructure purposes, subject to certain exceptions. A similar restriction, but without stated exceptions, is imposed by Policy P13 of the Astbury + Moreton Neighbourhood Plan 2015-2030 ('NP'), which was added to the adopted development plan in 2017.
9. The appellant does not dispute the Council's conclusion that the proposal would not comprise limited infill in a village or the infill of a small gap in an otherwise built-up frontage. Therefore, the proposal would not comply with either of the two main exceptions for new build housing envisaged by Policy PG6, and would be contrary to that policy.
10. The appellant instead argues that the site should not be treated as part of the open countryside, but as previously developed 'brownfield' land. However, the site is clearly outside any defined settlement boundary and hence does lie within the countryside for the purposes of development plan policy.
11. In making this case, the appellant places reliance on a 'recent development order issued by the Housing Minister'. The precise source is not specified, but the reference may be to the most recent edition of the National Planning Policy Framework ('NPPF'). The NPPF makes clear that it is to be a material consideration in planning decisions, but that it does not override the primacy of the development plan¹. The same would generally be true of other Ministerial policy statements.
12. The appellant's view that a complex of disused farm buildings is now to be considered a brownfield site is contradicted by the NPPF definition, which excludes land that is or was last occupied by agricultural buildings². In the present case, the shed to be demolished appears to have been an agricultural building, and to be currently used for general storage of building materials and other goods. But its planning status and whether it has lost its agricultural classification are not clear. The land around the shed is described on the planning application form as 'vacant land' with a previous use as 'garden'. This would not indicate brownfield status.
13. In defining development that would not be inappropriate in the Green Belt, the NPPF includes the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt

¹ NPPF paragraph 2

² NPPF Glossary

than the existing development³. But the appeal site is not in the Green Belt, and the application must be determined in accordance with the development plan. Therefore, even if the site were found to be previously developed land, this NPPF policy would not be relevant.

14. For the above reasons, I find that the appeal proposal would be contrary to CELPS Policy PG6 and to NP Policy P13. The addition of a new house in the countryside would have a harmful urbanising effect, that would not be mitigated by design or landscaping.

Efficient operation of Jodrell Bank

15. The importance of Jodrell Bank as a world-leading site for astronomy is recognised by the long-standing Direction⁴ that requires the Council to consult the Observatory on development that might affect efficient operation of the radio telescope. The appeal site lies within the Consultation Zone. CELPS Policy SE14 states that development within the Zone will not be permitted if it would impair the efficiency of the telescope.
16. The Council's second reason for refusal states that the proposal would impair the efficient operation of the telescope. In reaching that conclusion, the Council have given weight to the fact that the site is in a location in which Jodrell Bank normally object to new development. However, in this case, Jodrell Bank has not objected to the proposal on grounds of its potential adverse impact. This could be because the proposal is close to the outer edge of the Consultation Zone, as the appellant surmises. The appellant also notes permissions granted for new development closer to the telescope, but has not provided details of the Observatory's views on those proposals.
17. Irrespective of the reason, in the absence of an objection by the Observatory, there is insufficient evidence to conclude that there would be an adverse effect. The proposal would therefore comply with CELPS Policy SE14.

World Heritage Site

18. The National Planning Policy Framework ('NPPF') confirms that a WHS is a 'designated heritage asset' for policy purposes. The NPPF advises that when considering development proposals great weight should be given to the asset's conservation, and the more important the asset, the greater the weight should be. Any harm to the significance of the asset should require clear and convincing justification. In this case, neither party has provided an assessment of significance, but the Council have referred to the Statement of Outstanding Universal Value and supporting documents adopted for the WHS.
19. CELPS Policy SE14 effectively anticipated the inscription of Jodrell Bank as a WHS, as the site was then on a shortlist. The policy's opposition to development that would have an adverse impact on the historic environment and visual landscape of Jodrell Bank is not relevant in this case, as the site is well away from the Observatory and the visual effect of the proposed dwelling would be negligible.
20. The policy also requires consideration of potential impact on the elements of the WHS that contribute to its outstanding universal value. The Management

³ NPPF paragraph 145 (g)

⁴ Town and Country Planning (Jodrell Bank Radio Telescope) Direction 1973

Plan for the WHS explains that the site's integrity as a world-leading research location is not confined to history. A guiding principle of the Plan is that the site should continue to maintain this role. Thus, the site's ongoing heritage value is influenced by its efficient performance. As it has not been shown that the appeal proposal would cause harm to efficiency, there would be no harm to heritage significance for this reason. The proposal's lack of adverse impact on outstanding universal value would be in accordance with Policy SE14.

Other matters

21. The Council raise no concern about the proposed design and accept that potential adverse effects on trees could be addressed by conditions. I find no reason to disagree. Despite concern raised by residents of the house opposite the site, I agree with the Council that separation distances would be adequate, so that there would be no adverse effect on neighbours' living conditions.

Conclusion

22. For the reasons set out above, I find that the proposal would be not contrary to the development plan in respect of its relationship with Jodrell Bank, but that it would not be an appropriate form of development in the countryside and would be contrary to CELPS and NP policy. There are no material considerations that would indicate a decision other than in accordance with the plan. I therefore conclude that the appeal must be dismissed.

Brendan Lyons

INSPECTOR