
Appeal Decision

Site visit made on 29 May 2019

by Rebecca McAndrew BA Hons, PG Dip Urban Design, MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2019

Appeal Ref: APP/U3935/W/19/3223494

Electricity sub station 27 metres from Langton Park and 10 metres from unnamed road, Langton Park, Wroughton, Swindon SN4 0QN.

- 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 SEPA Ltd against the decision of Swindon Borough Council.
 - The application Ref S/18/1033/TB, dated 11 June 2018, was refused by notice dated 11 January 2019.
 - The development proposed is the erection of 18 no. Dwellings with associated access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 18 no. dwellings with associated access, parking and landscaping at the Electricity sub station 27 metres from Langton Park and 10 metres from unnamed road, Langton Park, Wroughton, Swindon SN4 0QN, in accordance with the terms of the application, Ref S/18/1033/TB, dated 11 June 2018 and conditions set out at the end of this decision.

Application for costs

2. An application for costs has been made by SEPA Ltd against Swindon Borough Council. This application is the subject of a separate decision.

Procedural Matters

3. An agreement under the provisions of Section 106 of the Town and County Planning Act 1990 (as amended) was submitted on 21 May 2019 and seeks provision covering affordable housing, off-site play facilities, off-site outdoor facilities and off-site open space. This has been considered within this decision.
4. The appellant has confirmed the pre-commencement conditions suggested by the Council to be acceptable.

Main Issue

5. The main issue is whether or not the appeal site would be suitable for housing, having regard to its location outside of a designated settlement boundary and the character and appearance of the area, including North Wessex Downs Area of Outstanding Natural Beauty (AONB).

Reasons

Character and appearance

6. Policy SD2 of the Swindon Borough Local Plan 2026 (2015)(LP) directs residential development to the existing urban area of Swindon and allocated sites. This policy also allows for some rural development, which includes development at Wroughton. Given that the proposal is to construct 18 dwellings in countryside outside the settlement boundary, it would be contrary to Policy SD2.
7. Existing properties in the vicinity are of a typical mid 20th century design with standard materials, being two storey with a pitched roof. The proposed dwellings are designed to reflect these properties as they would have a similar simple form and mass and would also include materials such as brick and cladding. However, the proposed dwellings would be contemporary in character and the good standard of materials and interesting design detailing proposed - such as non-standard brick types, deep window reveals, galvanised rainwater goods and plain roof tiles - would result in attractive properties which respond to the context. The design reference to the existing houses would also help knit the development into the wider area. Consequently, the scheme would incorporate well designed properties which sit comfortably within the area. The proposal would therefore accord with LP Policy DE1 of the and Paragraphs 127 and 130 of the NPPF which, taken together, promote high standards of design and require developments to respond to their context and improve the overall quality of an area.
8. Whilst the site is located outside the settlement boundary, the proposed residential development would occupy a brownfield site and would sit between two existing areas of housing. The development would be viewed in the context of these existing residential areas and would be well screened within the wider landscape by landscaped buffers, of both existing and proposed vegetation, around the site boundary. The fact that this would be a low density development which would include a central green space and gaps and views to the AONB would also help assimilate the development into the existing landscape. In view of the above, the development would represent a logical infill on a brownfield site between the existing residential areas. It would not constitute overdevelopment or cause harm to the character and appearance of the site or the wider area. Therefore, the scheme meets the requirements of LP Policy EN5 and NPPF Paragraph 172 which seek to conserve and enhance the landscape and scenic beauty of the AONB.

Planning balance

9. The Council accepts that it has less than a 3 year housing land supply. In the absence of a five year land supply for housing, paragraph 11d of the NPPF indicates that there is a presumption in favour of sustainable development and where development plan policies are out-of-date, planning permission should be granted unless 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. In this case, from the evidence before me, there are no specific policies in the NPPF which indicate the development should be restricted.

10. In the context of the development plan I have found that the development would not harm the character and appearance of the area, and would conserve the landscape and scenic beauty of the AONB in compliance with respective LP policies. However, there would be conflict with LP Policy SD2 by reason of the location of the housing outside of a designated settlement boundary. Accordingly, there would be a conflict with the development plan as a whole.
11. The amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker. Being out of date does not mean the policy carries no weight.
12. In terms of the benefits, the development would provide 18 well-designed dwellings and a social benefit, mindful of the housing land supply shortfall. The scheme would secure five affordable homes on the site, which equates to a 30% affordable housing provision. The development would generate economic investment both during its construction and when the dwellings are subsequently occupied.
13. Paragraph 68 of the NPPF recognises the important role brownfield sites play in delivering residential development. The scheme would represent an efficient use of land and, given that on my visit I observed fly tipping and evidence of anti-social behaviour at the site, would improve the appearance of the site. I note the Council's assertion that the site cannot be considered to be a brownfield site as it is overgrown with little obvious evidence of previous built structures, especially when viewed from afar. However, whilst the area is well-vegetated, large areas of hard surfacing remain. Consequently, I am satisfied that the site is easily discernible as previously developed land.
14. Turning to the adverse impacts, the level of facilities and services in the vicinity of the site is low. Whilst residents would be likely to walk to the nearby convenience store in Alexandra Park, they would be unlikely to walk to wider services and facilities in Wroughton. I note that there is a bus service close to the site, but inevitably in this location future residents would rely on private motor vehicles. On this basis, the scheme would be unlikely to minimise travel and maximise the use of sustainable transport modes. I therefore consider the proposed development to be contrary to Paragraphs 102 and 108 NPPF which promote sustainable forms of transport.
15. In the context of paragraph 11d of the NPPF, the adverse impacts of the development would not significantly and demonstrably outweigh the benefits. Therefore, the presumption in favour of sustainable development applies and points towards the grant of planning permission.
16. In conclusion, the proposal would be contrary to the development plan as a whole, as it would be located outside the settlement boundary and is not an allocated site. However, given that the Council has a less than 3 year housing land supply, material considerations indicate that the determination should be otherwise than in accordance with that plan.

Other matters

17. I have considered a number of other issues raised by interested parties. I note the need to achieve a suitable drainage system which would properly serve the development and would not harm existing infrastructure. This matter can be

satisfactorily addressed by planning condition, as can the potential for identifying and remediating any contaminated land.

18. Whilst concerns are raised regarding the inadequacy of the existing highway network to accommodate both construction traffic and the vehicular movements which would be associated with the completed development, I note that the Council considers the existing network capable of accommodating this traffic. The development would generate only a limited level of additional movements and the impact of construction traffic can be managed through a condition requiring a Construction Management Plan.
19. In view of the above, none of the issues raised alter my decision.

Section 106 Agreement

20. The proposed development would be liable to make contributions under a Section 106 agreement. This agreement makes contributions towards affordable housing, off-site play facilities, off-site outdoor sports facilities and off-site open space. These contributions are directly related to the site, proportionate and necessary. On this basis, I consider the agreement to accord and with Paragraph 56 of the NPPF. The proposed development would therefore accord with LP Policy IN1 in this respect which requires developers to provide the necessary infrastructure for proposed developments.

Conditions

21. I impose conditions in regard to timescales and setting out the approved plan to provide certainty. I also attach conditions in relation to materials, boundary treatments, slab levels, tree protection and landscaping in the interests of the character and appearance of the site and the wider area. I impose conditions regarding the provision of highways infrastructure in the interests of highway safety. A condition requiring a Construction Management Plan to be agreed would safeguard highway safety and the living conditions of existing residents. I attach a condition removing permitted development rights for windows on the first floor of the proposed dwelling on Plot 3 to protect the living conditions of existing residents. I impose conditions in relation to drainage to ensure adequate drainage measures are implemented. I attach conditions regarding ivy removal on trees, external lighting and bat and bird boxes to safeguard ecological interests. I impose conditions in relation to contamination in order to safeguard public health and the environment.
22. I have not attached the suggested condition regarding hours of construction as this is a duplication of information within the Construction Method Statement.

Conclusion

23. Whilst the proposal would be contrary to the development plan taken as a whole, material considerations indicate that the determination should be otherwise than in accordance with that plan. Therefore, I conclude that the appeal should be allowed.

Rebecca McAndrew

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 3) This approval shall be in respect of drawing numbers: 495/05, 495/06 and 495/07, 495/01F, 495/02 M and 495/03 L.
- 4) Prior to the construction of the dwellings hereby permitted above slab level details of all external facing materials shall have first been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with these approved details.
- 5) Prior to the occupation of any dwelling hereby permitted, the parking spaces, vehicular access and turning facilities serving that dwelling shall be laid out and constructed in accordance with approved drawing no. 495/02 M and maintained for those purposes thereafter. This shall include the approved visibility splays, which shall be cleared of all obstructions to visibility 0.6m above the adjoining carriageway and shall thereafter be similarly maintained.
- 6) No works shall take place above ground level in relation to the erection of the dwellings hereby permitted until a plan indicating the positions, design, materials and type of boundary treatment has been submitted to and approved in writing by the Local Planning Authority. This boundary treatment shall be implemented before the buildings are occupied and shall be retained in the approved form for so long as the development hereby permitted remains on the site.
- 7) The buildings shall be constructed in accordance with slab levels which shall have first been submitted to and approved in writing by the Local Planning Authority.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order revoking and reenacting that Order, no additional windows shall be formed at or above first floor level in the side elevation of plot 3.
- 9) Prior to the construction of the dwellings hereby permitted above slab level details of the hard landscaping of the site including the surface treatment of any roadways or other parts of the site which will not be covered by buildings, shall have first been submitted to and approved in writing by the local planning authority in writing. The development hereby permitted shall be carried out in accordance with these approved details.
- 10) Prior to the commencement of works on site in connection with the development hereby permitted, the trees shown for retention in the Planning Integration Report and Method Statement shall have first been protected by the erection of temporary protective fences as shown in the Planning Integration Report and Method Statement. The fencing shall remain until such time as, approval for removal, has been confirmed in writing by the Local Planning Authority.
- 11) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved

in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall:

- i. specify the type and number of vehicles;
 - ii. specify point of construction access and access route to the site;
 - iii. provide for the parking of vehicles of site operatives and visitors;
 - iv. provide for the loading and unloading of plant and materials;
 - v. provide for the storage of plant and materials used in constructing the development;
 - vi. provide for wheel washing facilities;
 - vii. specify the intended hours of construction operations;
 - viii. measures to control the emission of dust and dirt during construction.
- 12) Prior to the construction of the dwellings hereby permitted above slab level a scheme of soft landscaping to include a planting schedule and time table of works, shall have first been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented as per the approved timetable. Any tree or shrub planted in accordance with the scheme which is removed, dies or becomes diseased within a period of five years from first being planted, shall be replaced by one of a similar size and the same species.
- 13) Development shall not begin until a surface water drainage scheme for the site, in accordance with the approved drainage strategy 'Flood Risk Assessment & Surface Water Drainage Strategy - Land at Langton Park, Wroughton, Issue 1, September 2018', has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include, but not be limited to:
- Evidence that the proposed flows from the site will discharge at or below greenfield runoff rates, or as close as practical for any areas that have been previously developed;
 - Details of how the drainage scheme has incorporated SuDS techniques to manage water quantity and maintain water quality in accordance with best practice guidance including the latest SuDS Manual C753;
 - Detailed drainage plan showing the location of the proposed SuDS and drainage network with exceedance flow routes clearly identified;
 - Details to demonstrate the SuDS Scheme has been designed in accordance with best practice guidance including the latest SuDS Manual C753;
 - General arrangement, which should be coordinated with the landscape proposals and the masterplan;
 - Manhole Schedules;

- Detailed drainage calculations for all rainfall events up to and including the 1 in 100 year plus climate change to demonstrate that all SuDS features and the drainage network can cater for the critical storm event for its lifetime;
 - Details of how the scheme shall be maintained and managed after completion;
 - Any drainage systems offered for adoption shall be designed to Sewers for Adoption 7th edition and/or SBC standards as part of the detailed design and relevant technical approval processes
- 14) Any works to trees T69-T75 as denoted within the Planning Integration Report and Method Statement should only be undertaken following the removal of the ivy and re-inspection by a suitably qualified ecologist who confirms in writing that there are no bats present.
- 15) No external lighting shall be installed unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority.
- 16) Prior to the occupation of the development hereby permitted bat and bird boxes shall be installed as per the ecological enhancements section (and associated plan) of the updated Ecological Appraisal.
- 17) No development shall take place until an assessment of the nature and extent of contamination has been submitted to and approved in writing by the Local Planning Authority. This assessment shall consider any contamination on the site, whether or not it originates on the site. Moreover, it must include:
- (i) A 'desk study' report documenting the site history, environmental setting and character, related to an initial conceptual model of potential pollutant linkages
 - (ii) A site investigation, establishing the ground conditions of the site, a survey of the extent, scale and nature of contamination;
 - (iii) A 'developed conceptual model' of the potential pollutant linkages with an assessment of the potential risks to human health, property (existing or proposed) including buildings, and service lines and pipes, - adjoining land, groundwaters and surface waters, ecological systems.
- 18) No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural environment has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 19) The Remediation Scheme, as agreed in writing by the Local Planning Authority, shall be fully implemented in accordance with the approved timetable of works and before the development hereby permitted is first occupied. Any variation to the scheme shall be agreed in writing with the

Local Planning Authority in advance of works being undertaken. On completion of the works the developer shall submit to the Local Planning Authority written confirmation that all works were completed in accordance with the agreed details.

- 20) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority and development must be halted on the part of the site affected by the unexpected contamination. An assessment must be undertaken in accordance with the requirements of condition 17, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of condition 18. The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme written confirmation that all works were completed must be submitted to and approved in writing by the Local Planning Authority in accordance with condition 19.