



Appeal Decision

Site visit made on 21 January 2020

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2020

Appeal Ref: APP/J1860/W/19/3239921

Land at (OS 8726 3749), Bow Lane, Ripple, Tewkesbury, Worcestershire GL20 6EW

- 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 Connor Smith against the decision of Malvern Hills District Council.
 - The application Ref 19/00068/FUL, dated 12 January 2019, was refused by notice dated 17 May 2019.
 - The development proposed is change of use of land to use for the stationing of two timber lodges for holiday purposes, including the laying of hardstanding and installation of a package sewage treatment plant.
-

Decision

1. The appeal is allowed, and planning permission is granted for change of use of land to use for the stationing of two timber lodges for holiday purposes, including the laying of hardstanding and installation of a package sewage treatment plant at Land at Bow Lane, Ripple, Tewkesbury, Worcestershire GL20 6EW, in accordance with the terms of the application Ref 19/00068/FUL, dated 12 January 2019, subject to the conditions set out in the schedule to this decision.

Procedural Matters

2. The Council refused the planning application due to the fact that the site lies within a Minerals Safeguarding Area and that they considered insufficient information had been submitted that successfully demonstrated that the wider impact upon the resource and risks of mineral resource sterilisation had been satisfactorily considered and mitigated or demonstrated to be acceptable. The appellant has subsequently as part of this appeal submitted a revised Mineral Resource Assessment. On the basis of this updated assessment the Council confirm the appellant has overcome the reason for refusal against Policy SWDP32 of the South Worcestershire Development Plan (2016) (SWDP) and no longer intend to defend the appeal.
3. The Council have suggested in their statement that if planning permission is granted an advisory note should be attached to the decision to inform the applicants of their obligations under Public Rights of Way legislation in respect of the definitive line of Ripple footpath RP-547 (c) which crosses the application site. However, this is not a matter for me to deal with in this S78 appeal and is

addressed under separate legislation. Accordingly, I have not considered the issue further.

Main Issue

4. In light of the extent of common ground between the main parties, the main issue is whether there are any other considerations that might indicate that the appeal should be dismissed.

Reasons

5. The Council indicate that the revised Mineral Resource Assessment (May 2019) has sufficiently addressed the concerns previously raised, and the additional sterilisation which would be caused can be considered to be minimal. On this basis, it would not be feasible for the sterilised mineral to be extracted in advance of or alongside the proposed development, and that the demonstrated minimal nature of the sterilisation means that the economic value of that mineral resource is unlikely to outweigh the merits of the proposed development. Thus, the Council confirm the reason for refusal has been overcome.
6. Based on the evidence before me, I find no reason to take an alternative view that the proposal would cause harm and I therefore conclude it is acceptable.
7. Therefore, in light of the above I conclude that the proposal would not result in unnecessary sterilisation of minerals resources within a Minerals Safeguarding Area and would thus not be in conflict with Policy SWDP32 of the South Worcestershire Development Plan (2016). Furthermore, the proposal would not be in conflict with paragraphs 20, 203, 204, 205 and 206 of the National Planning Policy Framework (the Framework) which, amongst other matters, seeks to restrict development in Minerals Safeguarding Areas where it might constrain potential future use for mineral working.

Conditions

8. I have considered the Council's suggested conditions in light of the Framework and Planning Practise Guidance (PPG). Where necessary I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the PPG.
9. I have imposed a standard condition relating to the commencement of development, and a condition specifying the relevant drawings in the interests of certainty. In order to ensure a satisfactory appearance of the development, a condition to require submission of details and materials of the proposed timber lodges and associated hard landscaping is necessary.
10. I have imposed a condition restricting the use of the timber lodges to holiday purposes, and to prevent occupation as a permanent home, to support the tourism industry and to ensure compliance with national and local policies relating to development in the countryside. To enable enforcement of this condition, I have also included the suggested condition for the owners to maintain an up to date register of all occupiers.
11. I have included a condition for a scheme of landscaping to be agreed and its subsequent implementation and maintenance in the interests of ensuring the satisfactory appearance of the development. However, I consider that such

details can be submitted prior to occupation rather than prior to commencement of development.

12. In the interests of biodiversity, I have imposed a condition to ensure the bat boxes and nesting boxes, are secured at the site. Such details can be agreed and thereafter implemented prior to occupation.
13. Conditions to secure visibility splays, the surfacing of the access and the provision of parking areas for the proposed lodges are imposed in order to safeguard driver and pedestrian safety and to ensure that adequate parking provision is secured. I consider that these works can be implemented prior to occupation rather than prior to commencement of development as it is only the use of the lodges that gives rise to the need for parking areas and any material impacts from a highway/pedestrian safety point of view.
14. In the interests of human health, I have imposed a condition to ensure the sewage treatment system is implemented prior to occupation of the lodges.

Conclusion

15. For the above reasons, I conclude that the appeal should be allowed.

Stephen Thomas

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 carried out in accordance with the following approved plans: Site Location Plan Scale 1:1250, Site Layout Plan Scale 1:500.
- 3) Prior to their installation, on site details of the timber lodges including external materials and associated hard landscaping shall be submitted to, and agreed in writing by, the Local Planning Authority. The approved materials and hard landscaping shall be implemented in accordance with approved details and thereafter retained.
- 4) The caravans (panel lodges) hereby approved shall only be used for holiday accommodation purposes and not for any other residential use falling within Class C3 of the Town and Country Planning Use Classes Order 1987 (or any other Order revoking or re-enacting that Order with or without modification).
- 5) The owners/operators of the timber lodges hereby approved shall maintain an up-to-date register of the names and main home addresses of all occupiers of the timber lodges, and such details shall be made available within 1 calendar month of a written request by the Local Planning Authority.

- 6) The development shall not be occupied until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include details of the species, siting and numbers to be planted.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of development; and any trees or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 8) The development hereby approved shall not be occupied until the first 5 metres of the access into the development, measured from the edge of the carriageway, has been surfaced in a bound material and the proposed access gates have been set back 5 metres from the adjoining carriageway edge and made to open inwards only. The development shall thereafter accord with such details.
- 9) The development hereby permitted shall not be occupied until an area has been laid out within the site for the parking of 1 car per holiday unit in accordance with the approved plans. This area shall thereafter be retained for the purpose of parking a vehicle only.
- 10) The development shall not be occupied until visibility splays are provided from a point of 0.6m above carriageway level at the centre of the access of the application site and 2.4m back from the edge of the carriageway for a distance of 43m to the south of the existing access and offset 0.6m from the edge of the carriageway. The visibility splays shall be kept clear from any obstruction above 0.6m carriageway level. The visibility splays shall be retained thereafter.
- 11) The development shall not be occupied until details (specification and timetable for implementation) for the enhancement of biodiversity through the provision of features including three bat boxes and three bird boxes have been submitted to and approved in writing by the local planning authority. The approved bat and bird boxes shall be erected prior to first occupation of the lodges and thereafter retained.
- 12) The development shall not be occupied until the 6-person sewage treatment gravity system (Tanks Direct) is installed on site. The approved scheme shall be retained thereafter.