
Appeal Decision

Site visit made on 21 July 2020

by J Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 28th July 2020

Appeal Ref: APP/Q3305/W/20/3249799

Burcott House Farm, Pennybatch Lane, Burcott, Wells BA5 1NH

- 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 J Lansdown against the decision of Mendip District Council.
 - The application Ref 2019/1752/OTA, dated 19 July 2019, was refused by notice dated 27 September 2019.
 - The development proposed is the erection of a single dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I note that, on both the application and appeal form, the address of the site is given as Burcott House Farm, Penny Batch Lane. However, it was clear from my site visit that the site is to the south of the farm adjacent to an unmade track serving a small number of buildings at Somerleaze and which is a no through route. The land nonetheless is close to the farm complex at Burcott House Farm and the application plans are clear as to the precise location of the site.
3. The application is in outline with all matters, save for access, reserved for future consideration. The plan shows a location for the dwelling however I have dealt with this as purely indicative for the purposes of this appeal.

Main Issue

4. The main issue is whether the site is a suitable location for residential development having regard to: a) local and national policy and accessibility to services; and b) the effect on the character and appearance of the area.

Reasons

Development Plan and accessibility

5. The Mendip District Council Local Plan Part 1: Strategy and Policies 2006-2029, (2014) (Local Plan), through Core Policy 1 (CP1), establishes a spatial strategy and settlement hierarchy. Policy CP1 identifies Wookey as a secondary village within which development tailored to meet local needs may be permitted. However, the site is neither within nor adjacent to the settlement boundary but some distance to the South. Whilst around 250 metres from the development

limits of Wookey which lies to the north on the other side of the B3139, the location, for the purposes of planning policy, is in the open countryside.

6. Policy CP1 also states that development in the open countryside will be strictly controlled and only permitted where it benefits economic activity or extends the range of facilities available to local communities. On the evidence before me neither would apply here.
7. New housing delivery is framed by Core Policy 2 of the Local Plan which focuses on infill, conversions and redevelopment; strategic sites and other allocations of land for housing. This proposal would not meet any of those criteria.
8. The Local Plan makes provision through Core Policy 4 to sustain rural settlements and the wider rural area supporting housing where it is linked to a proven functional rural need. Whilst the appellant works on the farm it is no part of the appellants' case that the proposal is an application for an agriculturally tied dwelling. Similarly, there is no evidence before me to demonstrate that the needs of the farm require an additional dwelling.
9. The Design and Access Statement (DAS) accompanying the submission makes clear that the application is intended as a self-build dwelling and that the land is in the ownership of the appellants' family and is locationally related to the farm. However, there are inconsistencies between the DAS and the application form the latter of which indicates that the dwelling is for market housing.
10. Reference has been made to self-build housing. The purpose of the Self-build and Custom Housebuilding Act 2015 (as amended) (the Act) is, amongst other things, to allow individuals wishing to build their own home to register their interest in acquiring a suitable plot of land. It also makes provision for Councils to maintain a register of people who are seeking to acquire a serviced plot, and to have regard to the demand for custom build housing when exercising functions relating to planning. Importantly though, the Act does not provide for the approval of self-build plots irrespective of or as an exception to the provisions of the development plan.
11. The appellant draws attention to the Councils published headline data for self and custom build housing and argues the proposal is consistent with draft Local Plan policy DP24 relating to self-build. The Council clarify that emerging Policy DP24 supports self-build though emphasise that it contains no general exception policy to permit self-build in the open countryside. Whilst it outlines the Council's commitment to self-build dwellings and the criteria which are being developed to assess such schemes, it is not yet in force for the purposes of decision making and this limits the weight that can be afforded to it in support of the application.
12. I acknowledge that the appellant wishes to self-build utilising land which would make the dwelling affordable for him and to continue to work on the family farm. However, despite the reference in the appellants' statement of case to the intention of providing a Section 106 agreement¹ to limit the development to self-build, no such document has been submitted. Accordingly, there is no evidence before me that the proposal would be restricted to self-build² and the lack of any mechanism to secure the proposal. This means the justification for

¹ Under the Town and Country Planning Act 1990 (as amended)

² Self-build and Custom Housebuilding Act 2015 and Planning Practice Guidance Paragraph: 016 Reference ID: 57-016-20170728

the dwelling in this regard is lacking. The grant of planning permission would run with the land and without the appropriate measures in place there would be nothing to prevent the proposed dwelling being constructed for sale. Even if such an agreement were in place this would not overcome the policy or locational deficiencies of the site.

13. In the absence of demonstrable evidence of local, agricultural or other policy based need the development must be considered as if it were any other market property even though the appellant has a connection to the adjacent farm.
14. I am mindful that the location of the site is within a reasonable walking distance of facilities in the village and close to a bus route, however this proximity alone would not override the fundamental objection to development in the open countryside for which there is no proven rural need.
15. Taking all of these matters together the proposal would conflict with Policies CP1, CP2, and CP4 of the Local Plan and advice contained within the National Planning Policy Framework (the Framework). These policies seek, amongst other things to strictly control development in the countryside in order to protect its intrinsic rural character.

Character and appearance

16. The site is close to the farm complex at Burcott House Farm. It is set against rising land and woodland to the south west close to Ben Knowle Hill, a Special Landscape Feature which the appeal site and its surroundings are part of. The topography around the site and its relationship with the main farm complex means that the site would be visible in the landscape. The proposal would introduce built form on a site where there are no buildings unacceptably eroding the rural character of the area and introducing additional built form into the countryside within an area where development is strictly controlled, and which is part of a Special Landscape Feature.
17. The Development Plan and the Framework emphasise the importance of protecting the open countryside for its intrinsic character. I have found that the proposal would lead to the unacceptable erosion of the rural character of the area and consequently the proposal would conflict with Policies DP1 and DP4 of the Local Plan together with those parts of the Framework which seek to protect the intrinsic character and beauty of the countryside and which protect special landscape features from development which would degrade their quality.
18. The Council cite policy DP7 of the Local Plan which relates to the design and amenity of new development. As an outline submission it is not clear to me from the Council's case how the development would conflict with this policy and to this extent, I do not consider that it is relevant here.

Other matters

19. I note a local letter of support for the appellant to build on his family farm for which he will become responsible for in the long term. However, given my conclusions in relation to self-build and lack of any proven rural need it does not alter my findings.
20. The appellant emphasises that the site is in close proximity to the village and the Council has previously approved residential dwellings outside of the village

envelope. I have no information before me as to the examples alluded to and I cannot therefore afford weight to those comparisons.

21. The appellant has emphasised that the Council has placed inadequate emphasis on the self-build aspect of the proposal stating that the level of self-build delivery which has taken place in the district since 2016 has been insufficient. The frustration of the appellant in seeking further detail from the Council is noted and is unfortunate though the 10 self-build requests in Wookey referred to by the appellant are not evidenced further. In this regard this reference does not alter my findings.
22. My attention has been drawn to an appeal outside this district for 30 self-build dwellings whereby the lack of prior delivery by the Council³ had been a material factor. I note that the case cited was accompanied by a legal agreement to secure self-build delivery which is not the case here. In any event I do not know if the locational characteristics are comparable such that I would be bound to reach a similar conclusion.
23. I note that there are no highway objections to the proposal which weighs in support of the scheme though this position does not alter my findings in relation to the harms I have identified in the main issues.
24. The Council have advised that since the determination of this case the policy circumstances have changed. The date of part one of the Local Plan has passed and as such less weight should be afforded to Policies CP1, CP2 and CP4 of the Local Plan and greater weight to Paragraph 11 of the Framework in relation to sustainable development. Nonetheless, the harms which would be caused in respect of the unsustainable location and the character of the area would significantly and demonstrably outweigh the benefit of providing one additional dwelling to the housing stock.

Conclusion

25. The starting point for any planning decision is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. I conclude that the proposal would not comply with the development plan when taken as a whole and the justification set out by the appellant are, for the reasons already set out, insufficient to outweigh the harms which have been identified. Consequently, a decision other than in accordance with the development plan is not justified.
26. For the above reasons and having regard to all other relevant matters raised the appeal is dismissed.

J Wilson

INSPECTOR

³ APP/G2435/W/18/3214451