
Appeal Decision

Site visit made on 13 October 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th November 2020

Appeal Ref: APP/H1840/W/20/3254436

Former Severn Trent Pumping Station, Church Road WR12 7JN

- 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 Michael Fesemeyer against the decision of Wychavon District Council.
 - The application Ref 20/00194/FUL, dated 28 January 2020, was refused by notice dated 29 May 2020.
 - The development proposed is construction of new self-build family dwelling with associated landscaping and vehicle access.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development has been taken from the Council's decision notice and provides a factual description without phrases which address the merits of the case. The appeal has been dealt with accordingly.

Main Issues

3. The main issues are:
 - (a) whether the location of the site is acceptable in relation to the defined development boundary and access to services.
 - (b) the effect of the proposal on the character and appearance of the area, including whether the design is of exceptional quality and the implications therein; and
 - (c) whether a planning obligation for affordable housing is required.

Reasons

Location

4. The South Worcestershire Development Plan 2016 (SWDP) is part of the adopted development plan for the area. In accordance with the Policies Map associated with the SWDP, it is clear that much of the site lies beyond any defined development boundary. Accordingly, the site is located within the open countryside and Policy SWDP2 states that the development of dwellings in such locations will be strictly controlled. Exceptions to these strict controls include dwellings for rural workers, employment development in rural areas, rural exception sites, buildings for agriculture and forestry, replacement dwellings, house extensions, replacement buildings and renewable energy projects and development specifically permitted by other SWDP policies.

5. The SWDP does not treat self-build dwellings as an exception for the purposes of controlling development in the open countryside. The appellant has not provided substantive supply and demand analysis for self-build dwellings and therefore it is unclear to what extent there is a shortfall in the area. Furthermore, it is unclear whether piecemeal development of self-build dwellings in the open countryside would generate the same benefits as a more coherent approach, such as delivering self-build dwellings as a component of a larger and more comprehensive mixed tenure housing site, or how the emerging policies within the SWDP review would be applied in spatial terms in this context.
6. Consequently, the role of self-build dwellings in weighing the merits of the proposal, is not clear, and all things considered, I have taken the proposal to comprise a standard form of housing for the purposes of applying policies within the development plan. Accordingly, as a result of introducing such development beyond defined development boundaries, the proposal would erode the open countryside. In making this finding it is important to note that whether or not the site is brownfield land, does not absolve the proposal from according with the settlement strategy within the development plan.
7. Paragraph 79 of the National Planning Policy Framework (the Framework) makes clear that planning policies and decisions should avoid the development of isolated homes in the open countryside unless very special circumstances exist. It is a very specific matter within the wider ambit of development in the open countryside and should not be conflated with policies (including those within the development plan) relating to residential development in the open countryside more broadly. The proposal is for a standard form of housing, which is a form of development that does not benefit from open countryside exception policies under the development plan. This is irrespective of Paragraph 79 of the Framework, the issue of isolated homes, and special circumstances therein.
8. Notwithstanding implicit harm to the open countryside, the site is not completely detached from the existing settlement of Aston Somerville in spatial terms. Consequently, it would enjoy similar access to local services compared to existing dwellings nearby. The small scale nature of the proposal is unlikely to generate significant movements to and from the site, and any reliance on the private car is unlikely to be detrimental to the local highway network, in terms of its capacity.
9. The proposal would provide charging points for electric cars, and it is important that such infrastructure is accommodated in a proactive manner in accordance with Paragraph 105 of the Framework, so that supply is established before demand, and not in a reactive manner where demand outstrips supply before investment is made.
10. Furthermore, it seems logical to me that proprietors interested in a technologically advanced building such as the one in this case, are also likely to be interested in other technological advancements, such as those pertaining to electric vehicles. Consequently, the connotations associated with the reliance on the private car would be diluted by the fact that occupants would likely use cleaner electric vehicles, mitigating the lack of other sustainable travel options nearby.

11. Overall, even though the proposal would be acceptable in terms of its location relative to local services and the ability of occupants to utilise more sustainable forms of private transport, the proposal would still be located outside the defined development boundary and in the open countryside. Accordingly, it would conflict with Policy SWDP2 of the SWDP and the strict controls and protections on the open countryside therein.

Character and Appearance

12. The site comprises disused utility land and is located on the periphery of Aston Sommerville and its established pattern of development. The existing building on the site extends beyond the rear building line of adjacent properties. When visiting the site, undeveloped fields to the south east generated a feeling of openness that was reflective of its position beyond the established pattern of development, in the open countryside.
13. The proposal would deliver a single storey dwelling with an elongated design that would extend further beyond the rear building line of adjacent properties. The topography to the north west provides a limited degree of visual screening which in conjunction with the single storey nature of the proposal, would reduce the landscape impact. However, otherwise flat topography and open views to the south east would lead to a substantial degree of prominence in the landscape. Taken together, the extension beyond the established pattern of development in conjunction with a substantial degree of prominence within the landscape would cause harmful erosion to the character and appearance of the open countryside.
14. Following on from my earlier finding on the relevancy of Paragraph 79 of the Framework, which controls the development of isolated dwellings in the open countryside, sub paragraph e) concerning exceptional design quality, is not relevant to consider in relation to the proposal. Instead, Paragraph 131 of the Framework relates to innovative design in general terms and is more relevant to consider in this case. The definition of innovative¹ includes both the introduction and the use of new designs. The definition of new² includes something recently introduced. Consequently, even if the proposal is not entirely original in its approach, the application of recently introduced designs that may already be in use elsewhere in the construction industry (such as those relating to carbon negativity and other sustainability credentials) would still be innovative for the purposes of the Framework.
15. By incorporating these innovative designs, the proposal would take on a contemporary appearance that would generate significant contrast between the traditional dwellings nearby. The contrast would be so pronounced that it would appear distinct in its own right, and taking the proposal in this context, it would generate a starkness and interest amongst the prevailing built form. In conjunction with the design of the building there is also potential to improve the soft landscaping associated with the site, including the introduction of biodiversity. However, in its fuller context, the proposal would still retain a harmful degree of prominence in the landscape, depart from the pattern of development and erode the character and appearance of the open countryside. The proposal would therefore conflict with Policy SWDP21 of the SWDP, which among other things requires development to complement the area's character.

¹ Oxford Dictionary

² Oxford Dictionary

Planning Obligation

16. Policy SWDP15 of the SWDP (insofar as it was originally published) applies to all residential development and requires affordable housing contributions therein. However, the SWDP Affordable Housing SPD 2016 (within Paragraph 3.5) makes clear that the Council should implement Policy SWDP 15 differently to the originally published policy to account for national thresholds.
17. Accordingly, the SPD goes on to establish that unless a proposal's total combined gross floorspace exceeds 1000 sqm, on sites of five dwellings or less, no affordable housing contributions will be sought across the whole of the plan area. The proposal is for a single dwelling and there is no evidence that its floorspace exceeds 1000 sqm. Therefore, a planning obligation comprising an affordable housing contribution is not necessary in accordance with the SPD, which is a material consideration indicating that a determination should be made otherwise than in accordance with the policies in the development plan.
18. However, the Council has put forward that its letter, pursuant to Paragraph 63 of the Framework, is a competing and overriding material consideration, and that Policy SWDP15 of the SWDP should now be applied in a way that requires affordable housing contributions on sites of five dwellings or less in designated rural areas. There is no evidence in front of me from the appellant that the site is not within a rural designated area, or that the Council's revised position should not be an overriding material consideration when compared to the SPD.
19. The proposal is not supported by a planning obligation of the nature required and therefore, based on the evidence in front of me, it would conflict with Policy SWDP15 of the SWDP. There are no material considerations that would dictate a decision should be taken other than in accordance with the development plan.

Other Matters

20. It is the Council's prerogative to decide whether a site is registered as brownfield land pursuant to the relevant regulations. As it declined to register the site, there is no permission in principle to assess under the appeal, and the issue has not been determinative. Similar conclusions can be drawn about the relevance of neighbourhood planning.
21. The appellant's dispute about the Council's consideration of Policy SWDP1 is noted, but it is clearly referenced in its delegated report pursuant to the application's determination.
22. Although the proposal's contributions pursuant to the Future Homes Standard Consultation and the Climate Change Act 2008, as defined by the appellant, are commendable, such step change in the approach to climate change needs to be achieved on a large scale. The proposal is of limited scale, and such contributions to climate change would be similarly limited, and do not weigh against the harms identified under the main issues.
23. I note the appellant's reference to APP/H1840/A/04/1162549, but the details of that appeal are not in front of me in order to determine its relevance. In any event, it is not clear how the site in this case should be taken as domestic curtilage or the implications therein.

24. There is no evidence that the presumption in favour of sustainable development under Paragraph 11 of the Framework should be engaged, insofar as the appellant has failed to quantify the benefits associated with self-build dwellings, and how such benefits would not be clearly and demonstrably outweighed by the adverse impacts of the proposal.
25. The Council's administration of the application is not a matter for me to judge under this appeal, which has been based on the merits of the case and evidence in front of me.

Conclusion

26. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR