
Appeal Decision

Site visit made on 06 October 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2021

Appeal Ref: APP/W0530/W/20/3250651

White Willows, Swavesey, Cambridge CB24 4QP

- 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 John Ratcliffe against the decision of South Cambridgeshire District Council.
 - The application Ref S/2513/19/FL, dated 19 July 2019, was refused by notice dated 12 February 2020.
 - The development proposed is new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the site is a suitable location for residential development having regard to relevant local and national policies, and
 - the effect of the proposal on protected species.

Reasons

Suitability of location for residential development

3. The appellant suggests that the site may be within the curtilage of 'White Willows'. However, for the avoidance of doubt, from the evidence before me and my observations on site, I consider the lawful use of the site to be agricultural. I have made my decision on this basis.
4. The site is located off an unadopted track, Hale Road, which serves a handful of dwellings, an allotments site and a few rural businesses. For planning policy purposes, it is in the countryside, outside of any development framework identified in the South Cambridgeshire Local Plan-2018, (LP). Policy S/7 of the LP allows for development outside of development frameworks if it is either in accordance with allocations in a Neighbourhood Plan (NP), constitutes one of several specified development types allowed by the policy, or where the development is supported by other policies in the LP.
5. I have not been provided with any evidence of the site being an allocated site in a NP, nor does the proposal satisfy any of the development types outside of development frameworks allowed for by Policy S/7. Policy S/6 of the LP states

that development in rural areas will be limited, with allocations for housing focused on Rural Centres and Minor Rural Centres, with rural settlement policies providing for windfall development. The village of Swavesey is identified as a Minor Rural Centre in Policy S/9 of the LP. However, as noted, the site lies outside of the development boundary of the village. Additionally, I consider the site to be physically and visually separated from the village; as such, it does not read as part of it. I have not been provided with details of any other policies in the LP that support the proposal.

6. The National Planning Policy Framework (the Framework) advises that in rural areas planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. The Framework also advises that to promote sustainable development in rural areas housing should be located where it would enhance or maintain the vitality of rural communities; although policies and decisions should avoid isolated homes in the countryside, unless one or more of the circumstances specified in the Framework apply.
7. I have not been provided with any evidence that the proposal would satisfy a local need. The site is located only around half a kilometre from the centre of the village, which provides a limited range of services and facilities. Given the site's proximity to the village, I consider that the proposal would, all-be-it to a minor degree, assist in maintaining the vitality of the rural community of Swavesey. As the proposed dwelling would also be relatively close to a handful of other dwellings, I do not consider it would result in an isolated dwelling in the countryside.
8. Policies in the Framework seek to promote sustainable travel, and sub paragraph 108 'a' advises that applications for development should ensure that appropriate opportunities to promote sustainable transport modes can be taken up, taking account of the context of the development and its location. Paragraph 103 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, which should also be considered in decision-taking.
9. Although I have not been provided with details, I understand buses are available from the village to destinations such as Cambridge, where a full range of services, facilities and employment opportunities are available. I consider the site would provide access to some limited cycling and walking opportunities. However, given the limited extent of services, facilities and employment opportunities available in the village, I consider that future occupiers of the proposed dwelling would likely rely on a private motor vehicle as their primary means of transport. However, this would be no different to existing residents of Swavesey. Consequently, I consider that planning permission should not be withheld due to the likely primary transport mode of future occupiers of the proposed dwelling.
10. Nevertheless, the proposed dwelling would be substantially larger than the existing agricultural building that it would replace. The size of the proposed plot is also quite generous. With the provision of an access, turning and parking areas and the likely presence of domestic paraphernalia, the appearance and character of the site would be substantially altered. I therefore consider the proposed change of use of land and construction of the proposed dwelling would encroach into and erode the openness and rural character and

appearance of the countryside. It is for this reason that I conclude that the site is not a suitable location for the proposed development. As such, the proposal does not accord with policies S/6, S/7 or S/9 of the LP, which I consider to be consistent with policies within the Framework.

Other considerations

11. Planning legislation requires me to determine the appeal in accordance with the development plan, unless material considerations indicate otherwise. The appellant has outlined several other considerations in support of the proposal.
12. The Council granted permission for the change of use of an existing agricultural building on the site to a dwelling under Prior Approval application Ref S/3005/16/PN. I note that this was determined on 02 December 2016 and that a condition of Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015, (GPDO), requires the development to be completed within 3 years of the date of the permission. As this has not occurred, the permission can no longer be implemented.
13. Furthermore, I have not been provided with any evidence to suggest that, should the Council receive a similar application in the future the same decision would be reached. Additionally, the size of the appeal dwelling, and the size of the proposed plot are both substantially larger than the dwelling and associated curtilage approved under Prior Approval Ref S/3005/16/PN. I therefore consider the current proposal would have a substantially greater impact on the character and appearance of the open countryside than the dwelling approved under S/3005/16/PN.
14. Hence, although a consideration, for the reasons outlined, I attach limited weight to a fallback of the existing agricultural building being granted permission for change of use to a dwelling under Schedule 2, Part 3, Class Q of the GPDO.
15. The appellant has drawn my attention to 2 planning permissions for dwellings that the Council has approved in recent years on the 2 sites immediately west of the appeal site (Refs S/0495/17/FL and S/2336/16/FL). I do not have the full details of either of these permissions before me. However, the Council asserts, and the appellant has not challenged the assertion, that these applications were only allowed because the Council could not demonstrate a 5 Year Housing Land Supply (5YHLS) at the time. The evidence from both parties confirms that the Council can now demonstrate a 5YHLS. Consequently, the circumstances of these cases are not directly comparable to the circumstances of the appeal proposal. I therefore attach no weight to these permissions as justification for the proposal.
16. The appellant has referred me to appeal Ref APP/L2630/W/18/3197272, explaining that in allowing the appeal the Inspector referred to the Government's objective of boosting the supply of housing and highlighted the contribution small sites can make to meeting housing needs. Again, I do not have the full details of this appeal and cannot be certain that the cases are comparable. However, notwithstanding that each case must be determined on its merits, sub paragraph 68 'c' of the Framework advises giving great weight to the benefits of using suitable sites within existing settlements for homes. As discussed, the site is not within an existing settlement, and I have concluded

that it would not be a suitable site because of the effect of the proposal on the character and appearance of the countryside. I therefore attach no weight to the appeal decision referred to as justification for the proposal.

17. The appellant has suggested that the proposal is tantamount to a replacement dwelling. Given that the proposal would not replace an existing dwelling I consider the assertion to be incorrect and I attach no weight to the suggestion.
18. The appellant suggests that the proposal would provide a modest sized 3-bedroom bungalow, identical to one being constructed on the adjacent site, as such, it would be in keeping with the character and appearance of the area. Development plan policies require all proposals to be in keeping with surrounding properties and the area in respect of design. I therefore attach no weight to this factor. It is also suggested that the proposal would enable family members to remain close to each other. Although this may be the case, the courts have concluded that the planning system operates in the public interest, rather than any personal interests.
19. I acknowledge that the proposal would provide one additional dwelling. However, within the context of the Council having a 5YHLS I attach limited weight to this factor. I also acknowledge that there would be some economic benefits resulting from the construction phase. As such benefits would be relatively minor, I therefore attach limited weight to them.
20. Therefore, with reference to the other considerations outlined, I conclude that they do not outweigh the harm identified in respect of encroachment into the countryside and the erosion of the openness and rural character and appearance of the area. Consequently, I consider there are no other considerations that justify making a decision that is not in accordance with the development plan.

Likely effect on protected species

21. The site is overgrown with several disused agricultural buildings/remains of agricultural buildings within it. There are trees, shrubs and hedges within, around and in proximity of the site and there is a pond not far from its eastern boundary. The site is also close to several wildlife sites. In such circumstances there is a distinct possibility of protected species being present within and/or close to the site, eg. bat roosts in the building or great crested newts in the pond. Consequently, such species could be harmed as a result of the proposal.
22. I note that the appellant suggests such matters could be dealt with by condition. However, the courts have concluded that investigations into protected species cannot be conditioned. Without the investigations having been undertaken at the outset it is not possible to conclude what, if any, protected species may be present and what, if any, mitigation may be necessary or possible in order to ensure such species are not harmed.
23. In light of the above, I conclude that it has not been demonstrated that the proposal would not result in harm to protected species. As such, the proposal does not accord with Policy NH/4 of the LP, which requires applicants to provide an adequate level of survey information prior to determination.

Other Matters

24. The site is located west of the Swavesey Conservation Area (CA). Paragraph 193 of the Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. In addition, paragraph 190 of the Framework advises that the particular significance of any heritage asset that may be affected by a proposal, including development affecting the setting of a heritage asset, should be identified and assessed.
25. I consider that the proposal would have a neutral effect on the setting of the CA and therefore the character and appearance of the CA would be preserved.

Conclusion

26. For the reasons outlined above, I conclude that the appeal is dismissed.

J Williamson

INSPECTOR