



Appeal Decision

Site visit made on 18 July 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2022

Appeal Ref: APP/C3240/W/21/3285055

Land adjacent to the Mere Park Garden Centre, Newport TF10 9BY

- 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 EG Group Ltd against the decision of Telford and Wrekin Council.
 - The application Ref TWC/2020/0207, dated 22 January 2020, was refused by notice dated 3 September 2021.
 - The development proposed is the erection of 2no. drive-thru units (A1, A3, A5) with circulatory routes, associated car parking, landscaping, and other works.
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Decision

1. The appeal is dismissed.

Procedural Matter and Main Issue

2. The Council's decision notice includes two reasons for refusal. The second reason refers to the absence of a contribution towards the borough's strategic highway network. With this appeal, the appellant has submitted a planning agreement which includes the contribution requested by the Council. Providing this meets the tests of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, and could be secured, matters which I shall return to later, I am satisfied that the second reason for refusal falls away.
3. Therefore, the remaining main issue is whether the appeal site represents a suitable location for the proposed development.

Reasons

4. The appeal site is an undeveloped, grassed parcel of land bounded by mature hedgerows and trees. It has a very open feel and the golf club beyond also contributes towards this characteristic. The site is located adjacent to a cluster of development on the eastern side of the A41 which comprises a hotel, restaurant and retail uses, along with their associated parking areas and access routes. Despite this development and the highway network, the characteristics of the appeal site give it a much closer affinity to the surrounding rural area. The existing landscape bund does not visually represent a separation between the built-up and rural area, rather the A41 and the access road into the adjoining development achieves this. As such, the site is located outside of the built-up area of Newport and thus can be defined as falling within the rural area.
5. Policy SP3 of the Telford and Wrekin Local Plan 2011-2031 (January 2018) (the LP) provides support for development in the rural area where it addresses the

- needs of rural communities. This policy goes on to direct development to the reuse of previously developed land and to settlements with good infrastructure.
6. Employment development is also to be considered against Policy EC3 of the LP which states that the Council will support new employment development in the rural area where it involves the re-use of previously developed land or the conversion/re-use of redundant buildings or the extension of existing sites, subject to a number of criteria, all three of which must be satisfied.
 7. There is no suggestion that the appeal site constitutes previously developed land nor does the proposal involve the re-use of existing buildings. I have had regard to the advice of Counsel, submitted in support of the appeal, in relation to the interpretation of LP Policy EC3 including whether the proposal involves the extension of an existing site.
 8. It seems logical to me that, to fulfil this category, the proposal would have to have a clear association with and/or functional connection to an existing site. Without doing so, it would simply be a new use rather than an extension, which could result in unrestricted and unlimited sprawl of development in rural areas. I acknowledge that an extension of a site would likely involve alterations to features such as boundaries, buildings and/or areas of hardstanding. However, I consider that it would be pertinent for the relationship between the existing site and the extended element to be clearly linked.
 9. The proposal would introduce standalone buildings of a new use to the existing cluster of adjacent development and the varying uses within it. The inclusion of the appeal site within the boundary for earlier planning applications, the shared use of the existing access drive and any ownership similarities do not provide the necessary clear link between the existing and proposed uses. I am not therefore satisfied that the proposal has a clear connection with the adjacent development thus it cannot be considered an extension of an existing site. Accordingly, the proposal does not meet any of the first three criteria of LP Policy EC3 and thus there is no need for me to go on to consider whether it also meets criteria (i)-(iii).
 10. It has been suggested that planning permission has previously been approved for development on the appeal site. These approvals appear to have been a considerable time ago and, moreover, the detail before me is extremely limited. I cannot therefore accurately determine the relationship between those approvals and LP Policy EC3, thus I afford this matter limited weight.
 11. The National Planning Policy Framework (the Framework) provides support for a prosperous rural economy through the sustainable growth and expansion of all types of business in rural areas. This is predicated on developments being sustainable. The appeal site's location and the resultant conflict with LP Policy EC3 results in the proposal not representing a form of sustainable development.
 12. Taking all the above into consideration, and notwithstanding the lack of objections from statutory consultees, the appeal site does not represent a suitable location for the development. It is contrary to Policies SP3 and EC3 of the LP, the aims of which are noted above, and LP Policy SP4 which seeks to promote sustainable development.

13. The appellant notes that the LP does not contain a policy relating to roadside services. Be that as it may, LP Policy EC3 concerns employment uses within the rural area. Therefore, the LP includes a relevant development plan policy thus there is no need for me to go on to apply the 'tilted balance' of paragraph 11 d) of the Framework.

Other Matters

14. A planning agreement has been entered into by the appellant and the Council and it appears to secure the strategic highway network contribution sought by the Council. As I am dismissing the appeal on other substantive matters, and as the contribution seeks to mitigate the effect of the development rather than being a benefit, there is no need for me to consider this matter further.
15. The appeal site falls within the boundary of the Newport Neighbourhood Development Plan 2017-2031, however it is not located within the built-up area of Newport. As such, LP Policy SP2 is not of relevance and does not lend support to the proposal.
16. Paragraph 85 of the Framework recognises that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements. Furthermore, chapter 7 of the Framework seeks to ensure the vitality of town centres, with paragraph 86 e) stating that where suitable and viable town centre sites are not available for main town centre uses, planning policies should allocate appropriate edge of centre sites that are well connected to the town centre. Main town centre uses, as defined by the Framework, include drive-through restaurants.
17. Although the locational requirement for the proposal to be sited adjacent to the strategic highway network to provide for the welfare and comfort of motorists is appreciated, this does not automatically justify the development from being sited in a rural location. There is a retail park and strategic employment area located to the south of the appeal site which contains a vast number of businesses including services for motorists. It appears to be within the built-up area of Newport and is also immediately adjacent to the strategic highway network.
18. The evidence does not robustly demonstrate why locating the development within these sites, or others within the built-up area, would not be suitable. Relying on a sequential assessment for a different development is not a satisfactory approach as I do not know the full circumstances of it and cannot determine whether it is directly comparable. Indeed, I note within the evidence that the development relied upon was for a single drive-through unit which was of a different size to the appeal proposal. Therefore, I am not convinced that there are no other suitable locations for the proposed development.
19. I am also not persuaded that the layout of the road network in this locality provides justification for the proposal's rural location. I note there were other routes for motorists to access the southbound carriageway of the A41 from the nearby retail park without having to exit onto the northbound carriageway then use the roundabout near to the appeal site to carry out a U-turn.
20. Whilst I agree that an impact assessment, in order to demonstrate the effect of the proposal on the viability and vitality of Newport, is not required for the proposed development, the evidence to demonstrate that the proposal would

have a positive effect on Newport is lacking. As such, this matter is afforded limited weight.

21. There is nothing before me to indicate that without the proposal there would be a highway safety issue as there are numerous options within the locality which provide motorists with opportunities to take a break.
22. Several appeal decisions have been submitted in support of this appeal, many of which are from several years ago and all but one concerned a different borough to this appeal. As such, the context of each site is likely to be different to the appeal proposal. I do however note that the appeals include examples of drive-throughs which were allowed in Green Belt and out of town/rural locations. Nevertheless, the Inspectors in each case identified strong justification and/or public benefits which led to the appeals being allowed.
23. The appellant has raised concerns that the Council's approach towards a proposal for a replacement nursery at the adjacent site indicates inconsistencies with regard to employment development in the rural area. Based on the limited information provided, it appears that the proposed nursery development is located within the adjacent cluster of development, unlike the appeal proposal, and, whilst not receiving support from the Council due to its purported conflict with LP Policy EC3, justification has been provided for its need. As such, this example does not point towards obvious inconsistencies in the Council's decision making.

Conclusion

24. The proposal would result in a number of economic benefits. It would create temporary and long-term employment opportunities in an accessible location, result in capital investment and spending on completion. Given the small scale of the proposal, I afford these benefits no more than moderate weight.
25. It would also provide services and facilities for employees of the adjacent businesses although I note that food and beverage options are currently catered for in the existing uses. The proposal would simply increase the options for employees therefore I afford this benefit limited weight.
26. The proposal would provide additional facilities for motorists however given my findings above regarding the existing services, this matter is afforded limited weight in favour of the proposal.
27. The subsequent payment of business rates are not a benefit as this would correspond with the increased development and demand on services. It does not appear that there are highway concerns in the locality thus any highway alterations which may be achieved through the planning agreement would represent a form of mitigation resulting from the development, rather than a benefit.
28. The proposal conflicts with the development plan when considered as a whole. Although, collectively, I afford the benefits of the proposal moderate weight, they would not be sufficient to outweigh that conflict and lead me to a decision other than in accordance with the development plan. Therefore, the appeal should be dismissed.

H Ellison INSPECTOR