



Appeal Decision

Site visit made on 4 October 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2022

Appeal Ref: APP/A0665/W/22/3296893

Peover Edge, Boots Green Lane, Allostock, Knutsford WA16 9NH

- 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 Miss Jenny Carter against the decision of Cheshire West and Chester Council.
 - The application Ref 21/02007/FUL, dated 4 May 2021, was refused by notice dated 29 November 2021.
 - The development proposed is 'Change of use of stable block to granny annex'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant confirms that the development has been implemented and is now fully retrospective. Accordingly, I shall deal with the development as one under s73A of the Act for development already carried out.
3. Following the decision of the Council, the appellant has submitted additional detail in relation to an assessment of potential radio interference arising from the development. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals and is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application.
4. I have had regard to the Wheatcroft Principles, the interests of fairness and the degree of engagement of all parties with the issue of radio interference, including the further consultation with the Jodrell Bank Observatory (the JBO). Despite being the fundamental matter in the appeal, having regard to the opportunity for the JBO and the Council to respond to the additional information, which they have done, I find that no party will be prejudiced if I take the new information into account.

Main Issue

5. The main issue is the effect of the development on the efficiency of the Jodrell Bank Observatory.

Reasons

6. For development in the Jodrell Bank Radio Telescope Consultations Zone, Policy DM12 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies [2019], (the LP2), permits development that would not impair the efficiency of the Jodrell Bank Radio Telescope,

- subject to other relevant planning policies. It states that protection from local sources of interference is still of utmost importance.
7. The JBO is a designated World Heritage Site (WHS) on account of its contribution to radioastronomy. It relies on listening for patterns in specific areas of the radio spectrum which can be adversely affected by radio interference caused by electronic equipment, including common domestic appliances. As part of the radio telescope's function, these measurements are recognised as having exceptional importance. The resultant benefits of the JBO are considered to extend to both present and future generations and transcend international boundaries. The National Planning Policy Framework (the Framework) recognises WHSs as irreplaceable assets of the highest significance which must be conserved in a manner appropriate to their significance.
 8. The JBO identify that the modelling of 'the predicted levels of radio noise from the proposed dwelling show that it would exceed the agreed international threshold for harmful interference to radio astronomy by a factor of 2, assuming a typical inventory of electrical and electronic equipment'. Further, it identifies the result as a conservative estimate.
 9. To meet modern living standards, the use of the building inevitably includes modern electrical items. Those currently present are listed in the appellant's own assessment of radio interference and are higher in number than those when used as a stable. The use of electrical items within the buildings is not fixed and if it was intended to limit use of electrical items in conjunction with the current or a future use of the development, this has not been stated by the appellant.
 10. The JBO's representative (Manchester University) consider that the effect would prejudice the efficiency of the radio telescope. Whilst it acknowledges that the effect from a single residential unit may be limited, the JBO representations explain that data accuracy can be affected by background interference levels and this includes its cumulative effect with smaller areas of development close to the telescope. These are already impairing efficiency, and the development would exacerbate interference when measured against the ITU threshold¹ to degrade the JBO's ability to perform its recognised function. Accordingly, the harm referred to in Policy DM12 is identified to exist.
 11. The consultee's response is based on an established methodology. I acknowledge that the appellant is critical of applying a methodology which is based on a much larger amount of new residential development in a neighbouring authority area to a proposal for a single unit of accommodation. However, there is little before me to demonstrate why this should not be applied in the particular circumstances of the case.
 12. I note that a building specification schedule was provided by the appellant. This proposed a number of measures which could be incorporated into the fabric of the building to limit radio noise outbreak. It is unclear what measures, if any, have been incorporated into the structure before or since its occupation. Nevertheless, the JBO indicates that those measures have been accounted for in their calculations and they would not mitigate the identified effects.

¹ International Telecommunications Union

13. In support of the development, the appellant has carried out a 'power on; power off' exercise at the premises. However, there is dispute between the main parties as to the accuracy and relevance of measurements taken. The JBO identifies that the measurements taken are not of sufficient accuracy to demonstrate that no adverse effect on the efficiency of the JBO would arise. Although I have little doubt that the claims of each specialist have legitimate basis, I find that the existence of a theoretical effect as highlighted by the University, is sufficient to demonstrate harm in the particular circumstances of the case.
14. I also recognise the appellant's frustration in this regard as she sought to engage with the JBO after the Council's decision. This included an offer to carry out the on/off test. Although they advised that they were unable to undertake that work and were therefore of little assistance to the appellant, this is not a matter for this appeal.
15. The appellant also refers me to a number of instances where planning permission has been granted for new residential development, including by way of the conversion of existing buildings. However, their effects on the efficiency of the JBO are a function of multiple factors. Aspects such as their distance from the JBO, the relevant orientation vector, intervening topography and former uses, amongst other things, are relevant considerations. Accordingly, as those circumstances will rarely be capable of direct comparison given the potential variations to those factors, I do not find them a persuasive argument in the context of considering the effects on the JBO.
16. I am also directed to a building which has recently been provided in the grounds of the JBO. However, in the absence of demonstration that it causes prejudice to the JBO's activities, it is not a strong reason to find in favour of a development that would.
17. For the above reasons, I find that the development would prejudice the operation of the JBO. It would conflict with Policy DM12 of the LP2 as it seeks to prevent the impairment of the efficiency of the Jodrell Bank Radio Telescope.

Other Matters

18. I note the appellants assertion that the nature of the scheme is exempt from consultation requirements under the Town and Country Planning (Jodrell Bank Radio Telescope) Direction 1973. However, notwithstanding the age of that legislation, I do not find this a legitimate reason to limit the weight to representations made by the relevant consultee on such a specialised matter.
19. I recognise that the effect on the JBO was the single reason for refusal and that all other aspects of the development were considered acceptable. However, as requirements of the development plan, those other matters are not benefits in favour of the development.
20. In support of the scheme, the appellant directs me to the fact that it provides living accommodation for an elderly relative with disabilities. According to the appellant, this was a decision taken during the height of the Covid-19 pandemic as the most appropriate way to provide care for her relative. It would allow family members to support them in their later years. Although it is unclear what, if any, capacity the site has to accommodate the relative by less impactful means, this is a benefit of the development.

Planning Balance and Conclusion

21. The development would harm the efficiency of the Jodrell Bank Radio Telescope. This forms part of a World Heritage Site recognised as having Outstanding Universal Value for the cultural significance of studies which are reliant on the effective use of the radio telescope. Paragraph 189 identifies WHSs as irreplaceable resources which should be conserved in a manner appropriate to their significance. This is so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
22. The operator of the JBO identifies that the development would harm the efficiency of the radio telescope taken either individually or cumulatively with other sources of interference. Accordingly, this is a matter to which I attach great weight. The development would also conflict with Policy DM12 of the LP2.
23. As a matter of planning judgement, I find the circumstances presented by the appellant, whether taken singularly or cumulatively, are not a strong justification for setting aside policy with the legitimate aim of protecting the efficiency of the JBO, a recognised asset of Outstanding Universal Value.
24. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The Act sets out the relevant protected characteristics which include age and disability. Since there is the potential for my decision to affect persons with protected characteristics, I have had due regard to the three equality principles set out in Section 149 of the Act.
25. The negative impacts of dismissing the appeal will arise from the ability to provide care and accommodation on the site through the use of the former stable building. However, having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on those with protected characteristics would be proportionate. This is due to the harmful effect of the proposed development on the significance of the Outstanding Universal Value of the WHS and its wider public interests and importance, including the investments and economic benefits associated with it.
26. In consideration of this, I do not find the imposition of a requirement to alternatively restrict the use of electronic equipment or 'insulate' the building would pass the test of reasonableness as set out in Paragraph 56 of the Framework. The implications of the latter in terms of retrofitting cost, effect on the structure or external appearance of the building, or, its subsequent ability to serve as residential accommodation, are unknown. Accordingly, as any such requirement could nullify the benefit of any permission it was attached to, I do not consider it appropriate to seek to address the identified harm through use of planning condition/s and the harm would persist.
27. Taking all of the above together, I conclude that the appeal should not be allowed.

R Hitchcock

INSPECTOR