
Appeal Decision

Site visit made on 6 December 2022

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 19th April 2023

Appeal Ref: APP/D1265/W/22/3302923

Land adjacent to Sweet Hill Road, Portland

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Laming and Sons Ltd against Dorset Council.
 - The application Ref P/FUL/2022/00253, is dated 14 January 2022.
 - The development proposed is erection of up to 8 dwellings.
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Decision

1. The appeal is dismissed and planning permission is refused.

Main Issues

2. The main issues are;
 - Whether the appeal site is a suitable location for development having regard to policies relating to the location of housing; and
 - the effect of the proposal on biodiversity.

Reasons

Whether the appeal site is a suitable location for development having regard to policies relating to the location of housing

3. The appeal site is an area of open land adjacent to Sweet Hill Road, whilst there is residential development in the area, with the site being adjacent to the defined development boundary, the site is undeveloped land.
4. Policy SUS2 of the West Dorset, Weymouth and Portland Local Plan 2015 (the Local Plan) states at part 3 that outside defined development boundaries, development will be strictly controlled, having particular regard to the need for the protection of the countryside and environmental constraints. The policy then sets out a number of criteria for which development outside of the defined development boundary will be restricted to. The proposed development would not meet any of the exceptions listed within part 3 of Policy SUS2.
5. Accordingly, I find that the proposed development would not be in a suitable location when assessed against policies in the Local Plan relating to the location of housing.

6. Whilst the proposed development would be adjacent to the development boundary, with the design of the houses crafted to avoid harm to the character of the area, this does not reduce the conflict of the proposed development with the Local Plan. Development boundaries are established through the local plan process, and to allow development beyond the boundary, when there is an up to date supply of land for housing, would undermine the spatial strategy.
7. A Permission in Principle (PIP) was previously given for development on the site in 2019. In 2021 the appellants applied for planning permission which was refused, and the application made subject to this appeal was applied for in January 2022. Whilst the PIP is a material consideration it has now lapsed. At the time the PIP was granted the Council was unable to demonstrate a housing land supply of five years. The Council is now able to demonstrate a housing land supply in excess of five years, and the appeal site is not within a defined development boundary. Accordingly, whilst I acknowledge the history of the site, and the absence of harm in design terms, I do not consider these factors outweigh the conflict with the development plan in this instance.

Effect of the proposal on biodiversity

8. The appeal site is adjacent to the Site of Nature Conservation Interest (SNCI); SY67/031 Southwell. A Biodiversity Plan (BP) was submitted as part of the application. The BP focused on the effect of the proposal on the habitat for birds and great crested newts. The BP did not address the possible impact of the proposal on the adjacent SNCI. It is possible that further survey work would be required in accordance with the Dorset Biodiversity Appraisal Protocol to ensure that all impacts are properly considered and adequately mitigated as appropriate.
9. On the basis of the submitted Ecological Impact Assessment and BP, I am not able to conclude that the proposed development would not result in unacceptable harm to biodiversity including European Protected Species. Accordingly, I find that the proposed development would fail to comply with policy ENV2 of the Local Plan which seeks to safeguard important internationally designated wildlife sites.

Other matters

10. I note that permissions have been granted for development to the south of the site, including for camping and equestrian uses. These are materially different in respect of the nature of the development, and I have assessed this proposal on its own merits.
11. Following approval of the PIP the appellant had the opportunity to submit an application for technical approval but chose instead to apply for full planning permission. Whilst they were entitled to take this approach, the council was required to consider the subsequent applications against the policies in the Local Plan, and to have regard to other material considerations. It has accepted that there was a failure to identify the need for ecology reports in previous applications, which was regrettable. I acknowledge that the appellant is a local firm, and that the proposal would provide additional housing, and support the economy. However, these factors do not overcome the harm that I have

identified in respect of undermining the spatial strategy, and the omission of detail in respect of internationally designated wildlife sites.

Conclusion

12. The proposal would conflict with the development plan when taken as a whole and undermine the spatial strategy for the delivery of housing. The material considerations advanced by the appellant do not outweigh the conflict with the development plan. Accordingly, for the reasons above and having regard to all other matters raised, the appeal is dismissed and planning permission is refused.

J Ayres

INSPECTOR