



Appeal Decision

Site visit made on 4 September 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2024

Appeal Ref: APP/H1840/W/24/3337143

Land off Church Lane, Whittington WR5 2RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs N Rogers against the decision of Wychavon District Council.
 - The application Ref is W/22/02462/FUL.
 - The development proposed is installation of track, retention of containers, provision of pole barn and wildlife pond (part retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for installation of track, containers, provision of pole barn and wildlife pond at land off Church Lane, Whittington WR5 2RQ in accordance with the terms of the application, Ref W/22/02462/FUL, subject to the conditions in the attached schedule.

Procedural and Preliminary Matters

2. Planning permission was granted in January 2024 for the access track and wildlife pond that are sought as part of this appeal¹. The track and wildlife pond appear to have been constructed in the same general location as that shown on the submitted plans. Additionally, the containers are already on the appeal site. Whilst planning permission has been granted for elements of the proposal, I have considered the scheme based on what has been built as well as the plans before me.
3. The description of development in the banner heading is taken from the application form. However, I have removed reference to the 'retention of' containers and 'part retrospective' within the description of development in my formal decision as these are not an act of development.
4. Both parties have referred to the South Worcestershire Development Plan Review (SWDPR). The Council has advised that the plan was published for Regulation 19 consultation in November and December 2022 and therefore the SWDPR and the policies, therein, is a material consideration in the determination of planning applications. However, the appellant states that there have been significant delays in the process, and I cannot be certain if any policies are to be modified or when it is likely to be adopted. Consequently, I attach little weight to the SWDPR in determining this appeal.

¹ Application Reference: W/23/02187/FUL

Main Issues

5. The main issues relevant to this appeal are:

- whether the development would be in an appropriate location with regard to local policies; and
- the effect of the development upon the open character of the Significant Gap.

Reasons

Location

6. The access track is located off Church Lane via a shared driveway with several dwellings. The track that has been constructed is laid out with gravel and extends across the appeal site. This track passes a pigsty and at my site visit the rest of the land was grazed by sheep. At the end of this access track is a large area of gravel where the three containers are located. This would also be the site for the proposed pole barn. These elements of the scheme are located a significant distance from Church Lane, sited close to the boundary hedge between the appeal site and Wyldes Place, which is a dwelling located next to the site. Further beyond this is the wildlife pond which has been excavated but does not yet appear to have been finished.
7. It is not disputed between the parties that the site is in the open countryside. Part C of Policy SWDP2 of the South Worcestershire Development Plan (SWDP) permits, amongst other matters, development within the open countryside including buildings for agriculture and forestry.
8. The appellant states that the containers on site provide storage for smaller agricultural machinery and equipment, together with fodder and as a hygienic building for honey extraction and storage of bee keeping equipment. The proposed pole barn would provide open storage for larger machinery and equipment as well as for cows and calves and also for the storage of fodder. The appellant states that they manage 8 acres of land for which the development is required to support.
9. Whilst at my site visit, I did not see evidence of cows or calves on the site there were both sheep and pigs as well as evidence of bee keeping. There was also agricultural machinery stored around the containers. The appellant states that they have a County Parish Holding number to house additional livestock on the land.
10. Whilst the scale of the enterprise is relatively limited, based on what I saw on site and the information before me, the proposals should be regarded as being for agricultural purposes. Additionally, the scale of the barn and containers would not appear to be disproportionate for a holding of this size and the equipment required to operate it. As such, the pole barn and containers would be necessary and appropriate for agricultural purposes in the open countryside in accordance with Part C of Policy SWDP2. Furthermore, the track is necessary to provide safe and secure access to the containers and pole barn and would also be appropriate in this agricultural context around Whittington, where tracks such as this are not uncommon.

11. Permission has been granted for the pond and I agree with the appellant that it would assist in enhancing biodiversity, which can be beneficial to agriculture.
12. Therefore, for the reasons given above, the development would be in an appropriate location with regard to local policies and would accord with Part C of Policy SWDP2 of the SWDP insofar as it permits buildings for agriculture in the open countryside.

Significant Gap

13. The Significant Gap in this location covers a substantially sized area of land between Worcester and the M5 motorway. The wider area of land identified as being in the ownership of the appellant is generally open grassland interspersed with trees and hedges. Beyond that there is a mix of residential and agricultural uses and buildings interspersed by open fields.
14. The pole barn would be a single storey building and the containers are similar in height. Despite being moderately taller than the neighbouring hedges the containers and pole barn would not be unduly dominant.
15. The containers and the proposed pole barn would be located next to the boundary hedges and trees between the appeal site and Wyldes Place. By being located close to the edge of the field, the visual effect of the development would be contained to a small and relatively well enclosed section of the field that would partly screen them from several viewpoints.
16. It is also proposed that the containers would be covered by timber cladding and container B shown on PLAN MAB3 already has this. I was able to therefore observe that the use of timber cladding assists further in helping the containers to blend in with the surrounding trees and hedges and this could be secured by a condition.
17. Overall, the limited height, appearance and location of the pole barn and containers would ensure these elements of the scheme would retain the open character of the Significant Gap in this location.
18. The access track is built at ground level and as such it has retained the open character of the Significant Gap. Given that the wildlife pond has involved works below ground level, this element of the scheme also preserves its open character and would continue to do so once completed given the limited amount of above ground works this would involve.
19. For the reasons given above the development would retain the open character of the Significant Gap. Accordingly, the scheme would accord with Part D of Policy SWDP2 of the SWDP, insofar as it requires development proposals within the Significant Gap to ensure the retention of the open character of it.

Other Matters

20. In reaching this view I have had regard to the views of interested parties relating to trees and hedges, overlooking, flood risk and highway safety, amongst other matters.
21. The containers and pole barn are shown to be located relatively close to the boundary hedges and trees between the appeal site and Wyldes Place. However, given the overall limited height of the pole barn and containers as well as the gap between the proposed development and the hedges and trees,

access to them would still be possible from both within the garden for Wyldes Place and from the appeal site. This gap would also ensure the pole barn and containers would not be overbearing to the trees or hedges and ensure they would not be significantly harmed by the proposal. This would ensure the contribution the trees and hedges make towards local wildlife would not be substantially harmed.

22. Given the distance between the proposed barn and Wyldes Place as well as the intervening trees, hedges and bund, the users coming and going from the appeal site would not harmfully overlook the occupiers of Wyldes Place.
23. The gravel base where the containers are, and the pole barn is proposed allows surface water to drain. It is not disputed between the parties that the site is in Flood Zone 1 and based on the information before me there is no substantive evidence that the scheme would increase the risk of flooding elsewhere or that this would affect a vulnerable use, given the significant distance between the development and the surrounding dwellings.
24. The Council did not refuse the scheme based on its effect upon highway safety and given the existing agricultural use of the site the number of overall movements to and from the site would not significantly increase due to this scheme. As such, I see no reason to come to a different conclusion and find that the development would not have an unacceptable impact upon highway safety.

Conditions

25. Whilst parts of the scheme have already begun the statutory commencement condition [1] is still necessary given that other elements have not yet started. Further to this, a condition requiring the development is carried out in accordance with the submitted plans is necessary in the interest of certainty [2].
26. Policy SWDP29 of the SWDP seeks to minimise flood risk and as such a condition requiring the development to be carried out in accordance with the Water Management Statement is necessary in the interest of minimising flood risk [3].
27. A condition requiring the details of external lighting to be provided is necessary given that the pole barn would be located close to a residential garden, in the interest of the living conditions of the neighbouring occupiers [4].
28. Whilst container B shown on Plan MAB3 has already been covered by timber cladding, the condition also requires that it be retained as such and without it, the timber cladding could be removed. Container C has not been covered by timber cladding and a condition requiring this, as well as the retention of it on both containers is necessary in the interest of the character and appearance of the area as well as the open character of the Significant Gap [5].
29. The Council has suggested a temporary permission for the containers, but I have found that the proposal would be acceptable on a permanent basis. I have not therefore imposed such a condition.
30. The Council has suggested a condition restricting the use of the pole barn to agricultural use. However, I have determined that the wider site is in

agricultural use and this permission does not seek to use the site for other purposes. As a result, a condition restricting the use of the barn is not necessary as any change would be a material change of use for which permission would have to be sought.

Conclusion

31. For the reasons given above, the proposal would comply with the development plan, when read as a whole and the material considerations do not indicate that a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be allowed.

G Sibley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: Location Plan, Scale 1:2500; PLAN MAB2; and PLAN MAB3.
- 3) Within six months of the date of this permission, the details set out in the submitted Water Management Statement, contained in the Planning Statement dated November 2022 and prepared by AddisonRees Planning Consultancy Ltd, shall be implemented and retained thereafter.
- 4) Before the pole barn hereby permitted is first brought into use, details of any external lighting to be provided in association with the development shall be submitted to and approved in writing by the local planning authority. The details shall include times when the external lighting will not be switched on. Only external lighting in accordance with the approved details shall be provided on the application site. No other external lighting shall be installed without prior grant of planning permission pursuant to an application made to the local planning authority in that regard.
- 5) The timber cladding shown to be added to containers B and C on drawing no: PLAN MAB3 shall be completed no later than six months from the date of this permission and shall be retained as such thereafter.

End of Schedule