

Appeal Decision

Site visit made on 15 August 2016

by **JP Roberts BSc(Hons), LLB(Hons), MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20th October 2016

Appeal Ref: APP/L3245/W/16/3143201

Bird Place, Plox Green, Minsterley, Shropshire SY5 0LN

- 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 Karen Harris against the decision of Shropshire Council.
 - The application Ref 15/02676/FUL, dated 20 June 2015, was refused by notice dated 15 December 2015.
 - The development proposed is an equine semen collection facility in connection with an equine business and the siting of a mobile home (ecopod) for temporary use of 3 years.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether, having regard to the rural business argument raised, the proposal would conform with the development strategy of the area;
 - ii) the effect of the proposal on the character and appearance of the surrounding area, including the setting of the Snailbeach Conservation Area and the Shropshire Hills Area of Outstanding Natural Beauty;
 - iii) the effect of the proposal on flood risk;
 - iv) the effect of the proposal on highway safety,
 - v) the effect of the proposal on biodiversity, and
 - vi) the effect of the proposal on the health and safety of occupiers of the site in respect of the effects of contaminated land.

Reasons

Development strategy

3. The site lies in the open countryside, well outside of the boundaries of any settlement. The broad strategy set out in Policy CS4 of the Shropshire Core Strategy (CS) (adopted in 2011) is to focus development in rural areas on community hubs. This broad strategy is repeated in the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) adopted in 2015, which also provides for the identification of new community hubs, through the development plan process.
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4. Neither the site, nor the nearest settlements are part of the designated community hubs, and there are no proposals that I have been told of to make them so. In the countryside, CS Policy CS5 provides that new development will be strictly controlled. It indicates that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particular where they relate to small scale new economic development diversifying the rural economy and dwellings to house agricultural, forestry or other essential countryside workers in accordance with other policies in the plan.
5. The policy requires that such schemes will require the applicant to demonstrate the need for and benefit of the development proposed, which will be expected to take place primarily in recognisable named settlements, or be linked to other existing development and business activity where this is appropriate. The supporting text says that proposals which would result in isolated, sporadic development, or which may either individually or cumulatively erode the character of the countryside will not be acceptable.
6. The proposed equine semen business is a new one on this site. The Council accepts that the business would require someone to live permanently on the site, and I see no reason to disagree. However, there is no site-specific reason why it needs to be located in this part of the open countryside. Whilst I recognise that some of the attributes of the site, such as tranquillity, the availability of grazing, water and bridleways are needed for the intended use, it is likely that there are better located sites within or on the edge of settlements within the area which would also provide such facilities. The appellant has provided no evidence to show that no such other sites exist. Thus, the isolated and sporadic nature of the development would conflict with Policy CS5.
7. As a new business, the economic benefits would be modest. I have had regard to the appellant's projected income, but as a new business I have to treat the substantial profits anticipated with a degree of caution. Even so, I recognise that it would create employment and that there would be some modest spend increase in the local economy. I have also had regard to the Council's policies which promote economic development, and whilst the creation of new enterprises is encouraged, the need for sustainable development is emphasised, so that Policy CS13 supports enterprise in rural areas, subject to compliance with Policy CS5, which is not the case here. Similarly, Policy CS14 which deals with the managed release of employment land supports rural enterprise, but only where it accords with other policies, including Policy CS5.
8. The Core Strategy pre-dates the National Planning Policy Framework (the Framework), but the SAMDev was adopted well after its publication. The Framework supports economic growth in rural areas, requiring policies to take a positive approach to sustainable new development. Whilst it promotes the sustainable growth and expansion of all types of businesses and enterprise in rural areas, this is a new enterprise rather than the growth or expansion of an existing one. In my view, I consider that the Core Strategy is consistent with Framework's emphasis on ensuring that rural development is sustainable.
9. I therefore conclude on the first main issue that the proposal would not accord with the development strategy for the area, and would conflict with the policies to which I have referred above.

Character and appearance

10. The site forms a triangular shaped, sloping field at the junction of Plox Green Road with an unmade up lane leading to Snailbeach. The immediate surrounding area is comprised of open fields and small areas of woodland, and in the wider area there are farm and other scattered buildings. The site is screened from the lane by trees on either side of the stream which runs close to the north western boundary, and a hedge runs alongside the boundary with the road.
11. In my judgement, the hedge would not fully screen the proposed buildings, as the site is at a higher level than the road, and they would be seen over the hedge. In winter, when devoid of foliage as illustrated in the photograph submitted by the Council, the hedge would allow more extensive views into the site, and in any event, it could not be relied on to screen the development in perpetuity, as the hedge may die, become diseased or be cut back, trimmed or removed.
12. Although the single storey buildings proposed would have an appearance that would be typical of many rural buildings, the presence of an isolated group of buildings in an otherwise open rural landscape would be damaging to the intrinsic character and beauty of the countryside. Whilst planting could assist in mitigating these concerns, it would not overcome them, as it could not be relied upon in the long-term. The submitted plans are insufficiently accurately to assess the effect of the proposal on trees on the site, in that the position of the buildings and access in relation to trees cannot be clearly determined. Trees and hedges are an important landscape characteristic and the potential for loss of trees adds to my concerns.
13. The appellant has referred to a new barn approved at Wood Farm, over 200m away from the appeal site. This is part of an existing large group of farm buildings, and thus the site can be distinguished from this undeveloped one, and the policy context in relation to an established business is also different.
14. The site would be some distance from the boundary of the Snailbeach Conservation Area. Although the Council says that it lies in a strategic location on the approach to the area, it would not be seen in the same view as the conservation area, and in my view, it would not adversely affect its setting. The site also lies within 500m or so from the boundary with the Area of Outstanding Natural Beauty, and whilst the site shares some of the attributes of the AONB, again I consider that it is sufficiently distant from the boundary and does not form part of any strategic views, so that its impact on the AONB would be limited.
15. Thus, whilst I find that there would be no material harm to the setting of the conservation area or to that of the AONB, the proposal would cause significant harm to the character and appearance of the countryside and would conflict with CS Policies CS5, CS6, CS17, all of which include an objective of protecting the countryside, natural environment or local character. I find CS Policy CS16 which deals with tourism, culture and leisure to be of less relevance. The proposal would also conflict with SAMDev Policies, MD2 and MD12, which aims to protect the natural environment, including landscape character and local distinctiveness.

16. I find that SAMDev Policies MD7b and MD11 to have marginal or no relevance to the issue and find no material conflict with Policy MD13 which deals with heritage matters.

Flood risk

17. There is a stream which runs alongside the north-eastern boundary of the site, which the Council has identified as lying in a surface water flood zone, which the Strategic Flood Risk Assessment says should be treated as being in Flood Zone 3. Development within such zones should be subject to the Sequential Test and Exception test set out in the Planning Policy Guidance. I have not been provided with any evidence to show that these tests have been met.
18. The stream is in a deep ravine, several metres below the greater part of the site. However, the submitted plans are not clear as to the exact site of the buildings, and having regard to the importance of minimising the risk of flooding, in the absence of the Sequential and Exception tests being met, and a Flood Risk Assessment being provided, I cannot be assured that this aim would be met.
19. I therefore conclude on this issue that the proposal fails to demonstrate that the proposal would minimise flood risk, and that it would conflict with CS Policy CS18, which amongst other things, aims to ensure that development is designed to be safe.

Highway safety

20. Sparse access details have been provided. The proposal would access the site in the position of the existing field gate which is close to the junction of a road with a bridleway. The widening of the access may have an effect on trees, including an oak tree close to the gate. However, from what I saw on my visit, I am satisfied that suitable inter-visibility could be provided to ensure that the access would be safe, and that adequate space exists to enable vehicles pulling horse trailers to turn within the site. Were the appeal to have been allowed, the submission of details could have been sought by the imposition of a condition.
21. I therefore conclude on this issue that the proposal would not materially harm highway safety.

Biodiversity

22. The Council has pointed out that the submitted plans may not be accurately drawn, and that the site plan shows buildings overlapping the area of woodland adjacent the stream. The appellant says that it is intended that the buildings would be well clear of the woodland, but as this is a full application I have to deal with the proposal on the basis of the plans before me. No ecological information has been submitted with the application. The trees on the site form part of a woodland corridor, stretching towards the south-east of the site, and are likely to contribute to biodiversity value.
23. I therefore find on this issue that there is insufficient information to enable me to assess properly the ecological implications of the proposal, and that it would conflict with CS Policy CS17, which, amongst other things, aims to protect and enhance the diversity and high quality of the county's natural environment, and with SAMDev Policy MD12 which deals with the natural environment.

Ground contamination

24. The site lies within 150m of a former lead smelter. Lead is a toxic heavy metal which is known to have a harmful impact on human health. The existence of the former works so close to the site gives a reasonable basis for believing that the site may be contaminated. No evidence has been provided to show whether the land is contaminated. Contamination can result in serious health problems for occupiers and the wider environment. The Planning Practice Guidance says that if there is a reason to believe contamination could be an issue, developers should provide proportionate but sufficient site investigation information (a risk assessment) to determine the existence or otherwise of contamination, its nature and extent, the risks it may pose and to whom/what (the 'receptors') so that these risks can be assessed and satisfactorily reduced to an acceptable level.
25. As no evidence has been provided, it cannot be established as to whether there is any contamination, or if there is, whether it could be satisfactorily mitigated. Accordingly, this is a sound reason to dismiss the appeal, and the proposal conflicts with CS Policy CS6, which includes a criterion requiring development to contribute to the health and wellbeing of communities, including residential amenity.

Planning balance

26. I have acknowledged above that the proposal would make some modest economic benefits in the short term, and there is the potential, should the business succeed in the manner anticipated by the appellant, to make a more substantial economic contribution in the future. Set against this is the harm to the character and appearance of the countryside and the concerns about contaminated land, flood risk and biodiversity which I have identified. As a result the environmental role of sustainable development would not be fulfilled. These adverse impacts would significantly and demonstrably outweigh the benefits identified. When looked at in the round the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including those of the Framework.

Conclusion

27. For the reasons given the proposal is unacceptable and the appeal should be dismissed.

JP Roberts

INSPECTOR