



Appeal Decision

Hearing Held on 6 October 2020

Site visit made on 7 October 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2020

Appeal Ref: APP/C3430/W/20/3252430

Land to the North East of Saredon Road, Cheslyn Hay, Walsall WS6 7JD

- 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 Mr P Wilkes against the decision of South Staffordshire Council.
 - The application Ref 19/00604/FUL, dated 30 July 2019, was refused by notice dated 19 November 2019.
 - The development proposed is described as replacement structure and retention of lighting columns on the basis that the consent will last until 12 months after planning permission for the residential development of the land has been granted.
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Decision

1. The appeal is allowed and planning permission is granted for replacement structure and erection of lighting columns at Land to the North East of Saredon Road, Cheslyn Hay, Walsall WS6 7JD in accordance with the terms of the application, Ref 19/00604/FUL, dated 30 July 2019, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matter

2. The description in the header above is taken from the application form. In my decision I have used the word 'erection' as an act of development rather than 'retention' although the lighting columns are already on the site. Also, my decision omits reference to the basis of the consent to ensure consistency with imposed planning conditions. These changes do not affect the substance of the development and were agreed with the main parties at the hearing. As such, the revisions would cause no prejudice to any party.

Main Issues

3. The main issues are (i) whether the scheme would prejudice the purpose of land safeguarded for longer term development needs, (ii) the effect on the character and appearance of the area, and (iii) whether the development would result in unacceptable living conditions for occupiers of the permitted dwellings on the adjacent site.

Reasons

Safeguarded land

4. Development plan policies restrict the permanent development of land safeguarded for longer term needs until it is allocated in a new local plan.

However, the appellant seeks temporary rather than permanent planning permission. The initial proposal of a permission period based from when residential development on the appeal site is allowed would be indefinite and so the development could be permanent. Nonetheless, an approval based on a specified period from the date of this decision would be subject to a firm timescale and so ensure the development would be temporary.

5. The Council advise a new local plan is likely to be adopted by the end of 2022. I have been invited to consider a 2 year temporary planning permission. This would allow the potential allocation of the site in any local plan review and would not hinder development should it be allocated.
6. Notwithstanding its size, the proposed building would comprise of a simple steel frame bolted to the ground that could be erected and dismantled without significant effort. Also, it would be straightforward to remove the lighting columns, the shipping container office, portable toilet and chemical container shown on the appeal plans. Therefore, a suitably worded condition could provide for the removal of the development within a 2 year period.
7. At the hearing the Council raised a concern that the proposal would lead to ground contamination which would hamper the release of the site. However, there is no substantive evidence that shows the scheme would lead to ground conditions that would prevent future development.
8. For these reasons, I conclude that the appeal scheme would not prejudice the purpose of land safeguarded for longer term development needs. As such, and in this regard, it would accord with policy GB2 of the South Staffordshire Core Strategy Development Plan Document 2012 (CS) and policy SAD3 of the South Staffordshire Site Allocation Document 2018 (SAD). The refusal reason also refers to SAD policy SAD2 but this contains no provisions relevant to this issue.

Character and appearance

9. The proposed structure would be sizeable and seen from Saredon Road, but it would not be unduly prominent as it would be in a dip located away from the highway. Also, the building's open sides and simple form would reflect the design of an agricultural barn and so it would be in keeping with its semi-rural context. The lights on the site stand out as being unduly bright due to their orientation and lack of cowls. However, this could be addressed by a planning condition that requires the approval of lighting details.
10. Therefore, I conclude the scheme would not harm the character or appearance of the area. In this regard, it would accord with CS policies EQ4 and EQ11 which aim, amongst other things, to ensure development respects its context.

Living conditions

11. Construction works have not started but there is a reasonable prospect that at least part of the permitted residential development adjacent to the appeal site would be occupied before the end of the 2 year temporary period. Despite machinery and lorry noise generated from the existing sawmill on the appeal site, a noise impact assessment and a planning committee report both conclude the adjacent site is suitable for dwellings. The appeal development would not result in additional noise above the existing situation provided the use of machinery and deliveries are limited to similar times during the day.

12. If retained as they are, the lights on the columns would appear unduly bright and intrusive to residents of the closest houses. However, the aforementioned planning condition would also address this matter.
13. For these reasons, I conclude the development would not result in unacceptable living conditions for the occupiers of the dwellings on the adjacent site. Consequently, and in this regard, it would accord with CS policy EQ9 which seeks, amongst other things, to protect residential amenity.

Other Matters

14. There is limited evidence to substantiate concerns regarding the safety of lorry movements associated with the development and no objection has been raised by the highway authority. Also, there is nothing before me that demonstrates the sawmill would lead to unacceptable air pollution or would risk the safety of occupiers of nearby properties. The application site includes sufficient space for the storage of waste associated with the development. As such, these considerations and the question over the lawfulness of the existing sawmill use do not affect or override my conclusions on the main issues.

Conditions

15. A condition detailing the plans is necessary to ensure the development is carried out in accordance with the approved drawings and for the avoidance of doubt. To comply with safeguarded land policies, a condition requiring the removal of the development within 2 years from this decision date is imposed.
16. To protect the character of the area, a condition is needed that requires the removal of existing buildings shown to be demolished. For the same reason and to ensure acceptable living conditions, a condition requiring the approval of lighting details is also imposed. To prevent unacceptable noise affecting adjacent houses, I impose conditions restricting the hours of machinery operation and deliveries.
17. To safeguard the living conditions of properties in the wider area, a condition is needed that restricts the burning of materials on the site. For the same reason, I impose a condition that prevents the use of the building for any purpose falling within class B2 of the Use Classes Order except as a sawmill. Such a condition is clearly justified as the proposed building would be open-sided and an alternative industrial use could result in unacceptable noise effects.
18. There is no planning policy basis for a condition that would require the decontamination of the site after the expiry of the 2 year period and the historic uses of the site mean it may already be contaminated. Therefore, such a condition would be unnecessary and unreasonable.

Conclusion

19. For the above reasons, I conclude the appeal succeeds.

Jonathan Edwards

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Mark Turner LLB	Solicitor
Mrs Sheila Porter BA DipTP DipGE MRTPI	Planning Consultant
Mr Peter Wilkes	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Jennifer Mincher MA	Senior Planning Officer
Miss Sarah Plant MRTPI	Assistant Team Manager
Mrs Laura White MRTPI	Enforcement Officer
Mr Patrick Walker MA MRTPI	Senior Planner (Urban Design and Landscape Planning)
Mr Philip Robson	Counsel
Mr Philip Edge Dip	Environmental Health Officer

INTERESTED PERSONS:

Councillor Steve Hollis	Chair to Cheslyn Hay Parish Council
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LIST OF DOCUMENTS SUBMITTED AT THE HEARING:

Document 1	South Staffordshire District Council Planning Committee Report dated 17 March 2020 relating to planning application ref no 19/00407/FUL, SAD Site 119 Saredon Road, Cheslyn Hay
Document 2	BWB Noise Impact Assessment ref MCA2023
Document 3	List of consultees comments received in respect of planning application ref no 19/00407/FUL

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 18/1111/104 Proposed Site Layout Plan, Floor Plan and Elevations, 18/1111/105 Existing Site Layout Floor Plans and Elevations and 18/1111/106 Location Plan and Block Plan.
- 2) All buildings and structures hereby permitted and shown on the approved plans shall in their entirety be taken down and removed from the application site not later than the expiration of 2 years from the date of this decision.

- 3) Prior to the first occupation or use of the replacement structure hereby permitted, all existing buildings and shipping containers shown on drawing number 18/1111/105 and not shown to be retained on the approved drawings shall be taken down and removed from the application site.
- 4) Unless within 3 months of the date of this decision, details of the orientation, height, design and luminosity of lights to be installed on the lighting columns hereby approved have been submitted in writing to the local planning authority for approval, and unless lights are installed within 1 month of the local planning authority's approval in accordance with the approved details, no lights installed on the approved lighting columns shall be switched on or illuminated at any time.

Upon lights being provided as specified in this condition, no other lights shall be used on the lighting columns hereby approved.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 5) Machinery shall be operated from within the development hereby permitted only between the hours of 0800 to 1700 on Mondays to Fridays, 0900 to 1300 on Saturdays and not at any time on Sundays or on Bank or Public Holidays.
- 6) Deliveries shall be taken at or despatched from the site only between the hours of 0800 to 1700 on Mondays to Fridays, 0900 to 1300 on Saturdays and not at any time on Sundays or on Bank or Public Holidays.
- 7) There shall be no open burning of any materials on the site.
- 8) The building hereby approved shall not be used for any other purpose falling within Use Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) apart from as a sawmill with ancillary office.