
Appeal Decision

Site visit made on 24 January 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 20th February 2017

Appeal Ref: APP/C3620/W/16/3158904

Pisley Farm, Holden Brook Lane, Ockley, Surrey RH5 5PD

- 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 Les Edgar (Heritage Farms Ltd) against the decision of Mole Valley District Council.
 - The application Ref MO/2016/0976/PLA, dated 16 June 2016, was refused by notice dated 12 August 2016.
 - The development proposed is described as 'erection of 3 new build dwellings; in the alternative to permissions granted under MO/2015/0719, 'change of use from agricultural building to 2 dwellings and MO/2015/0718, 'change of use from agricultural building to 1 dwelling'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Les Edgar (Heritage Farms Ltd) against Mole Valley District Council. This application is the subject of a separate Decision.

Procedural Matter

3. Following the site visit and at my request, I sought further comments from the parties concerning the effect of the proposal on the character and appearance of the area. I have taken into account the comments provided by both of parties in my determination of this appeal.

Main Issues

4. The main issues are, the effect of the proposal on the character and appearance of the area; whether the proposal would be a suitable site for housing having regard to its rural location; and protected species.

Reasons

Background

5. The appeal site contains three agricultural buildings which, in July 2015, two of which were granted prior approval under The Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use
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and conversion to form a total of 3 dwellings¹ although at the same of my visit these approvals had not been implemented.

Character and appearance

6. While the existing buildings are of an undistinguished design, they are fairly typical farm buildings that could be expected to be found in such a rural and agricultural location as the appeal site. The appeal site also lies within an Area of Great Landscape Value, characterised by a gently undulating topography with planted field boundaries, woodland and clusters of agricultural buildings interspersed with individual isolated dwellings.
7. The proposal would result in the demolition of the existing buildings and the erection of 3 detached dwellings set out around a central, hard surfaced courtyard and enclosed by post and rail fencing. Having been provided with the approved drawings relating to the prior approval scheme, when compared with that scheme the proposal before me would be in marked contrast to the simple form and appearance of the prior approval schemes, which utilised facing brick walls, proposed minimal changes in terms of appearance and would be of a lesser scale and have much less substantial roof slopes.
8. The proposal would result in a cluster of three closely spaced dwellings that would have a considerable and jarring presence within the site. Overall, they would constitute an alien and incongruous form of development that would represent an unsympathetic suburbanisation of the appeal site, further emphasized by the same palette of building materials and fencing to demarcate the boundaries in all three dwellings. They would at serious odds with the attractive rural qualities of the appeal site and the surrounding agricultural landscape. Any reduction in footprint or slightly greater separation from listed buildings, when compared with the existing buildings or prior approval schemes, would not outweigh or justify this harm.
9. For these reasons, the proposal would cause significant harm to the character and appearance of the area. It would conflict with Policy CS1 of the CS and Policy ENV3 of the LP which, taken as a whole, seek to protect the intrinsic beauty and character of the countryside and that development adversely affecting its open character will not be permitted and that all development must be appropriate in scale, form, and impact and siting.
10. Although Policy ENV3 of the LP pre-dates the National Planning Policy Framework ('the Framework') and although the blanket protection of the countryside is not supported by the Framework, I find that the policy is broadly consistent with it with regard to the recognition of the need to ensure development does not adversely affect character and is acceptable in design terms. I therefore attach substantial weight to it in accordance with paragraph 215 of the Framework.

Suitable site

11. The site lies within a rural area beyond the Green Belt and is outside of any development boundary. It therefore lies in the open countryside for development plan purposes. I have not been referred to any exceptions within Policy CS1 of the Mole Valley Local Development Framework Core Strategy

¹ MO/2015/0719 and MO/2015/0718.

2009 ('CS') or Policy ENV3 of the Mole Valley Local Plan 2000 that the proposal would relate to and because the prior approvals have not been implemented and the existing buildings are agricultural, the proposal would not be for the replacement of dwellings, it would be for 3 new dwellings in the countryside.

12. Accordingly, the proposal would conflict with Policy CS1 of the CS and ENV3 of the LP which, sets out a spatial strategy that directs new development to the most sustainable areas of the District which the majority of development will be directed and only allows development in the countryside if it is for a number of exceptions. There would also be conflict with paragraph 55 of the Framework. This is because the proposal would result in the provision of isolated homes in the countryside for which no special circumstances, such as the need to accommodate rural workers or the making use of a redundant or disused building, have been demonstrated.
13. However, the appeal buildings could be lawfully converted into three dwellings under the prior approval scheme. Regardless of the outcome of this appeal, three dwellings could be provided in this location and were the prior approval scheme to be implemented then the appeal development could not be carried out and vice versa. I am satisfied that the prospect of this scheme being implemented is more than a theoretical one and regardless of the outcome of this appeal, 3 dwellings would be provided and there is little before me from the Council to suggest otherwise. This fall back position is a material consideration and I attach substantial weight to it. In this particular case, it indicates to me that a decision should be made other than in accordance with the development plan, insofar as the suitability of the site for housing is concerned in terms of its location.

Protected species

14. The Council's second reason for refusal relates to insufficient information to satisfactorily demonstrate that the proposal would not affect protected species. Although the Council do not clarify what species may be affected it is incumbent on me to consider whether there is a reasonable likelihood of protected species being present and would be affected by the development.
15. I have been provided with The Ecology Co-op 'Bat Scoping Assessment' dated May 2016 and an additional letter following further inspections undertaken in August 2016, which confirm that the modern construction of the buildings and lack of suitable features for bat roosts results in there being no reasonable likelihood bats are present and no further survey work or mitigation is required.
16. Furthermore, Newts are unlikely to be present given that the habitat on the site, a recently excavated pond, is not a particularly favourable one given a lack of vegetation. I have neither seen nor read anything to suggest that the appellant's consultants are not appropriately qualified or that their assessments and conclusions are not based on robust evidence. On the evidence before me, there is no reasonable likelihood of other protected species being present or affected by the proposal and note that addition bird nests could be installed to provide nesting opportunities.
17. I conclude, therefore, that it is unlikely that the development would result in loss or harm to protected species and it would not result in a breach of the protection afforded to a European Protected Species, the Habitats Directive, or

Natural England Guidelines. Accordingly, it would accord with Policies CS15 of the CS or ENV15 of the LP which, seek to conserve and enhance biodiversity and ensure sites, species and habitats protected in accordance with European and national legislation.

Other Matters

18. I have been referred to two appeal decisions by the appellant. I note that in both decisions the approach by the Inspectors is similar to the one I have taken, however in the Garden Cottage Farm, Chiddingfold appeal, the Inspector did not find any harm to the character and appearance of the area. Consequently, it is not directly comparable to the appeal proposal before me and does not therefore alter my view in relation to the main issue. The second, at Oakland's, Horsham also related to a similar proposal and background and I note that the Inspector found harm to the character and appearance of the area and despite the presence of a fall back position, dismissed the appeal. Given the similar conclusion I have reached it does little to alter my views.
19. While the provision of 3 dwellings in this location would bring some social and economic benefits, under the circumstances of this case I find these to be neutral advantages because similar benefits would also arise through implementing the prior approval schemes. Moreover, it would fail to fulfil the environmental role of the definition of sustainable development.
20. While reference has been made to the parts of the Framework that promote the reuse of previously developed land ('PDL'), the definition² excludes land that is or has been occupied by agricultural buildings. Consequently, any weight that could otherwise be attributed to the re-use of such land does not apply.

Conclusion

21. I have found that the proposal would conflict with the development plan and the Framework in terms of its suitability as a site for housing, given its rural location. However, the existence of a genuine fall back position means that this conflict is outweighed and is not sufficient to justify dismissal of the appeal. I have also found no harm to protected species. However, I give greater weight to the significant harm that I have identified to the character and appearance of the area and in my view, the conflict with the development plan in these terms is not outweighed by such considerations. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

² Annex 2 of the Framework