
Appeal Decision

Site visit made on 26 June 2017

by G D Jones BSc(Hons) DipTP DMS MRTPI

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

Decision date: 03 July 2017

Appeal Ref: APP/X2410/W/17/3172306

Greystones Farm, Whitwick Road, Copt Oak, Markfield, Leicestershire

- 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 A N Patrone against the decision of Charnwood Borough Council.
 - The application Ref P/16/1708/2, dated 22 July 2016, was refused by notice dated 19 September 2016.
 - The development proposed is the change of use of a former farm building to residential.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposed development would accord with the Council's strategy for the location of new development, its effect on biodiversity and whether any harm arising would be outweighed any other considerations.

Reasons

Development Strategy

3. The Council's 'development strategy' is expressed throughout the development plan and particular reference is made in the first refusal reason to Policies CS1, CS11 and CS25 of the Charnwood Local Plan 2011 to 2028 Core Strategy, 2015 (the Core Strategy) and to Policies CT/1 and CT/2 of the Borough of Charnwood Local Plan 1991-2006, 2004 (the Local Plan). I also note that the evidence refers to Local Plan Policy ST/2, however, that Policy does not feature in the Council's refusal reasons.
4. Policy CS1 sets out the overall development strategy for the Borough and identifies that the priority for growth will be the Leicester Principal Urban Area, followed by Loughborough and Shepshed, and then by a series of smaller settlement designations - namely 'service centres', 'other settlements' and 'small villages and hamlets' - thereby establishing a hierarchy of settlements where new development, including housing, is planned to take place. The appeal site does not fall within any of these designated areas.
5. While Policy CS1 does not provide for residential development in this type of rural location, such that the proposal is against the grain of the Policy, nor does it preclude the possibility of such development. Consequently, while it does not

sit comfortably with Policy CS1, the appeal development does not conflict with it as such.

6. Policy CT/1 of the Local Plan explains that development in this type of rural, out of settlement location will be strictly controlled. Nonetheless, the Policy does provide for the re-use and adaptation of rural buildings for uses 'suitable in scale and nature' as well as for 'small-scale new development' where there would not be a significant adverse environmental impact and subject to meeting at least one of four criteria.
7. There is no evidence before me which leads me to believe that any of the four criteria of Policy CT/1 would be met in this case. Moreover, the Policy concludes by saying that in all cases it should be demonstrated that the proposal could not reasonably be located within or adjacent to an existing settlement. Similarly, there is no evidence to demonstrate this point; indeed, given the provisions made for new development under Core Strategy Policy CS1, it appears very likely that new housing development of the limited scale proposed could reasonably be located within or adjacent to an existing settlement. Consequently, the appeal development conflicts with Local Plan Policy CT/1.
8. Local Plan Policy CT/2 relates to development that is 'acceptable in principle', which for its purposes means as defined by Policy CT/1. As I have found that it would conflict with Policy CT/1, the proposal cannot be said to be 'acceptable in principle' in its terms such that Policy CT/2 does not apply in this case. Therefore, I find no conflict with Policy CT/2 of the Local Plan.
9. The proposed operational development would be reasonably small scale. Careful consideration could be given to facing materials and landscaping, which are matters that could be controlled via planning conditions. The site is also set well back from the highway on lower lying land. In what limited public views that are available, it would be seen within the context and / or against the backdrop of the host 'farm' buildings. For these reasons, and given the rather dilapidated appearance of the existing building, I do not consider that the appeal development would have a significant effect on the character and appearance of the area. Consequently, I find no conflict with Core Strategy Policy SC11 concerning support for and protection of the landscape and countryside.
10. Core Strategy Policy CS25 refers to the presumption in favour of sustainable development. It is a positively worded policy and echoes para 14 of the National Planning Policy Framework (the Framework). Although it is cited in the Council's first refusal reason, I have found nothing in the evidence to explain how the proposed development would conflict with this Policy. This may be because the Council does not consider that the proposal would be sustainable development. In any case, from the information before me, I have found no such conflict. That is not to say, however, that the appeal proposal would necessarily be sustainable development in the terms of the Framework, which is a matter I return to a little later.
11. In summary, therefore, while I have found that the appeal proposal would not conflict with a number of the development plan policies cited in the first refusal reason, for the reasons set out above, it would be very clearly at odds with the Council's strategy for the location of new development in the Borough in conflict with Local Plan Policy CT/1.

Biodiversity

12. The Framework sets out that, in determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. There are no protected or other species surveys within the evidence. When present, prior surveys form part of the evidence base for any assessment and are essential where there is a reasonable likelihood of legally protected species being present and there is a risk that they would be adversely affected by the proposed development. In the absence of an appropriate survey it is necessary to consider the reasonable likelihood of a protected species being present.
13. I note the Council's submissions on this matter, including in respect to the building's location and reasonably open construction. Notwithstanding its comments on this matter, the Council could have required the submission of a protected species survey at the planning application registration stage. It appears to me that to have done so would have been consistent with Policy CS13 of the Core Strategy; however, it did not do so.
14. Moreover, there are no consultee submissions to support the view that the site might be a habitat for protected species, nor is there any evidence to clearly indicate the site or the surrounding area are used by protected species. Furthermore, the site is not located within any formally designated biodiversity or wildlife area. Having balanced the evidence, therefore, I have not found there to be a reasonable likelihood of protected species being present on the site.
15. As there is no evidence to indicate that the appeal development would cause any significant harm to protected species or their habitat, I have not found that the proposals would conflict with the objectives of Core Strategy Policy CS13.

Planning Balance

16. In forming my view regarding the 'development strategy' as outlined above - due to the wording of the relevant development plan policies - it was not necessary to take a view on whether or not the appeal development would amount to a conversion of the existing building. Nonetheless, in support of the scheme the appellant has stated that the proposed development, or at least something similar, may not require planning permission due to permitted development rights in respect to the conversion of agricultural buildings to dwellings. As this is an appeal being considered under s78 of the Act, it is not my role to determine the lawfulness of such development. However, insofar as any such permitted development might represent a 'fallback' option for the appellant it is necessary to make an assessment in order to gauge the weight that it would carry when undertaking the planning balance.
17. From the information before me, it appears that the proposed development would retain little of the existing building with only two reasonably short sections of external wall to be retained. Given the construction of the remaining building - which largely comprises a low section of blockwork with corrugated cement sheets above to the walls and to the roof - it does not appear capable of being converted as such. On that basis it seems most likely that the building could not be converted in the terms of the relevant permitted development criteria.

18. Consequently, based on the information before me, I can give only very limited weight to this potential fallback option such that it does not outweigh the identified harm and development plan policy conflict in respect to the 'development strategy'. Accordingly, the appeal scheme would not amount to sustainable development in the terms of the Framework.

Other Matters

19. My attention has also been brought to other matters, including in respect to the registration and handling of the appeal planning application. However, these are not matters for my consideration in the determination of an appeal made under s78 of the Act.

Conclusion

20. For all of the reasons given above, I conclude that the appeal should be dismissed.

G D Jones

INSPECTOR