



Appeal Decision

Site visit made on 6 December 2017

by J Gilbert MA (Hons) MTP MRTPI

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

Decision date: 19th December 2017.

Appeal Ref: APP/Z1510/W/17/3181562
Post Mill, Mill Road, Stambourne CO9 4NT.

- 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 David Cartwright against the decision of Braintree District Council.
 - The application Ref 17/00736/FUL, dated 24 April 2017, was refused by notice dated 14 July 2017.
 - The development proposed is change of use of existing hay and machinery store barn to dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of existing hay and machinery store barn to dwelling at Post Mill, Mill Road, Stambourne CO9 4NT in accordance with the terms of the application, Ref 17/00736/FUL, dated 24 April 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans 93917.01 and 93917.02.
 - 3) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwelling-house / provision of any building within the curtilage of the dwelling-house / alteration of the dwelling-house, as permitted by Classes A, B and E of Part 1 of Schedule 2 of that Order shall be carried out other than those expressly authorised by this permission.

Procedural Matter

2. During the appeal process, a High Court judgment¹ was handed down on 15 November 2017 regarding paragraph 55 of the National Planning Policy Framework (the Framework) and new isolated homes in the countryside. Both main parties have been afforded the opportunity to comment on the relevance of the judgment and I have had regard to it in my decision.

¹ Braintree District Council v (1) Secretary of State for Communities and Local Government, (2) Greyread Limited & (3) Granville Developments Limited [2017] EWHC 2743 (Admin)

Main Issue

3. The main issue in this appeal is whether the proposed development would provide a suitable location for housing having regard to the accessibility of services and facilities.

Reasons

4. The appeal site is currently occupied by a black weather-boarded barn with a pan-tiled roof with solar panels. The barn was constructed in 2013, and has both double doors and a single door on the front elevation, and a single rooflight in the rear roofslope. It has its own vehicular access on to Mill Road, a country road without pavements. It lies adjacent to the house at Post Mill to the north-east; Mill Road and open fields beyond to the south-east; a farm and its outbuildings to the south-west; and a small paddock and manège associated with Post Mill located to the north-west. It is separated from the road and the adjoining paddock and manège, and Post Mill by fencing. The house at Post Mill is a much extended and altered thatched cottage with a range of outbuildings, including an indoor swimming pool, which is used by a swim school business.
5. The proposed development would comprise change of use of the existing hay and machinery store barn to a 2 bedroom dwelling. Alterations would be made to the exterior of the building to insert fenestration. Parking spaces and a turning area would be provided and the existing boundary fence to the rear of the building would be relocated to provide additional external amenity space for the proposed dwelling.
6. In order to promote sustainable development in rural areas, the Framework sets out at paragraph 55 that housing should be located where it will enhance or maintain the vitality of rural communities. By way of example it states that, where there are groups of smaller settlements, development in one village may support services in a village nearby. Paragraph 55 of the Framework seeks to avoid new isolated homes in the countryside unless there are special circumstances.
7. Policy RLP2 of the Braintree District Local Plan Review 2005 (the Local Plan) states that new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside of these areas, countryside policies will apply. Policy CS5 of the Braintree Core Strategy 2011(CS) states that outside of settlement boundaries, development will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. The appeal site is located some 100m outside the designated village envelope around Stambourne in both the Local Plan and the Braintree District Publication Draft Local Plan 2017 (PDLP).
8. Stambourne is a ribbon village set in gently undulating countryside consisting of open fields separated by trees and hedgerows. Houses are located in a generally linear manner adjacent to the roads through the village. Though the appeal site and adjacent Post Mill are not within the settlement boundary of the village, they adjoin a farm to the south-west and another house to the north-east. Beyond the farm and after the road becomes Chapel End Way, houses adjoin both sides of the road for some distance.

9. The conversion of the existing barn to a dwelling would result in the provision of a new home outside the settlement boundary of Stambourne. However, in deciding whether that home would be isolated, the above High Court judgment considers that “isolated” should be given its ordinary objective meaning of “far away from other places, buildings or people; remote”. Given the proximity of existing residential properties, the new dwelling would not be far away from other buildings or people, and so would not be isolated in terms of paragraph 55 of the Framework.
10. Nevertheless, policy CS7 of the CS confirms, amongst other matters, that future development will be provided in accessible locations to reduce the need to travel. In relation to accessibility to services and facilities, the appellant has confirmed that nearby Toppesfield has a primary school, village hall, public house and post office/village store. The Council does not consider Stambourne to be a key service village, with its centre lacking basic facilities (other than a post office, a swim school and public houses). The Council notes that the centre of Stambourne is only served by a bus route once a week to locations where there are shops and schools and other facilities. Other services and facilities are located in Great Yeldham and Haverhill, both of which would need to be accessed by car.
11. The limited range of services and facilities available within easy walking or cycling distance would mean that future occupiers of the proposed development would rely on the private car. This would result in negative environmental effects in terms of the use of natural resources and ensuring accessible services and facilities.
12. Paragraph 111 of the Framework indicates that planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. The Council contends that the former use of the site was for agricultural purposes and therefore the proposed development would not facilitate the use of previously developed land or be necessary to support agricultural, forestry or other rural uses. However, apart from the lack of access to services and facilities, the Council has given me very limited information on any other potential harm arising from the proposed development.
13. Policy RLP38 of the Local Plan permits the conversion of rural buildings to residential use where the applicant has made every reasonable effort to secure suitable employment or community re-use and the application is supported by a statement of the efforts that have been made; or residential use is subordinate part of a scheme for business re-use of the building; and other criteria are met with regard to character and appearance and matters such as structural condition, access, landscape, protected species, and the historic environment.
14. Both main parties acknowledge that marketing has not taken place for other uses for the building in accordance with policy RLP38. The Council considers that policy RLP38 is out of date in the context of the Framework and seeks to depend instead on policy LPP42 of the PDLP, which requires sites to be located in accessible and sustainable locations in terms of the Framework. Though the PDLP was submitted to the Secretary of State for examination in October 2017, it has not yet been examined and adopted. I consequently give the Braintree

District Publication Draft Local Plan 2017(PDLP) very limited weight in this instance. However, I have found that there is limited conflict with regard to policy RLP38 of the Local Plan in that marketing has not been undertaken which indicates that no other use would be viable.

15. While I note the Council's concerns about the precedent set by such development, every application and appeal should be dealt with on its own merits.
16. Concluding on this main issue, the proposed development would not be compliant with policies CS5 and CS7 of the CS, and policy RLP2 of the Local Plan insofar as these policies seek to ensure that the majority of new development is located within defined settlement boundaries and to reduce the need to travel. It would also conflict with policy RLP38 of the Local Plan in respect of marketing the site. The development would also not meet the aims of the Framework in terms of conserving natural resources and ensuring accessible services and facilities.

Other Matters

17. Both main parties have made reference to the design and appearance of the proposed development being in keeping with its surroundings and reflecting local distinctiveness. Given the limited alterations proposed to the barn and the enhancements proposed in terms of fencing and hedging surrounding the appeal site, I concur with this view. I also agree with the Council's findings that there would be no harm to the living conditions of either future occupiers or neighbouring occupiers, and that the car parking provision would be acceptable and compliant with local parking standards.
18. The Council's delegated report refers to the possibility of the issue of protected species being addressed by means of condition. The Council has not provided me with a proposed condition to address this, and no comments were received from the Council's landscape services team regarding the bat survey submitted by the appellant. Having considered the submitted bat survey, I note that there was no evidence of bats found on site. As such, I do not consider a condition on protected species to be necessary.
19. Stambourne Parish Council has provided an objection which relates to a previous application (15/00327/FUL) for conversion of the barn to an annexe. This objection raised concerns about whether the building had been used as a hay barn; whether it was built in accordance with the approved plans for 13/00674/FUL; that the applicants had never intended to use the building as a hay barn/storage; and that the access was not authorised. These comments do not relate to the appeal before me, which I am required to deal with on its own merits.

Planning Balance

20. The appellant has stated that the Council cannot demonstrate a 5 year housing land supply (HLS). The Council's position in December 2016 was that forecast supply stood at 3.8 years. Though the Council has not provided me with information on HLS for this appeal, the Council has confirmed in respect of another appeal² I am dealing with elsewhere in the district that the latest

² APP/Z1510/W/17/3182442

supply position at 30 June 2017 is 4.32 years. As such, I have no reason to disagree that the Council cannot demonstrate HLS.

21. Paragraph 49 of the Framework therefore applies and the relevant development plan policies are not considered up to date. Paragraph 14 of the Framework states that, where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
22. The Framework does not prescribe the weight to be given to plan policies which are not up to date. Rather it is a matter of planning judgment for the decision maker. I consider policies CS5 of the CS and policy RLP2 of the Local Plan to be relevant policies for the supply of housing as they seek to restrict new housing outside identified settlements within the settlement hierarchy. This reduces the amount of weight I can give to these policies. However, there is broad consistency between the policies and the first part of paragraph 55 of the Framework in terms of both seeking to restrict new dwellings in the countryside. I am therefore able to give policies CS5 and RLP2 modest weight insofar as they relate to this appeal, even though they are not up to date.
23. Paragraph 7 of the Framework defines the three dimensions of sustainable development as performing an economic, social and environmental role which should be jointly and simultaneously sought, as per paragraph 8 of the Framework. To promote sustainable development in rural areas, paragraph 55 of the Framework seeks the location of housing where it will enhance or maintain the vitality of rural communities.
24. In terms of the economic dimension, the proposed development would provide some benefit in relation to the construction of the dwelling and investment into the local economy. With regard to the social element, the appeal scheme would provide the small benefit of a further house available locally within a village environment, despite being outside the settlement boundary. The social benefits of the introduction of a further dwelling in this location to allow the appellants to remain in Stambourne would be neutralised to some extent by the location being lacking in accessibility to local services and facilities. The proposed development would only therefore provide limited support to the vitality of rural communities in a social sense. In terms of the environmental role, the proposed development would make effective use of an existing building. It would also enhance the setting of the existing building, providing improved landscaping and boundary treatments around an existing building of good quality and rural character. The proposed alterations to the building would enhance the building's appearance sensitively. The benefits in terms of re-use and enhancement of the building and its surroundings would provide a moderate benefit, which would be tempered slightly by the negative environmental effects through its failure to minimise travel by private car.
25. As the proposed development is for a single house, it would make a very marginal difference to the identified housing shortfall locally or the national picture and so the benefits set out above carry only moderate weight in favour of the proposal. In contrast, the proposed development would conflict with the aforementioned development plan policies and there are the adverse impacts that would result from the proposed development not being well-located with particular regard to the accessibility of services and facilities. However, a single

dwelling is unlikely to generate a significant number of additional vehicle movements and the surrounding country roads are quiet enough to walk or cycle along. Therefore, the weight I attribute to the adverse impacts and the conflict with policies is modest.

26. To conclude on the planning balance, in the context of the Framework and policy CS5 of the CS and Policy RLP2 of the Local Plan, the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits. Therefore, the presumption in favour of sustainable development applies which points towards the grant of planning permission.
27. In conclusion, while not fully in accordance with policies CS5 and CS7 of the CS and policies RLP2 and RLP38 of the Local Plan, applying the approach of the Framework as a material consideration indicates that the development would be acceptable and would represent sustainable development in this instance. Thus, the proposed development would provide a suitable location for housing having had regard to the accessibility of services and facilities.

Conditions

28. It is necessary to specify conditions confirming the approved plans to ensure certainty. I have also restricted permitted development rights as the appeal site is relatively small and I consider it necessary to safeguard both the living conditions of future occupiers of the site and the character and appearance of the area.

Conclusion

29. For the reasons set out above, and having taken into account all other matters raised, I conclude that the appeal should be allowed.

J Gilbert

INSPECTOR