

Appeal Decision

Site visit made on 18 June 2019

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2019

Appeal Ref: APP/J1915/W/18/3211529

Westcott, Potato Lane, Cottered, Herts SG9 9PX

- 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 Jackie Smith against the decision of East Hertfordshire District Council
 - The application, Ref. 3/18/0683/FUL, dated 26 March 2018, was refused by notice dated 10 August 2018.
 - The development proposed is to demolish the existing agricultural building and construct two small high quality two bedroom detached cottages with single attached garages with front parking and rear gardens.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the appeal application's refusal on 10 August 2018 the Council has adopted the East Herts District Plan October 2018 ('the District Plan'). Policies GBR2 and VILL2 in the then Emerging District Plan were cited in the Notice of Refusal as being the relevant policies on which the Council's decision was based and as part of the adopted Plan they now warrant full weight. A significant material consideration is the National Planning Policy Framework 2019 ('the Framework').

Main Issue

3. The main issue is whether the principle of the proposed development would be acceptable in this location, and if so the effect of the scheme's layout and design on the character and appearance of the site and its surroundings .

Reasons

4. Turning firstly to the principle, the site lies within the defined 'Rural Area Beyond the Green Belt' in the District Plan and is therefore subject to Policy GBR2. Under this policy, category (e) of the types of development that will be permitted includes 'limited infilling' or the redevelopment of previously developed sites (brownfield land) subject to provisos as to compatibility with the character and appearance of the rural area. [my emphasis]
 5. Firstly as regards brownfield land, I note that the District Plan includes a Glossary that identifies previously developed land ('PDL') as being that defined within the Glossary of the 2012 version of the Framework. The definition of PDL
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or brownfield land in the up to date Framework remains the same and specifically excludes land occupied by former agricultural buildings. This would therefore appear to exclude the appeal site.

6. Secondly in respect of the reference to limited infilling in Policy GBR2, this type of development is subject to more detailed consideration in District Plan Policy VILL2, which identifies Cottered as a 'Group 2 village'. However, whilst this policy again refers to limited infill development as being permissible subject to a number of criteria, paragraph ii limits it to being located within the Group 2 village '*as defined on the Policies Map*'. From the evidence before me it would appear that the appeal site lies outside the defined boundary for Cottered.
7. As a result, irrespective of the appeal proposal's performance under the criteria in paragraph v of Policy VILL2, the principle of limited infill redevelopment on the site would be outside the scope of the recently adopted policy. In the event, I consider that the scheme would be likely to perform well, because there are existing residential curtilages to three sides of the appeal site; I have no fundamental criticisms of the design and layout, and there is scope for conditions to address other matters, including in particular the withdrawal of permitted development rights for extensions and outbuildings or other features in the rear gardens.
8. However, whilst the principle of residential development would be contrary to District Plan Policies GBR2 and VILL2, I note that the issue of a fallback under the GPDO 2018 to convert the former agricultural building for residential use has been referred to by the appellant. The Council has said in its Appeal Statement that there is no fallback in this case but having read this comment I am still not clear why.
9. Be that as it may, the conflict with development plan in this case requires the appellant to clearly demonstrate with appropriate details that the consequences of implementing the fallback in a realistic form would have a materially adverse effect that would outweigh any disadvantages of the two dwellings proposed in the appeal. Any resubmission might also formally address the matter of the future of the equestrian site, given that in the event of a permission for a revised submission it would form an even more important gap to the development at Stocking Hill than it already does.
10. As I do not have any of this evidence in this appeal or indeed the Council's comments thereon, I am unable to weigh the balance between a permission for the two dwellings and the fallback situation.
11. For the reasons explained and having had regard to all other matters including the supporting letters and the absence of harm on a number of other issues, the appeal is dismissed.

Martin Andrews

INSPECTOR