



Appeal Decision

Site visit made on 18 June 2019

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2019

Appeal Ref: APP/R1010/W/19/3224662

Land to the West of Bridge Close, Hollin Hill Road, Clowne S43 4AX

- 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 Mrs Salt against the decision of Bolsover District Council.
 - The application Ref 18/00623/FUL, dated 6 December 2018, was refused by notice dated 16 January 2019.
 - The development proposed is the construction of new dwelling with supported living annexe, construction of new barn, conversion of existing barn to microbrewery/kitchen with associated office.
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Decision

1. The appeal is dismissed.

Main Issue

2. The appeal proposals would result in four buildings on the site: an existing stable block to the west; a converted barn to the east; a new barn to the north; and a new dwelling in place of an existing derelict barn to the south. A number of previous planning applications have been made and determined, with an extant planning permission allowing the erection of a new barn in place of the present derelict one. The Council has no objection to the 'barn' elements of the existing proposal. Instead, the Council's case turns on the acceptability of the proposed dwelling house.
3. The Council has referred to my power to issue a 'split' decision should some elements of the proposal be found acceptable. In response however the appellant considers that it would be difficult to separate the discrete elements of the proposal and that it should be considered holistically. As a result I consider that the main issue in the appeal is the suitability of the appeal site for housing, having regard to the other elements of the appeal proposal and whether exceptional circumstances have been demonstrated in this case.

Reasons

4. Policies in the emerging Local Plan have not been supplied or referred to in any detail, and the parties do not dispute that 'saved' policy ENV3 of the Bolsover District Local Plan, adopted in 2000, ('the LP') is applicable and that it is up to date and consistent with the National Planning Policy Framework ('the Framework'). Insofar as the policy seeks to protect the countryside from unnecessary development, it is broadly in accordance with the Framework which recognises the intrinsic character and beauty of the countryside.

5. The policy provides that development will only be permitted outside settlement frameworks where, subject to a number of provisions including that the development would not materially harm the rural landscape and would avoid unnecessary urbanisation and sprawl, it meets one of 4 criteria. These are that it is necessary in such a location; it is required for renewable energy exploitation; it would result in a significant improvement to the rural environment; or that it would benefit the local community through the reclamation or re-use of land.
6. The appeal site lies beyond an existing dwelling, Bridge Close, separated by fields from the east of Clowne, a town well-served by schools, shops and facilities. It lies at the outer edge of a roughly triangular 'green lung' that reaches westward back into the town, with well-used recreational routes through, including a public footpath on the raised embankment immediately north of the appeal site from which the site can be viewed. The appeal site as a whole is extensive, reaching to the rear of the properties on Church View that lie to the west of the churchyard to St John the Baptist.
7. Whilst there would be some improvement to the environment of the site, by the demolition of the existing derelict barn to the south and the improvements to the eastern barn, it is not sought to establish that the development would 'result in a significant improvement to the rural environment', as referred to in the third criterion of policy ENV3. Paragraph 79 of the Framework exceptionally permits of new homes in the countryside where the development would re-use redundant or disused buildings, but in this case the dwelling element would not re-use any existing building on the site, so it attracts no support from this element of the Framework. The design of the new dwelling would not be of 'exceptional quality' as required by the Framework to establish a different exception.
8. Nor is it apparent that the development would benefit the local community through the reclamation or re-use of land. Rather the case in support relates to criterion 1, that the development is necessary in this location. There are two elements of the appellant's case: first, that the dwelling is necessary for the efficient operation of a land-based business, falling within the 'rural exception' criteria of saved policy HOU9 of the LP; and secondly, that the location is necessary because of the personal circumstances of the appellant's family.
9. Saved policy HOU9, like paragraph 79 of the Framework, is permissive of new dwellings in the countryside in order to meet the essential needs of an agricultural or other rural enterprise. The rural enterprises involved here would consist mainly of a micro-brewery and a company producing plant-based skincare products and candles, although the enterprise would also comprise an information technology company. At present, although hops appear to be grown and harvested in the agricultural fields on the site, the micro-brewery or skincare company on the site have yet to be established. The appellant points out that if the development proceeds, the hops and brewery will be only the second business in the country that grows hops and brews on the same site, suggesting that co-location is unnecessary. However, no evidence is supplied to establish that the needs of the business require a dwelling on the site. Rather, those asserted needs are founded on the appellant's personal circumstances.
10. Reports are before me relating to the medical circumstances of members of the appellant's family. Due to the sensitivity of the information provided I have not

repeated the details within my decision. It is contended that these reports provide evidence of disabilities. The Council appears to express some uncertainty in one case, but overall does not dispute that the reports provide evidence of substantial and long-term negative effects on the ability to carry out day to day activities, and accordingly I shall assume that protected characteristics exist.

11. I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Advancing equality of opportunity can include taking steps to reduce disadvantages and to meet the particular needs of persons with protected characteristics. These may in some circumstances amount to material planning considerations weighing against the development plan or, in relation to policy ENV3, establish that a particular development is necessary in its proposed location. The best interests of the child involved in this case are also a primary consideration.
12. The reports before me are reasonably detailed in their diagnoses, although rather inconclusive in one case, and the other explained that its observations were not to be used as a diagnostic tool in isolation. The recommendation in each case does not include taking any steps concerning the family's home environment. The appellant asserts that the family's needs are not met by their current accommodation, but no evidence in support of this contention is offered. Nor is any detailed description of the particulars in which the current accommodation is said to be lacking, although it appears that what is sought is a facility for independent living and a sensory room in a location where eco-therapy can be provided.
13. The medical evidence identifies no such concerns, and the recommendations made in those reports are of a very different kind. The Council considers that the desirability of meeting the unmet needs of the appellant and her family could weigh in favour of granting permission. I do not disagree, but I do not have sufficient evidence upon which to conclude that the family's needs, including the wider family nearby, are not currently being met. I also have no independent evidence to support the contention that the family's needs would be appropriately met by the appeal proposals. Further, whilst the appellant asserts that no other suitable properties are available within an appropriate price range, I have no evidence of the extent of any property search or financial information against which to test this proposition.
14. Therefore I am unpersuaded that the proposed development is necessary in this location. In reaching this conclusion I have considered both the appellant's business needs and the appellant's personal circumstances and, with regard to the possible sustainability benefits of living on site to the rural enterprise, a combination of the two. The appeal proposals would therefore fail to comply with policy ENV3 by not meeting any criterion by which development outside settlement frameworks is supported. Other schemes may have been permitted where a criterion of policy ENV3 has been met, but these will necessarily turn on their own particular facts and circumstances, and so do not affect my conclusions on this issue.

Other Matters

15. Several other matters are cited in support of the appeal proposals. The viability prospects of the proposed business enterprise are not disputed. It would create jobs, and could encourage tourism and local spending supporting the future of the Clowne Greenway. However, given the modest scale of the enterprise I attach limited weight to these considerations.
16. A dwelling on the site could reduce reliance on local care services, increase security and potentially reduce car journeys. However, even cumulatively, these benefits would not be significant.
17. The dilapidated barn to the north of the site would be removed, and the conversion of the larger barn to the east would result in some enhancements to the visual appearance of the site, although these benefits would be significantly reduced by the urbanising appearance of a dwelling on the site and so I attach limited weight to them.
18. Most of the site, comprising arable farmland, lies within the Clowne Conservation Area. However the proposed dwelling and other buildings are, or would be, sited in the relatively small field to the eastern end that is excluded from the Conservation Area and lies beyond the (also excluded) existing dwelling at Bridge Close. The Council do not object to the appeal proposals on the grounds of any impact on the Conservation Area, and I agree that the designated heritage asset would be unaffected by the proposed development. This has a neutral effect on the outcome of the appeal.

Planning Balance and Conclusion

19. Policy ENV3 is restrictive of development in the countryside, requiring special justification for new housing which I have found not to be established. The circumstances of the proposed development are insufficient to outweigh that policy conflict. Accordingly, as the proposed development would conflict with the provisions of the development plan for the area, and there are no material considerations of sufficient weight to justify a decision otherwise than in accordance with the development plan, the appeal is dismissed.

Laura Renaudon

INSPECTOR