



Appeal Decision

Site visit made on 2 July 2019

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th August 2019

Appeal Ref: APP/J3720/W/18/3199244

Croft Cottage, Bidford Road, Broom, Bidford on Avon B50 4HH

- 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 C Harris against the decision of Stratford on Avon District Council.
 - The application Ref 17/03267/FUL, dated 27 October 2017, was refused by notice dated 30 January 2018.
 - The development proposed is described as the "conversion of existing annex/garage building to 1 bedroom house with minor alterations and formation of new access to High Street".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The site has been the subject of a successful challenge under section 288 of the Town and Country Planning Act 1990 and that decision has been quashed. Thus, the appeal is to be redetermined and the quashed decision is treated as if it has not been made and is incapable of ever having had any legal effect. The role of the new Inspector is, therefore, to redetermine the case. It is not to review the previous appeal decision.

Main Issue

3. The main issue is whether the appeal site is an appropriate location for the proposal having regard to the development plan.

Reasons

4. The appeal site contains a detached bungalow and a double garage which are located on the corner of Bidford Road and High Street. The development seeks to convert the garage into a one bedroom dwelling with a new access provided off High Street.
5. Paragraph 2 of the National Planning Policy Framework (the Framework) reaffirms that planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. Footnote 2 of the Framework also confirms that the development plan includes local and neighbourhood plans that have been brought into force. Therefore, the development plan for the District comprises the Bidford-on-Avon Parish Neighbourhood Plan (the NP) which was made on 17 July 2017 and the Stratford-on-Avon District Council Core Strategy (the CS) which was adopted on 11 July 2016.

6. Policy AS.10 (c) of the CS allows the conversion of a building into a residential use within the confines of a village. However, Map 1 of the NP places Broom beyond the Village Boundary of Bidford-on-Avon and consequently, for the purposes of planning policy, the appeal site lies within the countryside. In such circumstances Policy H1 of the NP only allows new residential development where it is for rural workers, replacement dwellings or new rural exception housing supported by Policy H2 of the NP.
7. The appellant argues that although Policy CS.15 of the CS defines Broom as an 'other settlement' which restricts development to that required to meet an identified local need, as the site lies within the village of Broom there is support for the proposal through Policy AS.10 (c) of the CS. Therefore, as there is no doubt that Broom is a village in its own right and that the appeal site lies within its confines, the development should be supported by Policy AS.10 (c) of the CS which "*remains the leading policy in relation to conversions in villages*". Moreover, as the NP is silent on the matter of conversions of a building to a residential use and only seeks to control 'new housing' in the countryside, which is consistent with Policy CS.15 of the CS, there would be no conflict with Policy AS.10 (c) for the conversion of a building into a residential use. Therefore, the objection from the Council under Policies H1 and H2 of the NP is not sustainable.
8. There is a tension between policy AS.10 (c) of the CS and Policy H1 of the NP as the former allows the conversion of a building within the confines of a village into a dwelling while the latter is more restrictive. However, while the development plan must be considered as a whole, any tension between elements of it must be resolved in favour of the last to be adopted¹, which in this case would be the NP. While I accept that the NP does not refer to the conversion of buildings within a village, it is clear that the emphasis of allowing residential development beyond the Village Boundary of Bidford-on-Avon has shifted within the NP as those areas, which includes Broom, are not considered to have the services and facilities required to support sustainable living. Consequently, I find no ambiguity in Policy H1 of the NP and any new dwellings outside of the area identified on Map 1 of the NP, except for those listed therein, will no longer be supported. The site is clearly beyond that area and although Broom may well be a village in its own right, this does not alter the boundaries defined within the NP for planning purposes or that Policy AS.10 (c) of the CS allows the conversion of a building within a village into a residential use.
9. In addition, I am not persuaded that Policy H1 of the NP would apply equally to the conversion of listed and other important buildings under Policy AS.10 (d) of the CS as there is clear support for the change of use of such buildings under Policy ENV8 of the NP, provided the proposal is appropriate and sensitive. Moreover, I am also not persuaded that the conversion of an existing building cannot be considered to be a new dwelling for the purposes of Policy H1 as any development undertaken as a conversion would result in the provision of a dwelling where one did not exist before the building was converted. Furthermore, as a benefit of the development would be to add to the housing stock for the District, thus helping to boost the supply of homes, I find this to support my reasoning that the conversion of an existing building into a residential use would result in a new dwelling being provided, which Policy H1 of the NP does not support. In addition, although Policy CS.20 (A) of the CS also allows the conversion of existing buildings into a dwelling, this is only supported where the principle of the development is considered acceptable.

¹ Section 38(5) of the Planning and Compulsory Purchase Act 2004 (PCPA)

10. Furthermore, I have no substantive evidence that those whom voted on the NP were not aware of the restrictions it was placing upon themselves by failing to include buildings that may be suitable for conversion into dwellings. That said, it is clear from paragraph 3.4 of the NP that access to a range of facilities and services, which Broom does not possess, was a matter of importance. In any event, the NP forms part of the adopted development plan for the area, with applications for development to be determined in accordance with the development plan.
11. I accept that, taking into account the Braintree judgment², the development would not result in an isolated dwelling. Moreover, a bus stop is close to the site and it would be possible to walk and cycle into Bidford-on-Avon where a range of services and facilities are available. Nevertheless, this does not represent an appropriate reason to deviate from adopted development plan policies. In addition, although the appellant accepts that Broom has a modest range of facilities and it is asserted that the proposal would support them thereby enhancing the rural services available, given the scale of the development proposed the amount of support generated is likely to be negligible. As such, I do not consider that the proposal would enhance the vitality of rural communities in the manner identified in paragraph 78 of the Framework.
12. Furthermore, the benefits relied upon (social, economic and environmental) would not only flow from a dwelling in this location, they would apply equally to a new dwelling within the Village Boundary of Bidford-on-Avon. Consequently, the suggested benefits would not outweigh the harm to the aims of adopted policy which seek to restrict development to within a Village Boundary and conflicts with the aims of sustainable development in the Framework.
13. Therefore, taking into account s38(6) of the PCPA and the Bexley judgement³, although Policy AS.10 of the CS is a material consideration, I find the tension between the policies to be clearly resolved in favour of the last document to be adopted and, as planning should be genuinely plan-led, full weight is afforded to Policy H1 of the NP. Thus, the proposal would be in conflict with Policies H1 and H2 of the NP, the specific requirements of which are specified above.

Other Matters

14. I note that representations were made by local residents raising additional concerns. However, given my findings on the main issue it is not necessary to consider these matters in detail.

Conclusion

15. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR

² Braintree District Council v SSCLG [2017] EWHC 2743 (Admin)

³ Council of London Borough of Bexley v SSCLG & Anor, Court of Appeal [2009] EWHC 2325 (Admin)