

Appeal Decision

Site visit made on 15 July 2019

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2019

Appeal Ref: APP/J1915/W/19/3225025

Lodge Farm, Epping Green, Hertfordshire SG13 8NQ

- 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 Leslie Lord against the decision of East Herts Council.
 - The application Ref 3/18/2313/FUL, dated 18 October 2018, was refused by notice dated 21 February 2019.
 - The development proposed is change of use and conversion of two barns to create three, three bedroomed dwellings including demolition of lean-to, erection of single storey rear extension and alterations to fenestration; and insertion of new doors and windows to both barns.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the new dwellings would be in a suitable location with particular regard to their access to employment, services and facilities.

Reasons

3. The proposal would result in the conversion of two large barns which are located in the Green Belt. Policy GBR1 of the East Herts District Plan 2018 (DP) advises that planning applications within the Green Belt will be considered in line with the provisions of the National Planning Policy Framework (the Framework). Paragraph 146(b) is clear that the re-use of buildings of permanent and substantial construction does not represent inappropriate development in the Green Belt. I agree with the parties that the proposal would not represent inappropriate development in the Green Belt.

Suitability of the location

4. Policy DPS2 of the newly adopted DP sets out its strategy for achieving the approved required supply of houses. This prioritises the use of brownfield sites and directs new housing to the larger settlements. It also accepts limited development in villages which it classifies into three groups, reflecting their relative sustainability.
 5. The appeal site is located off White Stubbs Lane which is a narrow country road. The access to the site lies a short distance from the junction of White
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Stubbs Lane with the road that links the villages of Little Berkhamsted to the north, with Newgate Street to the south. There is a road sign announcing the arrival into Epping Green to the north of this junction. Epping Green appears to consist of a small number of rural properties dotted along the road to the north of the sign and along Henderson Place. It represents a very loose knit area of development. There is a public house to the north, although this sits in relative isolation from other properties. The limited evidence suggests that the appeal site lies outside this hamlet.

6. Epping Green is not identified as a group 1 or 2 village by the DP proposal map. Policy VILL3 advises that group 3 villages are those villages/settlements not identified as either group 1 or 2. However, I have no information with regard to whether it was considered as a 'village' when the policies of the DP were being formulated. In any event, the site lies outside the hamlet and the policy relating to such undefined settlements only accepts limited infill development if it is identified in a Neighbourhood Plan (NP).
7. The site lies about a mile south of Little Birkhamsted which has a range of lower order facilities including a shop, public house, village hall and church. The site is also just over a mile from Bayford to the northeast which also has lower order facilities including a school and public house. There is a railway station beyond that settlement to the east. These are group 2 villages as defined by the DP hierarchy. In these villages, policy VILL2 accepts limited infill development in addition to other small scale development identified in a NP, provided that it is well related to the village in terms of location, layout and connectivity. The village of Newgate Street lies about a mile to the south (outside the district) and this has a similar range of lower order facilities. It would appear that a bus service runs along the road between Newgate Street to Little Birkhamsted but no information has been provided in this regard.
8. Given the nature of this location and the character of the roads, whilst there may be some potential for journeys by bus and bicycle, I have no doubt that most journeys by future residents of these family sized houses would be by private vehicles. Whilst distances to the local settlements are relatively short, higher order services are more distant. This is not an accessible location for new housing and it gains no support from the locational requirements of the housing policies of the DP.
9. The appellant advises that the last use of these large barns was for private equestrian facilities. The evidence on the site indicates that an equestrian use has taken place but no application has been referred to which would demonstrate that such a use was lawful. An appeal decision in 2013 relating to the site considered one of these buildings and found that in the absence of marketing of the barn for a range of employment related uses, it had not been demonstrated that the building was redundant in relation to economic activity. In considering the then proposed permitted development rights, with regard to changes of agricultural barns to dwellings, it would seem that an existing agricultural use may have been considered. These rights have now come into forces but I cannot assume that the lawful use is agriculture, particularly as an alternative use has been suggested by the appellant.
10. It is not the purpose of this appeal to determine lawfulness and the evidence would be insufficient in any event. On the limited information available, I

cannot assume that the buildings and their surrounds do not have a lawful agricultural use or that they therefore represent previously developed land. In these circumstances, I find no support for the proposal from DP policy DPS2.

11. The appellant suggests that the development plan is silent with regard to the conversion of buildings to housing. The Council have not made reference to DP policies within their reason for refusal. Both parties have however had the opportunity to comment on the relevance of DP policy ED2. This supports the change of use of agricultural or employment generating uses in rural areas to other employment generating uses. Where a change of use to a non-employment generating use is proposed, it requires specific evidence to demonstrate, amongst other things, that the existing use is no longer needed or viable. The policy clearly prefers the re-use of buildings with a former agricultural or employment generating use to remain in an employment use rather than becoming residential. Although the policies have changed, the principle does not appear to have changed since the 2013 appeal and in the absence of alternative evidence of the lawful use, I find conflict with policy ED2. Whilst the Framework encourages the re-use of buildings, the detail of policy ED2 is not inconsistent with its objectives and can be afforded considerable weight.
12. Whilst the DP does not offer encouragement for the conversion of buildings to housing, except when specific evidence is provided, I do not consider that this suggests that the development plan is silent, particularly with regard to buildings that have a lawful agricultural or employment use. The development plan may however be silent with regard to the conversion of buildings that do not have a lawful agricultural or employment use. However, the information provided is not conclusive that the buildings have a domestic or non-commercial lawful use and the evidence within the previous appeal suggests otherwise. Furthermore, the DP is clear as to how it is intended to achieve the necessary supply of housing and this does not rely on conversions of rural buildings.
13. Despite my findings above, the lack of reference to the development plan in the reason for refusal does offer some support for the appellant's view that the development plan is silent with regard to this proposal. If I were to accept this view and as it has already been established that the Green Belt policies do not provide clear reason for refusing the development, it would be necessary to consider the development with regard to paragraph 11(b)(ii) of the Framework. This requires that development be approved unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. The Framework identifies three overarching objectives: social, economic and environmental.
14. With regard to environmental objectives, the conversions have been designed to ensure that they would have an acceptable appearance and would sit satisfactorily within their surroundings. The site is well screened by roadside vegetation so as to reduce any impact on the wider area. Renewable energy features could be included and landscaping and biodiversity enhanced. The presence of other properties nearby would allow for the more efficient use of services already provided to houses locally. Paragraph 118(d) of the Framework promotes and supports the development of under-utilised land and buildings, especially if this would help meet identified needs for housing where

land supply is constrained. Whilst a particular need has not been identified and the housing land supply figures are up to date, this nevertheless provides some weight in favour of the proposal.

15. The likely level of reliance on private vehicles and the limited alternative potential for residents to access services, employment and facilities would not support sustainable transport objectives and would result in environmental harm from carbon emissions. This would be at odds with both the social and environmental objectives of the Framework. Despite the environmental benefits that could result, because this is not an accessible location, particularly for the full range of potential residents, the proposal would overall be at odds with the environmental objectives of the Framework.
16. With regard to social objectives, there would be social benefits, supported by paragraph 59 of the Framework, in providing extra dwellings which would contribute to housing provision. The residents, particularly given the family size of the proposed dwellings, would be likely to contribute to and support the activities and services of the nearby local communities, including Epping Green, Little Birkhamsted, Bayford and Newgate Street. These social benefits must however be considered with regard to the housing supply position and the limited accessibility of the facilities and services for some future residents. The distances and the relative isolation from these services is a matter that weighs against the proposal.
17. There would be economic advantages from the construction works involved in converting these buildings to dwellings. These would however be no greater than those associated with the provision of additional houses in more accessible locations. Residents would contribute to the economy by their own economic activity and by their use of the local shops and services in the local villages. Although it has been suggested that a commercial use of these buildings would harm the amenities of local residents, I am not satisfied that this has been proven to be the case and the approved holiday let use would suggest otherwise.
18. Whilst there would be social, economic and some environmental benefits of these new dwellings, the weight I afford them is limited due to the small number of properties, the limited and restricted access to facilities and services and particularly, the housing supply position set out in the newly adopted DP. I afford considerable weight to the environmental harm resulting from the limited potential for the use of sustainable transport options by all future residents and the social harm resulting from occupants having such limited access to services, employment and other facilities. On balance, this harm would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. The proposal would not therefore represent sustainable development.

Other matters

19. Whilst these buildings are in the countryside, there has been disagreement as to whether they would represent isolated homes given the development in close proximity and within the hamlet of Epping Green. Reference has been made to the Court of Appeal ruling, *Braintree District Council v Secretary of State for Communities and Local Government*, *Greyread Limited & Granville*

Developments Limited [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610 which considered the meaning of paragraph 55 of the 2012 Framework. This has now been replaced by paragraphs 78 and 79 of the updated Framework. These paragraphs include modifications to the wording and additional advice.

20. If the homes were not considered to be isolated as suggested by the appellant, paragraph 79 would not apply. The ruling established that settlements are the preferred location for new housing development in rural areas and paragraph 78 is clear that to promote sustainable development in rural areas, housing should be located where it would enhance or maintain the vitality of rural communities; and planning policies should identify opportunities for villages to grow and thrive, especially where this would support local services. This is entirely consistent with the newly adopted DP which sets out the policies for development in and around villages and its strategy to ensure that the approach is sustainable with regard to the size and facilities within villages.
21. If the homes were considered to be isolated, paragraph 79 sets out that as they are within existing buildings, their alternative use need not be avoided. However, this does not suggest that the requirements of paragraph 78 should be set aside. The site is not within a settlement and paragraph 78 reinforces the role of the development plan. I do not therefore consider that the appellant's view that the site is not isolated, which is at odds with the views of previous Inspectors considering appeals at this site, would significantly alter the overall assessment.
22. The recent permission to convert these barns to residential use, albeit restricted to short term holiday lets is clearly of relevance to the proposal. However, the holiday let condition was found, when considered during an appeal seeking to have it removed, to be necessary. I have found there to have been no material changes in policy since that decision which was also issued nearly a year after the Court of Appeal ruling referred to above.
23. As the approved holiday let use has not commenced, the proposal has to be considered on its own merits. However, the permission to convert the barns is a consideration that must be taken into account. Whilst a holiday let use may not fall squarely within the commercial and employment objectives of DP policy ED2, such a use would be more consistent with its objectives and those of paragraph 117 of the Framework as it is a commercial activity and it would generate some employment in its management and maintenance. The permitted use would therefore appear to gain more support from the policy than an unrestricted residential use, particularly if other commercial activities are unlikely to come forward.
24. DP policy ED5 also supports new tourism enterprises where they meet identified needs. The appellant suggests that no evidence has been provided to demonstrate a need for tourism facilities such as this but as this appeal is not considering such a proposal, I would not expect such information. The DP advises that tourism and visitors to the district play a vital role in the economy, creating jobs and contributing to the maintenance of facilities. I have no information to suggest that the use of the barns for tourism would gain anything but support from the DP. The Framework similarly encourages a strong and competitive economy and a prosperous rural economy. Although the approved and proposed uses of the buildings fall within the same use class,

I find the two developments to be distinctly different and subject to differing considerations with regard to the DP and the Framework.

25. Decisions relating to five appeals have been submitted which the appellant suggests indicate that the transport movements of self-catering units are little different to unrestricted residential occupation. A number of these appeals relate to properties and lodges of a smaller size; with different occupancy restrictions; and in locations that are not comparable with regard to their access to services. I am not satisfied that smaller properties can be directly compared to the large family sized houses proposed. Such large houses would, in my view, result in greater demand to travel more often, but in any event, the two uses need to be considered against the differing objectives with regard to employment and tourism provision and the supply of houses.
26. Whilst full time residents may offer more support to local services and facilities, this similarly has to be considered within the wider context. Part of this context relates to the housing supply position which was clearly different in a number of the appeals referred to as a five year supply of housing sites could not be identified. One of the appeals related to a tourist use which was found not to be viable. This has not been demonstrated in this case. I must consider this proposal on its own merits but in any event, there are clearly significant differences between the examples put forward and the development proposed.

Conclusions

27. The proposal would result in new dwellings in this countryside location. Residents would undoubtedly rely heavily on the use of private vehicles to access services and facilities which would result in harm with regard to carbon emissions and would work against the objectives of moving towards more sustainable transport options. This is not an accessible location and housing development would be at odds with the spatial strategy of the DP which seeks to direct new housing to the settlements.
28. The residents of the three houses would be likely to contribute to the social life of the hamlet of Epping Green and the surrounding villages. They would help to support the facilities and services of this rural area. The development would also provide social benefits with regard to the provision of three houses which would contribute a small amount to the overall supply. I find additional support from the Framework with regard to the efficient use of land and the conversion of existing buildings.
29. Given the housing supply position; the small number of units; and the poor levels of access to services and facilities, I afford the social benefits of the proposal only limited weight. The economic benefits of three additional families to the local economy would also be limited and the contribution from the building works would be no greater than new houses in more accessible locations.
30. Overall, the proposal would be at odds with the DP spatial strategy and it would gain no support from its housing policies. The information provided does not suggest that it is supported by DP policy ED2 which considers the conversion of buildings. In any event, the environmental and social harm would significantly and demonstrably outweigh the benefits of the proposal. It would therefore conflict with the Framework as a whole and would not represent sustainable

development. I am satisfied that this conclusions would be reached regardless of whether the dwellings are considered to be isolated or not. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR