



Appeal Decision

Site visit made on 14 May 2019

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 September 2019

Appeal Ref: APP/T3725/W/19/3222062

Roundshill Farm, Rouncil Lane, Kenilworth CV8 1NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Andrew Bostock against the decision of Warwick District Council.
 - The application Ref W/18/2258, dated 23 November 2018, was refused by notice dated 1 February 2019.
 - The application sought planning permission for conversion of barn to single dwellinghouse without complying with a condition attached to planning permission Ref W/13/1407, dated 12 December 2013.
 - The condition in dispute is No.5 which states that: *"The barn hereby permitted shall not be occupied at any time other than by relatives of the occupiers of Roundshill Farm."*
 - The reason given for this: *"The property is located in an unsustainable location and is sited within the farm yard of a working farm where there is a potential for noise and odour pollution in accordance with the NPPF and Policy DP9 of the Warwick District Local Plan 1996-2011."*
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the disputed condition is appropriate, having regard to local and national planning policy for an unrestricted dwelling in the countryside.

Reasons

3. The appellant wishes to remove the condition so that the use of the dwelling can be severed from the main house and occupied as an independent dwelling, unconnected with the farm.
4. The removal of the condition would result in the creation of an unrestricted dwelling in the countryside, even though it would not result in the physical construction of a brand new dwelling. The Council supports the delivery of new homes in rural areas as part of its spatial housing strategy. Policy H1 of the Warwick District Local Plan 2017 (WDLP) directs housing to within the boundaries of identified Growth Villages and Limited Infill Villages. In the countryside part d) allows new housing where i) the site is adjacent to urban areas or Growth Villages; ii) there is an identified housing need; iii) be small scale development that will not negatively impact on the character of the

- settlement; iv) is within a reasonable safe walking distance of services or within reasonable safe walking distance of a public transport interchange; and v) the proposal will not adversely affect environmental assets (such as areas of landscape or ecological value or heritage assets).
5. The appeal dwelling is part of a farm surrounded by fields, approximately 1.5 miles from the service centre of Kenilworth. It is not within or adjacent to any urban area, growth village or any other settlement and so is in open countryside.
 6. It may be the case that the site is closer to services and facilities, including schools and colleges, than some other villages hence putting its level of accessibility on par with some suburban areas. However, on my visit I noted the site is located some distance along a country lane without pavements or lighting which would not be conducive for safe walking. Nor was it within reasonable safe walking distance of a public transport interchange. In my view this would indicate residents would be likely to be reliant on the car, albeit journeys to Kenilworth would be relatively short. Hence there is conflict with WDLP Policy H1.
 7. The Highway Authority comments that the proposal should not result in a significant increase in vehicular trips or have a detrimental impact on public highway safety. The appellant has sought to define 'significant' using the Oxford English Dictionary implying not worthy of attention. I have no reason to disagree. However, the Highway Authority comments that it does not appear to have been consulted on the previous planning application and that it may not have supported the original proposal to convert the barn to a single dwelling with totally independent occupation, as there would likely be an increase in vehicle trips at odds with locational sustainability.
 8. I accept that two related households could live on the site and come and go independently of each other under the current arrangement, even with the site's existing limited access to services and facilities. However, having a relative occupying the dwelling is not the same as having it occupied by a completely separate, independent and unrelated household. Relatives would be more likely to share trips or undertake journeys for each other than independent occupiers. There would likely be more vehicle movements if the condition were removed, even if their number was not significant.
 9. The appellant has drawn my attention to an appeal decision near Newton Abbott in Devon¹ for the removal of a holiday let occupancy condition. The appellant considers paragraphs 13 and 14 particularly relevant as they comment that vehicle movements of holiday makers would not be significantly greater to its use as a dwelling. However, there were other issues surrounding the wording of the condition that made the Inspector conclude as he did, such that it is not directly comparable. Furthermore, vehicular movements are not the sole determinative factor in this appeal, which I must consider on its own merits.
 10. The appellant refers to Paragraph 79 of the revised National Planning Policy Framework (the 'Framework')² that permits a number of housing circumstances

¹ APP/P1133/W/17/3171860 allowed 18 August 2017

² The National Planning Policy Framework (2012) was revised on 24 July 2018 and subsequently updated on 19 February 2019.

irrespective of location or sustainability considerations. Part c) allows for the residential re-use of redundant or disused buildings. However, the building has already been converted to a dwelling, albeit tied to the main house, so this has already been achieved. But as part c) could apply to other buildings on the farm if they were redundant or disused I give it moderate weight for its role towards the provision of rural housing. But that scenario is not before me. The revised Framework introduced a new part d) that permits the subdivision of an existing dwelling and the appellants has referred to an appeal decision³ in Clyst St Mary where subdivision of an isolated dwelling was allowed. However, in this appeal the building is physically separate from the main dwelling house, located in a different range of buildings across the farm yard. Therefore, I find that there would not be any subdivision of either the appeal building or main house and hence paragraph 79d) would not apply in this case.

11. Class Q permitted development rights allow for the conversion of existing agricultural buildings into dwellings regardless of sustainability considerations and the appellants has referred to various appeals allowing such conversions. This could potentially apply to other barns within the farm, should they comply with the various provisos. Therefore, I give moderate weight to Class Q provisions and their role towards the provision of rural housing. Nonetheless, such a proposal is not before me.
12. Part of the reason for imposing the condition was that the dwelling was "*sited within the farm yard of a working farm there is a potential for noise and odour pollution*". As such, relatives of the occupiers of the farm would likely have a greater degree of tolerance of noise and smells and farming activities than unrelated occupiers. Removing the condition would therefore introduce an incompatibility that would have implications for the living conditions of future occupiers, as well as the farm business itself. Both parties are satisfied that a suitably worded condition(s) could be imposed to limit the use of nearby farm buildings to non-noisy and non-odour producing activities. However, I find it unreasonable that a farm, whose use runs with the land and which existed before the converted dwelling was created, should have its farming activities, uses and practices curtailed.
13. Paragraph 118 of the Framework encourages the effective use of land including under-utilised land and buildings. However, this is promoted in the context of meeting an identified housing need where housing land supply is constrained. Whilst the site is located within Green Belt, the Council adopted its WDLP in 2017 and the appellants has not disputed the Council's 5 year housing land supply position. The appellants clarifies that the original conversion was for his mother-in-law (who drives her own vehicle) not a farm worker. There is no substantive evidence before me to demonstrate a housing need, including for affordable housing, to justify removal of the condition, or the reasons why the dwelling now needs be severed from the farm.
14. I find the removal of the condition would allow an unrestricted dwelling in a countryside location contrary to the development plan and the Council's spatial strategy for housing. It would also be sited in the middle of a working farm where there is the potential for noise and odour pollution. The condition accords with the tests in paragraph 55 of the Framework. Accordingly, the proposal would be in conflict with WDLP Policy H1, whose aims are outlined

³ APP/U1105/W/17/3191044 dismissed 28 September 2018.

above. It would also conflict with the approach in the Framework, which seeks to direct housing in rural areas to places where it will enhance or maintain the vitality of rural communities, and that the planning system should actively manage patterns of growth in support of objectives which include opportunities to promote walking, cycling and public transport.

Conclusion

15. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should be dismissed.

K. Stephens

INSPECTOR