
Appeal Decision

Site visit made on 2 July 2019

by I Bowen BA(Hons) BTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 September 2019

Appeal Ref: APP/Y3940/W/19/3222307

Land adjacent Kajha, Milditch, Bratton BA13 4SX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Jennifer Mayne against the decision of Wiltshire Council.
 - The application Ref 18/07443/OUT, dated 5 August 2018, was refused by notice dated 8 October 2018
 - The development proposed is conversion of existing building on site that is used for storage into a 2 bedroomed bungalow.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application for planning permission was made in outline. However, the description of the scheme indicates that permission is being sought for a change of use of an existing building. I am mindful in this regard that the Town and Country Planning (Development Management Procedure)(England) Order 2015 establishes that an outline application is solely for the "erection of a building".
3. On the basis of the submitted plans, no buildings are proposed to be erected and it appears therefore that the application has not been made, or determined, on the correct basis.
4. Nevertheless, I note the 'red line' application site extends to an area wider than the building proposed for conversion. Moreover, the appellant's evidence clearly envisages the proposed residential use extending to the land surrounding the building so as to incorporate domestic car parking and a driveway to serve the dwelling. The evidence also refers to other possible works such as replacement gates.
5. Given the anomalies between the development being proposed and the type of planning permission being sought, it appears to me that the application is in fact seeking full planning permission to change the lawful use of all of the land included within the red line shown on the site plan, including the existing building, to Class C3 residential, with associated works necessary for the conversion of the dwelling and the laying out of land around the building.
6. As the nature of the proposed development is clear from the submitted material, I am satisfied that no party would be prejudiced if I proceed on that basis and I have done so.

7. Consequently, insofar as they show matters of detail, I have treated the submitted plans as definitive. In the event of the appeal being allowed, I would have sought the main parties' views on a range of conditions which may have been necessary given the absence of detail submitted with the application. However, as the appeal is to be dismissed, it has not been necessary for me to do so.
8. The Council brought my attention to a previous appeal decision for a similar proposal on the site dating from 2004¹. Relevant national and local planning policies have changed significantly over time since that decision was issued which limits the weight I attach to it in my assessment of this proposal. Nevertheless, I have had regard to it to the extent that it remains relevant and I have referred to it in my reasoning below.

Main Issues

9. The main issues are:

- the effect of the proposal on the character and appearance of the area, with particular regard firstly to whether it would preserve or enhance the character or appearance of the Bratton Conservation Area; and secondly whether it would give rise to landscape harm;
- whether the appeal site would be suitable for residential development having regard to local and national planning policies on the location of housing; and
- whether the proposal would achieve safe and adequate access to services and facilities.

Reasons

Character and appearance

10. The appeal site lies on the southern periphery of the village of Bratton. It is sited immediately outside the settlement boundary as defined in the adopted Wiltshire Core Strategy (January 2015) (the WCS), and within the designated Bratton Conservation Area (BCA).
11. Therefore, section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
12. On approaching the site from the north, the built-up part of the village gives way to narrow, unlit tree-lined lanes and takes on a distinctly semi-rural character. The appeal property is set down below the level of Millditch and is located near to a sharp bend in the road. To the east, the road peters out into a rough unmade track.
13. Whilst I saw there are a number of dwellings accessed off the southern side of Millditch to the east, these appear to be longstanding and are set in heavily landscaped, spacious plots. Consequently, the existing built development does not materially detract from the sylvan and spacious character of the area.

¹ APP/F3925/A/04/1144432

14. The appeal property slopes down steeply from the road and is served by an access track and gate and is otherwise laid to grass. A belt of trees borders the site to the south, with filtered views of undulating countryside beyond.
15. The designated BCA extends across the majority of the village and, in doing so, incorporates the semi-rural fringes of the settlement where built development gives way to open countryside. Whilst the appellant submits that properties on Millditch are of a mixed type and lacking any special character, in my judgement the character of these loose-knit, open and green edges are important elements of the significance of the BCA. As such, the appeal site makes a strong positive contribution to the conservation area.
16. The existing building on the appeal site is a fairly small, single storey, stone clad structure with a projecting roof/porch. Contrary to the Council's contention, the appellant indicates that no extensions to the building are proposed. Whilst of unremarkable design and described by the appellant as "derelict", it does not significantly detract from the character or appearance of the area. Furthermore, to my mind, the residential conversion of the building would neither detract from, nor materially enhance the appearance of, the building.
17. However, I understand the building is currently, or was most recently, used for storage. It would be reasonable to expect that through the creation of a new residential use and curtilage, the area would take on a distinctly more domesticated character and appearance. This would be likely to include more formalised parking, facilities for drying laundry, play equipment, garden furniture and other general household paraphernalia. Whilst there are already residential properties to the east of the appeal site, the proposed development would nonetheless introduce additional domesticity to this part of the BCA. Such a change in the character would not be adequately mitigated through boundary screening.
18. As such, I consider that the proposal would be harmful to, and therefore would fail to preserve or enhance, the BCA. In the terms of the National Planning Policy Framework (the Framework), the harm to its significance as a designated heritage asset would be "less than substantial" given the scale of the changes in the context of the BCA as a whole.
19. Nevertheless, the Framework states that great weight should be given to the conservation of such assets, irrespective of whether the harm would amount to substantial or less than substantial. In this context, it further clarifies that any harm should require clear and convincing justification and be weighed against the public benefits of the proposal.
20. The development would provide an additional dwelling to the local housing land supply, re-using a building which, according to the submitted evidence, is already served by mains water and other services. However, as a single dwelling, the weight I attach to this consideration is limited. The appellant also submits that the development would enable care to be provided for nearby family members. However, no further evidence in this regard has been submitted, including why any such housing need could not be met in another way. This, again, limits the weight I attach to that as a public benefit.
21. Whilst the appellant also refers to improvements to the appearance of the area, as indicated above, the site to my mind does not require improvement.

- Furthermore, the re-use of the site for residential purposes would not be the only way of securing improvement even if future degradation were to arise.
22. I therefore find, having regard to the statutory duty, the public benefits would not outweigh the less than substantial harm that would result on the significance of the BCA.
23. The appellant has referred to four other housing schemes which have apparently been permitted in the area², including the adjoining Kadja. However, I am not familiar with those cases or the circumstances which may have led to their being granted permission, although I note the Council has indicated that two of them lie within the settlement boundary. I cannot therefore be certain that they are reasonably comparable to the current proposal and, accordingly, I attach little weight to those examples.
24. The Council also confirms that the appeal site lies within a Special Landscape Area (SLA) as designated in Policy C3 of the 'Saved' West Wiltshire District Plan – First Alteration (June 2004). That Policy lists five separate SLAs and sets out that development will not be permitted which is considered to be detrimental to their high quality. However, it is not clear from the submissions which SLA character area the site lies within. Furthermore, I have been provided with no explanation of the special features or other characteristics of the particular SLA, or the manner in which the development might be harmful to them.
25. Accordingly, it has not been demonstrated that the proposal would conflict with that Policy and it has not therefore been determinative to my decision.
26. In conclusion on this main issue, therefore, I find that the proposed development would not preserve or enhance the character or appearance of the BCA. Accordingly, it would conflict with WCS Core Policy 58 which requires development to protect, conserve and where possible enhance the historic environment, including designated heritage assets such as conservation areas.

Location

27. The WCS establishes an overall strategy for achieving sustainable development through balancing homes and jobs and ensuring access to facilities and services, including by non-car modes. Accordingly, WCS Core Policy 1 and WCS Core Policy 2 set out a hierarchy of named settlements. The hierarchy is a strategic approach to ensuring that, over time, appropriate levels of development take place in specific places, commensurate with the size, characteristics and role of individual settlements. This approach broadly accords with that of the Framework in seeking to manage patterns of growth for sustainable development.
28. An integral part of the delivery of the strategy is through the operation of settlement boundaries. The Council confirms that, for the purposes of the development strategy, Bratton is a "large village" and has a defined settlement boundary. The appeal site lies close to, but outside the defined boundary. Accordingly, whilst the site does not lie in an isolated location, it is sited, for the purposes of planning policy, outside the settlement in the countryside.

² Millstones, Reeves Piece, Bratton, BA13 4TH The Elms, Reeves Piece, Bratton, BA13 4TH, Oxford House, The Butts, Bratton, BA13 4SW, Kajha, Millditch, Bratton, BA13 4SX.

29. WCS Core Policy 2 establishes that development will not be permitted outside the defined limits of development, other than in exceptional circumstances. One such exception is set out in Core Policy 48 which supports the conversion and re-use of rural buildings, where clear evidence shows that employment, tourism, cultural and community uses are not practical propositions. No such evidence has been submitted in this case.
30. The appellant submits that the site ought to be included within the boundary. However, the extent of the boundary was established through a formal process of public consultation and debate and the WCS, which carries forward pre-existing settlement boundaries, remains up-to-date and adopted. The appeal site was expressly excluded from the settlement through that process and in my view, the boundary should not be ignored without compelling justification.
31. I am mindful in this respect that the Framework reflects planning law in requiring applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. It further states that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.
32. Moreover, whilst I attach limited weight to the emerging Wiltshire Housing Site Allocations Plan pending the formal conclusion of its examination, I note there is no indication that the boundary has been proposed to be extended to include the appeal site.
33. I therefore conclude on this main issue that the proposal would not be an exceptional type of development which would be permitted outside a settlement boundary under WCS Core Policy 48. In the absence of any other clear justification, it would conflict with the overall development strategy of the WCS contrary to Core Policy 1 and Core Policy 2. That is because those Policies seek to deliver limited housing in Large villages in a sustainable manner within defined limits of development and to restrict development outside those areas.

Highway safety and accessibility

34. The site would be accessed via The Butts to the north, along a fairly lengthy, narrow and unlit lane lacking footways.
35. Part of the Council's concern is that the width of the lane is such that damage is likely to occur to the roadsides and vehicles as increasing vehicular conflict would require cars to mount verges. In this respect, the Council confirms that the width of the road does not accord with Manual for Streets³ (MfS) guidance for residential streets, which is a material consideration in this appeal. It is also suggested that the development would be likely to generate approximately 6-8 trips per day, excluding visitors.
36. However, no evidence has been provided to show the level of traffic that currently is, or could, be associated with the existing lawful use of the appeal property. In this regard the appellant submits that the net effect of the development would be to reduce the number of vehicle movements. In the absence of any clear evidence, it seems likely to me that no significant net increase in trips would arise, although I am equally not persuaded there would be any material benefit either.

³ Manual for Streets, Department for Transport 2007

37. Nevertheless, the characteristics of the lane are such that I consider it likely pedestrians and cyclists would routinely encounter conflict with vehicular traffic and the proposal would not, in this respect, provide an attractive or safe environment for people accessing the proposed dwelling in this way. It would therefore not accord with the Framework which sets out that applications for development should ensure appropriate opportunities to promote sustainable transport modes can be taken up; and that places should be created that are safe and minimise the scope for conflicts between pedestrians, cyclists and vehicles. Whilst the appellant refers to the possibility of relocating the entrance to the site, it has not been demonstrated how this would address the inadequacy of the road access.
38. Consequently, whilst the limited services and facilities available within the village are not excessively distant, I consider that occupiers of the proposed dwelling would nonetheless be likely to be heavily reliant upon the private car in accessing them.
39. I appreciate that a number of other dwellings are already served by the same road. However, those developments already exist and appear longstanding. In any event, I am required to consider the merits of the specific proposal before me.
40. I therefore conclude that the location of the appeal site would not enable safe access by non-car modes of transport and would not therefore provide suitable accessibility to day-to-day services and facilities within the village and beyond. The proposal would therefore not accord with WCS Core Policy 60 and Core Policy 61 which, together, seek to reduce the need to travel and encourage the safe and efficient movement of people in ways that enable communities to access their needs easily, and without always needing a car.

Other Matters

41. There is some dispute over whether the appellant would be entitled to use the access road south of The Butts for vehicular traffic, as it is a public right of way. However, that is not a matter relevant to the planning merits of the appeal. If I were to allow the appeal, this would not confer any consent or rights to use land which would otherwise be required. Similarly, any matters relating to the maintenance of the lane is a private matter away from this appeal.
42. I note from the officer's report that despite the Council's ecologist advising of a high likelihood of protected species either breeding or being present on the site, no ecology survey has been submitted. Whilst that matter did not appear as a formal reason for refusal, apparently in an attempt to avoid any unnecessary expenditure on the part of the appellant, this is potentially a matter of some importance. However, as the appeal is to be dismissed on the basis of the main issues, it is not necessary for me to consider this matter further.
43. Whilst Bratton Parish Council (BPC) initially raised objection to the proposal, it subsequently reversed its position and expressed support. Moreover, although no objections from local people were received during the planning application stage, a number have been raised at the appeal stage. In any event, the appeal falls to be determined on the basis of the Development Plan and all other material considerations, including matters raised by BPC and third

parties. The absence or otherwise of objections is not, in itself, determinative of the outcome of the appeal.

44. I understand that the appellant sought pre-application advice on the proposal but the Council apparently declined to offer that service. Nevertheless, that is a procedural matter between the two main parties and has little bearing on the merits of the appeal.

Conclusion

45. For the reasons given, the appeal should be dismissed.

Ian Bowen

INSPECTOR