



Appeal Decision

Site visit made on 13 August 2019

by Kate Mansell BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2019

Appeal Ref: APP/T3725/W/19/3229762

Land adjacent to Long Close, Glasshouse Lane, Lapworth, Solihull B94 6PZ

- 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 Mr Alan Tyler on behalf of Tyler Parkes against the decision of Warwick District Council.
 - The application Ref W/18/1652, dated 29 August 2018, was refused by notice dated 1 February 2019.
 - The development proposed is an outline application for the erection of 1 x new bungalow to replace existing stud farm currently operating on the site. All existing stable and store buildings associated with the stud farm use will be removed from site.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The 'applicant details' section on the application form provided a 'surname' only. For clarity, in the heading above, I have therefore used the details given on the appeal form.
3. I acknowledge that the description of development changed from that stated on the application form with the agreement of the appellant. For precision, the description in the heading above is therefore taken from the decision notice and appeal form. I have, however, omitted reference to it being a revised submission as this is not a description of development.
4. The planning application was submitted in outline with all matters reserved for later approval and I have dealt with the appeal on that basis. A site layout/location plan, which includes a block plan and street scene has been submitted with the proposal and I have had regard to it in so far as it is relevant to my consideration of the principle of the proposal at the site.
5. The proposal was also amended during the period that the Council was considering the application to relocate it from the front of the site to the rear, on the footprint of the existing buildings. These revised plans were prepared in response to comments received in the course of the consultation process. The Council determined the application on the basis of these amended plans, and I have done the same.
6. On 19 February 2019, the Government published an updated revised version of the National Planning Policy Framework (the Framework). In relation to the main issue in this appeal, Government policy has not materially changed. Accordingly, no parties have been prejudiced by my having regard to it.

Main Issue

7. The main issue is whether the appeal site would provide a suitable location for housing having regard to the provisions of national and local planning policy.

Reasons

8. Situated to the north-east of the village of Lapworth, Glasshouse Lane is a road of modest width bordered on each side by a grass verge beyond which it is adjoined, for the most part, by open fields, giving it a rural character. In addition to a few sporadic dwellings, there is a larger collection of mainly residential properties on its eastern side. This includes properties fronting Glasshouse Lane with a further tier of development to the rear.
9. The appeal site lies on the southern edge of this group. It comprises buildings relating to the equestrian use of the site as a stud farm. The main structures are to the north-east of Long Close, a large dwelling associated with the business. They are generously set back from the road and are used for storage/tack as well as a courtyard of stables. A separate stable block is sited within an open field to the east of Long Close. The appeal proposal would remove the stud farm and associated buildings and replace it with a bungalow. The plans illustrate that it would be positioned centrally within the plot.
10. The site lies within the Green Belt. The Framework confirms that the essential characteristics of Green Belts are their openness and their permanence so that inappropriate development is, by definition, harmful and should not be approved except in very special circumstances. However, Paragraph 145 advises that certain forms of development are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purpose of including land within it. This includes, at paragraph 145(g), the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
11. It is common ground between the parties that the proposal would not be inappropriate development. As the proposal would have a smaller footprint and volume in comparison to the existing buildings to be demolished and it would also be more contained within the site, I have no reason to disagree. Consequently, it is not necessary to consider whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances. Nevertheless, other development plan policies relating to housing in the countryside, and the Framework policies as a whole apply, as do other material considerations.
12. It is also common ground that the proposal would not be isolated in the context of Paragraph 79 of the Framework. The appeal site lies on the southern edge of a group of dwellings along Glasshouse Lane, which could reasonably be described as a hamlet. Having regard to the appeal decision cited by the appellant and the Braintree judgement¹, by virtue of its proximity to these existing buildings, it would not reasonably be described as 'isolated' in the everyday definition of the word. But it would, nonetheless, be outside of an

¹ Appeal Ref: APP/T3725/W/17/3169765 and Braintree District Council v Secretary of State for Communities and Local Government [2018] EWCA Civ 60

- established village boundary and in the open countryside for the purpose of planning policy.
13. Consequently, Policy H1 of the Warwick District Local Plan 2011-2029 (Adopted September 2017) (WDLP) sets out the circumstances in which new housing development will be permitted, including within the boundaries of growth villages and Limited Infill Villages like Lapworth, as well as in the open countryside. The explanatory text to Policy H1 clarifies that the wider strategy of the development plan is to direct new housing towards the most appropriate locations, principally in respect of services and facilities and infrastructure.
 14. Policy H11 relates to infill housing where villages are 'washed over' by green belt, clarifying that in such circumstances, it will be permitted where the site is located within a Limited Infill Village and specific criteria are met. These policies are consistent with the Framework's objectives to promote development in rural areas by locating housing where it will enhance or maintain the vitality of rural communities and, by identifying opportunities within planning policy for villages to grow and thrive. The Framework also recognises the intrinsic character of the countryside and also of Green Belt.
 15. I am mindful of the Court of Appeal judgment cited by the appellant, which broadly concluded that the boundary of a village defined in a local plan may not be determinative and its physical extent depends on the situation 'on the ground'. However, whilst the proposed dwelling would broadly follow the line of development already established to its northern boundary, there would still be open fields to the east. It would also be some distance from the village of Lapworth, separated by mainly open countryside and the Old Warwick Road (B4439). Consequently, the appeal site would not adjoin the settlement boundary for the purposes of planning policy, nor would there be any direct visual connectivity to it.
 16. Furthermore, even taking into account that the proposal would be likely to generate fewer vehicle movements and smaller vehicles along Glasshouse Lane in comparison to the existing use, the pattern of travel arising from a residential dwelling would be different and there would, nonetheless, be a need for future residents to access services and facilities. In contrast to the appeal decision² cited by the appellant where the site abutted the urban area on a busy 'A' road, Glasshouse Lane is reasonably narrow with no pavement or street lights. It would be unrealistic to assume that walking or cycling to reach Lapworth, or even Dorridge to the north-east, would be an attractive transport option for future occupants.
 17. The Framework recognises that the opportunities to maximise sustainable transport solutions in rural areas may differ from urban areas, which should be taken into account in decision making. However, this is within the context of promoting sustainable transport rather than in relation to rural housing. Furthermore, whilst there may be a regular bus service from Old Warwick Road to the wide range of services in Hockley Heath, the bus stop would be approximately 500m from the appeal site. The lack of footway/lighting would also make this an unappealing option, particularly in darker winter months.
 18. Consequently, the appeal site would lack any convenient links with these villages, so that future occupiers of the site would rely heavily upon the private

² Appeal Ref: APP/U1430/W/17/3191063

car for their day to day needs. In this respect, the site would not be physically or functionally well related to them.

19. The appellant has drawn my attention to other appeal decisions³ deemed similar. At Little Shrewley, the site was on a narrow lane but it was a conversion of an existing outbuilding in close proximity to the settlement where the Inspector determined that the nearest services/facilities would be within an acceptable walking/cycling distance. In the allowed appeal at Chiselhurst, it was largely an assessment against Green Belt policy and where the housing land supply position was unclear, so that moderate weight was given to the provision of additional housing. At Tendring, it was outside a settlement boundary, but the site retained a public house to help support local services, which weighed in its favour. In the two other decisions cited by the appellant, one related to a site just beyond the settlement boundary within a ribbon of development running broadly continuously from the village centre. In the other, the site was outside but adjacent to the defined development boundary of the village⁴. For these reasons, I do not find any of these decisions to be directly comparable. In any event, I must determine the appeal proposal before me on its individual merits.
20. For these reasons, I conclude that the site would not be a suitable location for a new dwelling having regard to the provisions of national and local planning policy. It would be contrary to Policies H1 and H11 of the WDLP (2017). These policies principally seek to direct most new housing toward built-up areas, within settlement boundaries having regard to services and facilities and infrastructure, and to restrict new dwellings in the countryside, except in specific circumstances. It would also be contrary to the aims and objectives of the Framework insofar as it seeks to manage patterns of growth to make the fullest possible use of public transport, walking and cycling and to locate housing where it will enhance or maintain the vitality of rural communities.

Other Considerations

21. The appellant contends that a fallback position is the conversion of the existing buildings for residential use, citing Policy H1(e) and BE4(b) of the WDLP (2017) specifically. The former allows for the re-use of redundant or disused buildings in the open countryside under certain conditions whilst the latter is one of five criteria to assess the re-use and adaptation of rural buildings where their condition, nature and location make them suitable for re-use or adaptation.
22. The case law⁵ referred to by the appellant broadly indicates that the 'real' prospect of a fallback development being implemented is not dependent on, as in this case, planning permission having been granted for the conversion and a real possibility will suffice. However, in respect of the degree of clarity and commitment necessary, it will be a matter of planning judgement for the decision maker with regard to the particular circumstances of the case.
23. From a visual inspection of the site, the buildings identified for conversion appear to be in reasonably good condition and whilst they may be redundant,

³ Appeal Refs: APP/G5180/W/17/3175491 and APP/G5180/W/17/3189041 (Chiselhurst) and APP/P1560/W/17/3189713 (Tendring)

⁴ Appeal Refs: APP/Q4625/W/17/3191758 and APP/Q4625/W/17/31888046

⁵ R v Secretary of State and Havering Borough Council ex parte P F Ahern Limited [1998] Env LR 189, R (on the application of Stentor Music Co Ltd) v Reigate and Banstead Borough Council [2014] 7 WLUK 853, Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Communities and Local Government [2009] EWCA Civ 333 and Michael Mansell v Tonbridge & Malling Borough Council [2016] EWHC 2832

the site is well-maintained. Stables/equestrian uses are not uncommon in the countryside and, in my view, not obviously in need of enhancement. Their conversion would subsequently have a neutral effect on the openness of the Green Belt. Furthermore, I have nothing before me, such as a detailed structural survey, to be able to determine with any degree of certainty whether or not the buildings are of permanent and substantial construction sufficient to satisfy criteria (a) of Policy BE4, to enable their conversion to residential use.

24. I appreciate that the conversion indicates the provision of more than one dwelling. Nevertheless, in the absence of a planning permission having been granted, there is still a degree of uncertainty as to whether the fallback could be implemented. Furthermore, the dwellings that would be created as a result would be distinctly different to that which is sought in the indicative proposal before me, in both their scale, form and setting. For these reasons, I attach limited weight to the fallback position.
25. I also recognise that the Government seeks to boost significantly the supply of housing and that the proposal would re-use previously developed land. There would also be some minor benefits to the local economy in terms of short-term employment in the construction industry and some longer-term support to shops and businesses. Nonetheless, one unit would have a minimal impact on the overall stock, and it attracts limited weight as a result.
26. Notwithstanding that the proposal is in outline with all matters reserved, I further acknowledge that the Council has not raised specific concerns about the effects of the scheme on a number of issues, including the character and amenity of the area, landscaping, the living conditions of existing and future occupiers, highway safety, environmental health considerations and ecology, with particular regard to bats. Nor is the site close to a Conservation Area or Listed Buildings. However, in order to demonstrate compliance with the development plan, these are requirements that would have to be met for any scheme to be acceptable. They weigh neither for nor against the proposal.

Conclusion

27. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposed development would not be a suitable location for a new dwelling and it does not comply with Policies H1 and H11 of the Local Plan. No material considerations have been identified that would indicate making a decision other than in accordance with the development plan and, consequently, the appeal must fail.
28. For these reasons, the appeal is dismissed.

Kate Mansell

INSPECTOR