



Appeal Decision

Site visit made on 5 August 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2019

Appeal Ref: APP/J3720/W/19/3229417

Whitehall Farm, Buckley Green Lane, Buckley Green, Beaudesert, Henley-in-Arden, Warwickshire B95 5QE

- 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 Richard Batchelor against the decision of Stratford-on-Avon District Council.
 - The application Ref 18/00162/FUL, dated 4 January 2018, was refused by notice dated 27 November 2018.
 - The development proposed is 'Retrospective application for the change of use of the building to a single dwelling and associated external changes to material barn (01), Whitehall Farm, Buckley Green, Henley-in-Arden, Warwickshire, B95 5QE'.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The proposed change of use has already taken place, the appeal is therefore considered on this basis.

Application for costs

3. An application for costs was made by Mr Richard Batchelor against Stratford-on-Avon District Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues are:
 - whether the appeal site offers a suitable location for new housing development having regard to the Council's settlement strategy policies, and
 - whether the proposal would comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

Suitability of location

5. Policy CS.15 of the Stratford-on-Avon (2011-2031) Core Strategy (CS) explains the Council's strategic approach to the distribution of development. This seeks to deliver a balanced dispersal with Stratford-upon-Avon being the main focus

for housing. New Settlements are also intended to contribute towards growth. Main Rural Centres, such as Henley-in-Arden are considered suitable for housing on allocated land, identified in the Neighbourhood Plan (NP) and the redevelopment of land, within settlement boundaries. It also identifies that Local Services Villages should only accommodate development on sites identified in NPs and small-scale development within a village boundary or its physical confines. All other settlements would only accommodate small scale community led schemes that meet a local need. The proposal would locate a dwelling beyond the settlement hierarchy context defined by this Policy.

6. Furthermore, policy AS.10 identifies acceptable development in the countryside. Section (d) allows for the conversion of a building to residential use provided it is constructed of brick or stone, is listed or of local historic, architectural or other merit. This also states that the residential use should be the only viable use of the building. There is no evidence before me to illustrate that the residential use is the only viable option. Although the proposal might represent a low intensity use with less intrusion to the countryside than other uses, this is not the policy objective. Policy AS.10 is clear and unambiguous that it will only allow conversions in the countryside in certain circumstances which have not been achieved in this case.
7. As a consequence, the proposal would not accord with policies AS.10 and CS.15 of the CS which include seeking development that would align with the defined settlement hierarchy and to only allow residential conversions of buildings in the countryside that have no other viable alternative use.

Flood considerations

8. The barn is within flood zone 1, with the lowest part of the driveway and furthest from the proposal, being within flood zone 2. Policy CS.4 of the CS requires all development to take into account the predicted impact of climate change and minimise flood risk from all sources. It also states that proposed development within flood zones 2 and 3a would only be acceptable when a sequential test has been satisfied. However, paragraph 164 of the National Planning Policy Framework (The Framework) states that some minor development and changes of use should not be subject to the sequential or exceptions tests but should meet the requirements of a site-specific Flood Risk Assessment (FRA). Footnote 51 of the Framework defines minor development and changes of use with an exception for changes of use to a caravan, camping or chalet site, or a mobile home or park home site where the tests would be required.
9. Paragraph 155, of the Framework, states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. It also states that where it is necessary, development should be made safe for its lifetime without increasing risk elsewhere. Paragraph 163 and footnote 50, require a FRA for all development in flood zones 2 and 3. Being for a dwellinghouse the proposal would be 'more vulnerable' to flooding and it would have a 'medium' probability of flooding being partially in flood zone 2. In such circumstances, Table 3¹ of the National Planning Practice Guidance (The Guidance) explains that development would be appropriate without the requirement for an exception test.

¹ Planning Policy Guidance: Paragraph 067 Reference ID: 7-067-20140306

10. The appellant's FRA² identifies that the site slopes from 80m Above Ordnance Datum to 77.8m in the south at the entrance to the site, confirming that the southern part (the access drive) is within flood zone 2. The FRA indicates that the site would not flood, illustrated through flood depth mapping. This considered the effect of flood risk associated with the River Alne to the west of the site. The FRA recognises that this does not align with the Environment Agency 'Flood Map for Planning' probably due to a nearby land drain over topping its banks. In any event, the FRA has illustrated that flood impact would be limited. I have no evidence before me that refutes the findings of the FRA and I find the evidence clear and compelling.
11. The site has a low risk to ground and surface water flooding, although there is some risk of some flooding to the adjacent highway. This would be shallow, at 300mm, and therefore accessible to emergency service vehicles during a flood event. Due to the identified low risk of flooding no specific mitigation is required. I also find that flood risk elsewhere would not be increased. As such given the nature of the appeal site and what is proposed, I find that a sequential test is not required in this case. Furthermore, the recommendation of the FRA, requiring no mitigation, is appropriate based on the context. The FRA therefore satisfies the requirements of the Framework.
12. Given my findings above, I am satisfied that the location of the building would be unlikely to prove a significant threat to the safety of its occupiers, their visitors and emergency service's personnel. As such there would be no conflict with Policy CS.4 of the CS or the objectives of national planning policy in this regard.

Other matters

13. The barn gained planning permission³ in 2010, and renewed in 2013, to be converted into three holiday lets⁴. It was approved as it complied with policies in an older development plan and principally as it would meet rural economic objectives of the plan. However, this lapsed unimplemented and therefore is of limited merit in support of the current proposal. It therefore does not present a fall-back position which would be of greater harm than that proposed.
14. Representations⁵ indicate that the barn was historically in residential use, but this lapsed in the 1950's and resumed around 2 years ago. This break in use means that any historical use is now of limited relevance. Furthermore, on my visit I saw two fireplaces within the building, the bedroom fireplace appears on the 'existing' plan in 2013, but it is unclear when either were installed or their original purpose. Furthermore, there is no evidence before me that indicates that the current use is lawfully established.
15. I acknowledge that the Council has not raised design, landscape, ecology or highway concerns. However, an absence of harm in these respects can only be considered as neutral factors in the planning balance.
16. The site is within the West Midlands Green Belt. The Framework explains that the Government attaches great importance to the Green Belt. Paragraph 133 identifies that the fundamental aim of the Green Belt is to prevent urban sprawl

² Flood Risk Assessment, Waterco May 2019

³ Planning Application Approval: 09/02469/FUL

⁴ Planning Approval Reference: 13/00163/EXT

⁵ Stoneleigh Planning 22 November 2017 & Warwickshire Campaign to Protect Rural England 18 April 2018

and keep land permanently open. Paragraph 145 establishes that new buildings would be inappropriate unless it meets a listed exception. Paragraph 146 relates to other forms of development deemed to be not inappropriate, including the reuse of buildings. The proposal includes a small extension to the roof. The alterations are not disproportionate to the addition to the original building. I therefore concur with the main parties that the proposal would therefore not be inappropriate development in the Green Belt.

17. However, this objective is not without regard to other aims of the Framework that seek to locate new housing in areas with good access to public transport and local services.
18. Furthermore, policy CS.10a of the CS states that small scale development in the Green Belt would not be inappropriate, provided it meets a housing need identified by the local community and is in accordance with policy AS.10. As I have found harm to policy AS.10 and have no evidence that the proposal is advanced by the local community, the proposal would not accord with policy CS.10.
19. The barn is within a farm holding in the open countryside. It is therefore not isolated, also being close to the ribbon development relatively close on Birmingham Road. Paragraphs 77-78 of the Framework seek to promote sustainable development in rural areas. This supports housing that would meet local needs, enhance or maintain the vitality of rural communities and support local services. The appellant has identified that the proposal would deliver an uplift for local expenditure, provide improvements to the existing building, and contribute towards the supply of housing. However, one dwelling would have only a negligible effect on the supply of local housing or the vitality of local services. Moreover, the site is some distance from Birmingham Road, accessed via the lane of Buckley Green which has no street lights or footway. Consequently, it would offer limited safe options for occupiers other than car borne travel. As a result, the proposal would not be well located to support the rural economy.
20. The Framework promotes the effective re-use of land and underutilised buildings while safeguarding and improving the environment. As such, although the proposal would reuse the barn, its use would result in a dwelling that would be poorly connected to public transport and local services.

Planning balance and conclusion

21. Although I have not found harm to flood related matters and whilst satisfying Green Belt policy these merits would not set aside the strategic spatial objectives of the development plan. As such, the limited benefits advanced in favour of the proposal would not outweigh the conflict with the spatial strategy. Accordingly, these merits do not indicate that a decision should be made other than in accordance with the development plan.
22. For the above reasons the appeal is dismissed.

Ben Plenty

INSPECTOR