



Appeal Decision

Site visit made on 16 July 2019

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2019

Appeal Ref: APP/B3410/W/19/3227956

114 Hopley Road, Burton-on-Trent DE13 9QA

- 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 Upton against the decision of East Staffordshire Borough Council.
 - The application Ref P/2018/01389, dated 31 October 2018, was refused by notice dated 14 February 2019.
 - The development proposed is the change of use of an existing garage/games room building to form an independent dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Mick Upton against East Staffordshire Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - Whether the proposed development would provide a suitable location for housing, having regard to the spatial strategy for the area and the accessibility of services and facilities; and
 - The effect of the proposed development on the living conditions of its future occupiers with regard to privacy.

Reasons

Location of proposed development

4. The appeal site lies outside the settlement boundaries defined by the development plan. Strategic Policy 8 ("SP8") of the East Staffordshire Local Plan (2012) ("the ESLP") concerns development proposals in such locations. It sets out various types of development which will be acceptable at these. It aims, in part, to ensure that development is sited at locations with good access to services and facilities.
5. One of the types of development which is permitted outside settlement boundaries by Policy SP8 is the appropriate re-use of rural buildings, following

- guidance set out in the Rural Buildings Supplementary Planning Document¹ (2010) ("the SPD"). The general principles of the SPD set out that the document concerns both modern and traditional agricultural structures. The appeal proposes the conversion of a domestic garage and games room, and the evidence before me does not suggest that it has been subject to agricultural usage. Thus, I consider that the proposal does not form the type of development envisaged by the category concerning the re-use of rural buildings within Policy SP8 of the ESLP.
6. A further type of development which is permitted by Policy SP8 is that which is in accordance with a made Neighbourhood Plan.
 7. The Anslow Neighbourhood Plan ("the ANP") was made in 2014. The appeal site falls within the ANP area and thus the development proposal is subject to consideration according to its policies.
 8. Policy H1 of the ANP concerns new housing. It states that new residential development will be permitted outside settlement boundaries in the ANP area through the re-use of rural buildings and in other exceptional circumstances permitted under policies of the ESBC Local Plan.
 9. The ANP was made 2 years after the adoption of the ESLP, and therefore the ESLP was taken into account in its production. Furthermore, in referring to development which is permissible in the circumstances set out by ESLP policies, and in using terminology which corresponds to that employed within Policy SP8, Policy H1 of the ANP envisages development of the types set out within Policy SP8, amongst any other relevant policies. Thus, it follows that it would be necessary for the appeal structure to form a rural building for the purpose of the SPD in order to comply with the rural building provisions of policy H1. I have found above that the structure does not form such a building, and therefore the proposal does not comply with this provision within Policy H1 of the ANP.
 10. Moreover, the appeal site has a rural location which, whilst it lies within walking distance of a bus stop, a community centre, a church and a public house, is located some distance from Burton upon Trent. This is the nearest settlement to offer any significant services and facilities of the type necessary to meet day to day needs. The distance to the bus stop is such that it is likely to be onerous for those accompanied by young children or who have limited mobility, and furthermore that the walk would represent an unattractive prospect in inclement weather. The distance to facilities in Burton upon Trent and the lack of dedicated cycle provision along the roads concerned is likely to discourage the regular use of cycling as a means of transport. In view of these factors, the private car is likely to be the main mode of transport of occupiers of the proposed dwelling. Hence, the proposal's location does not offer good access to services and facilities by means other than the private car.
 11. Paragraph 79 of the National Planning Policy Framework (2019) ("the Framework") sets out that the development of isolated homes in the countryside should be avoided. The word "isolated", in this context, connotes a dwelling that is physically separate or remote from a settlement. However, the appeal site lies within a small settlement of dwellings which is linked by a relatively short section of footway to development along Hopley Road. Thus, I

¹ "The Re-use of Rural Buildings" (2010) SPD, East Staffordshire Borough Council

do not consider that the proposed new dwelling would have an isolated location for the purposes of paragraph 79 of the Framework. The appeal proposal consequently does not comply with provisions within paragraph 79 which allow for the development of isolated homes in some circumstances, which include the re-use of buildings.

12. Furthermore, paragraph 79 does not imply that a dwelling has to be “isolated” in order for restrictive policies to apply. There may be other circumstances where development in the countryside should be avoided. Thus, a proposed development may not be “isolated” as defined but this does not mean that it will accord with development plan policies that seek to prevent the location of new housing outside settlements. In any event, even though I have concluded that the development would not represent an isolated home in the countryside, this is a neutral matter that does not outweigh any identified harm.
13. Thus, the proposal would not provide a suitable location for housing. It consequently conflicts with Policy SP8 of the ESLP, and with Policy H1 of the ANP, which set out acceptable categories of development at such locations. Additional conflict exists with the aims of the Framework with regard to the location of development.

Living conditions

14. The side elevation to the proposed single storey dwelling would have wide patio doors or full height windows along most of its length. These would serve its lounge and kitchen. They would face the rear elevations to two properties, “The Yew Tree” and No 116 Hopley Road. A dense conifer hedge of some height forms part of the boundary between the appeal site and these properties. The remainder is formed by wooden fence panelling.
15. Skylights within the roof to No 116 would not cause overlooking of the proposed dwelling due to their height and alignment. Limited views between the top section of a small number of ground floor windows to No 116 and the proposed doors would be possible. However, the intervening boundary treatments and the slight angle of the proposed windows would combine to prevent any significant overlooking.
16. The hedge prevents views between The Yew Tree and the site of the proposed doors. A small first floor window to The Yew Tree would be visible from part of the kitchen window to the new dwelling. However, this is at a reasonable distance and an oblique angle, such that any unacceptable harm to the privacy of occupiers of the proposed dwelling would be avoided.
17. Furthermore, the appellant indicates that the boundary concerned is under his control, and therefore I am satisfied that the hedge could be retained, or another suitable treatment provided, in order to protect privacy.
18. Thus, the proposed development would have an acceptable effect on the living conditions of its future occupiers with regard to privacy. Accordingly, it complies with Policies SP1 and DP3 of the ESLP, which require development to protect the living conditions of future occupiers. Further compliance exists with the provisions of the Framework with regard to design.

Other Matters

19. I have taken other representations in support of the proposal into account, including a lack of disturbance from vehicle noise, a lack of visual impact, limited additional vehicular trips and the acceptability of the access arrangements. However, even if I were to concur with these submissions, they would be relatively neutral matters which attract no particular weight in my determination.
20. A need for smaller properties in accordance with a housing market assessment is additionally advanced. If such a need were proven by the evidence this would represent a benefit of the proposal, albeit of a limited scale given that it relates to only one dwelling. As such, it would not overcome the harm which I have identified above.
21. I have had regard to other matters raised including concerns about the living conditions of the occupiers of neighbouring dwellings. However, as I am dismissing the appeal on a main issue for the reasons given above, I have not pursued these matters further.

Conclusion

22. The acceptable effect of the proposed development on the living conditions of future occupiers is a neutral matter which does not overcome the harm with regard to its location which I have identified. Accordingly, for the reasons given above, the appeal is dismissed.

C Beeby

INSPECTOR