
Appeal Decision

Site visit made on 6 November 2019

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2020

Appeal Ref: APP/Y3940/W/19/3235600

**Sunnycroft, Road from Tossels Farm North East to Silver Street Calne,
Mile Elm SN11 0NE**

- 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 C Freeman and Ms C D'Arcy against the decision of Wiltshire Council.
 - The application, Ref 19/03822/FUL, dated 15 April 2019, was refused by notice dated 25 July 2019.
 - The development proposed is conversion of existing outbuilding to create separate dwelling house, with associated change of use of land, including parking, turning, landscaping, private amenity space and access.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the appeal site is a suitable location for a dwelling house, having regard to access to services, facilities and public transport connections and local and national planning policy for the provision of housing.

Reasons

3. The appeal site is located on the east side of the A3102 in countryside to the south of the market town of Calne. It lies to the north of the detached single storey dwelling of Sunnycroft, which forms part of a small group of residential properties in the hamlet of Mile Elm. Part of the site is within the residential curtilage of Sunnycroft and includes a detached, L-shaped, pitched roof outbuilding used as a garage, store and workshop in conjunction with the dwelling. There is a gravelled area to the front of the building and vehicular access from the A3102. The remainder of the site is grassed, comprising an area of residential garden to the rear of the outbuilding, and paddock land to the front and north side of the building, which lies outside the existing residential curtilage. The front, north side and rear boundaries of the paddock are defined by mature landscaping, so that the site is well-contained.
4. The development comprises alterations to the outbuilding to convert it into an independent, one and a half storey, three bedroom dwelling. Proposed works include the removal of an external staircase, installation of new window and door openings, including dormer windows and roof lights, internal insulation of the existing external walls and new internal partition walls and doors. Parking

for the new dwelling would be provided to the side of the building, accessed via the existing access onto the A3102, which would also be used by the host property which would have its own independent parking area. The development also proposes the change of use of land in front of, and to the north side of the outbuilding from agricultural to residential use, to be incorporated into the garden of the new dwelling.

5. The Council's strategy with respect to the location of new development is set out in Core Policies 1, 2 and 8 of the Wiltshire Core Strategy 2015 (WCS), identifying the settlements where sustainable development will take place and strictly controlling new development outside the identified settlement boundaries. These policies are broadly consistent with the National Planning Policy Framework (the Framework) aims of promoting sustainable development in rural areas by requiring housing to be located where it will enhance or maintain the vitality or rural communities. The Council has confirmed that Mile Elm is not classified as a settlement in the WCS. Therefore, in planning policy terms, the site is located within the countryside.
6. Following my site inspection, I concur with the Council, in that occupants of Mile Elm would realistically expect to travel by private car to access day-to-day facilities and services, given lack of such facilities within the hamlet. Furthermore, the distance to the nearest main town of Calne, and the busy, fast nature of the A3102, which is lacking in footpaths in places, is not conducive to easy accessibility to Calne by means of walking or cycling. Although there is a bus stop nearby to the south of the site, this serves a relatively infrequent route between Calne and Heddington. As such, I consider that the future occupiers of the proposed dwelling would be heavily reliant on the use of the private motor vehicle to gain access to the most basic level of services.
7. The appellant has not put forward any evidence that the proposed dwelling is required for agricultural, forestry or other rural based enterprise or satisfies the other special justifications set out in Saved Policy H4 of the North Wiltshire Local Plan 2001 (NWLP). Therefore, without any clear circumstances to justify a dwelling, I consider that the site is not a suitable location for new residential development within the confines of this policy.
8. Although the appeal site is located adjacent to residential properties to the north and south, both parties are agreed that the site is an isolated countryside location having regard to paragraph 79 of the Framework. I agree, having regard to the Braintree caselaw¹. Notwithstanding the above, the appellant has advanced a case that the proposal should be considered against paragraph 79 of the Framework, which states that planning decisions should avoid isolated homes in the countryside unless one (or more) of a set of circumstances apply. The appellant has drawn my attention to paragraph 79 (d) which refers to the subdivision of an existing residential dwelling, and a recently allowed appeal decision² which considered this issue. The Council has also referred to another recent appeal decision³ which considered the same issue in respect of paragraph 79 (d) but was dismissed. Both cases involved the change of use of a detached ancillary outbuilding to an independent residential dwelling.

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

² Reference APP/Z1510/W/19/3223373 dated 17 June 2019

³ Reference APP/D3830/W/18/3212493 dated 30 May 2019

9. I consider the case referred to by the appellant to be materially different to the proposal before me. In making this judgement, I have had regard to the planning history of the appeal site and the nature of the appeal proposal. Planning permission Ref 02/00377/FUL dated 15 May 2002, granted permission for the change of use of agricultural land to residential and erection of a building to accommodate stables, store, tackroom, garage and workshop, to be used in conjunction with, and ancillary to, the use as a single dwelling house. Whilst falling within a residential use, the outbuilding was not specifically designed for habitable living accommodation. Whilst the building is structurally capable of supporting the proposed accommodation, alterations are required to the building to bring it into habitable use in practical terms, as proposed in the appeal scheme. This differs from the allowed appeal referred to by the appellant, where the annexe had been in residential use for a number of years, providing increased accommodation available to the main dwelling, and being "capable in its current state, as being used as a separate dwelling".
10. Furthermore, the existing residential curtilage of Sunnycroft is clearly defined through condition 13 of permission 02/00377/FUL, and the subsequent planning approval, Ref N/12/00922/FUL, dated 11 July 2012, for the change of use of part of paddock to domestic curtilage and erection of greenhouse, fruit cage and shed. As such permission is required for the change of use of the paddock land to the front and north side of the outbuilding, from agricultural to residential use, and this constitutes part of the appeal proposal.
11. Whilst the outbuilding, garden land to the rear and access and parking area to the front of the building are all within the residential curtilage of the existing dwelling at Sunnycroft, the remainder of the paddock land within the appeal site is not. Hence the development would amount to the subdivision of the residential plot to form two planning units together, with the change of use of additional land from agriculture to residential use in association with the additional plot. Whilst the Council has raised no objection to the change of use of the agricultural land to residential, having regard to the visual impact on the character and appearance of the countryside, in terms of the sustainability objectives of paragraph 79, this is not a scenario for which paragraph 79 is intended to support.
12. The appellant has put forward Core Policy 48 of the WCS in support of the appeal proposal. I agree with the Council that this policy is not relevant to the development, in that it relates to the conversion and re-use of 'rural' buildings rather than ancillary residential buildings, and refers to the re-use of redundant or disused buildings for residential purposes. From my site inspection I found that the existing outbuilding is not redundant or dis-used. Notwithstanding this, the reference to Core Policy 48 does not affect my consideration of the proposal against paragraph 79 (d) of the Framework.
13. The appellant has also drawn my attention to two recent planning approvals by the Council, Ref 18/09833/FUL, dated 30 November 2018, and 17/08631/FUL, in support of the case for allowing the appeal under paragraph 79 (d). From the details provided by the appellant in respect of the former permission, I do not find the circumstances to be directly comparable with the appeal proposal, since in that case, the residential outbuilding to be converted comprised a vacant, bungalow-style annex which had already been used as habitable living accommodation but was no longer required for ancillary residential or staff

purposes. Alternative uses, other than residential were considered, but were found to be impractical given the siting of the building.

14. I do not have full details of the latter case referred to by the appellant, other than that it relates to the conversion of a former aircraft hanger into residential use to allow the extension of a previously approved barn conversion to a new dwelling approved under Ref 15/05402/PNCOU, which the Council confirms was assessed under planning legislation of the General Permitted Development Order 2015. As such, these cases do not persuade me to alter my conclusion in respect of the acceptability of the appeal proposal.
15. Taking all of the above factors into account, I conclude that the proposal would not result in the subdivision of an existing dwelling and therefore would not provide any of the circumstances where an isolated dwelling in the countryside is supported by paragraph 79 of the Framework.
16. On the basis of all the evidence before me, and for the reasons given above, I conclude that the location of the appeal site is such that the creation of an independent dwelling would not be appropriate, having regard to local and national planning policy for the provision of housing, as well as access to services, facilities and public transport connections. The proposal would be contrary to Core Policies 1, 2, 8, 60 and 61 of the WCS and Saved Policy H4 of the NWLP. These policies, amongst other things, set out the Council's approach in relation to the settlement hierarchy, to ensure that new developments are situated in sustainable locations, represent a sustainable pattern of development, reduce the need to travel, particularly by private car, and encourage the use of sustainable transport alternatives, as well as seeking to ensure that new homes in the countryside are only permitted if there is special justification in order to protect the countryside's intrinsic character. These policies are consistent with the sustainable development and housing aims of the Framework.

Conclusion

17. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR