



Appeal Decision

Site visit made on 30 October 2019

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2020

Appeal Ref: APP/L1765/W/19/3233362

2 Lower Farm, Parsonage Lane, Durley SO32 2AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Kim Kelly against the decision of Winchester City Council.
 - The application Ref 18/02674/FUL, dated 20 November 2018, was refused by notice dated 8 May 2019.
 - The development proposed is described as 'conversion of outbuildings to create a single, 3 bed dwelling, to include the sub-division of the site and setting out of a curtilage to provide amenity space and parking for each dwelling. Alterations to the outbuildings include; insertion of rooflights, alterations to external openings, provision of an entrance porch, re-roofing, new chimney, internal mezzanine and a first floor mezzanine extension to the north west elevation. Alterations to the site entrance to provide access to each dwelling, together with a new boundary wall fronting Parsonage Lane. Erection of a new boundary wall to sub-divide the plot'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the site constitutes a suitable location for a dwellinghouse, having regard to national and local planning policies, which seek to restrict housing development in the countryside.

Reasons

3. Policy MTRA 3 of the Winchester District Local Plan Part 1 – Joint Core Strategy¹ (LPP1) sets out the spatial strategy for the market towns and the rural area, where the purpose of development should be to meet local needs. The appeal site is located in Durley, which is listed as a settlement with no clearly defined settlement boundary where, in accordance with Policy MTRA 3, development and redevelopment that consists of infilling of a small site within a continuously development road frontage are considered acceptable in principle.
4. The proposal relates to the conversion of an existing rural building which is set back from the road. Although the building is already in place, it would nonetheless involve the provision of a new dwelling, with its associated residential curtilage. Accordingly, the appeal scheme would not accord with the requirements of LPP1 Policy MTRA 3.

¹ Adopted March 2013.

5. In such circumstances, the proposal has to be assessed against the requirements of LPP1 Policy MTRA 4, which focuses on development in the countryside. Policy MTRA 4 defines the countryside as land outside the built-up areas of Winchester, Whiteley and Waterlooville and the settlements covered by Policies MTRA 2 and MTRA 3. Having regard to the requirements of Policy MTRA 4, development in the countryside is only permitted in restrictive circumstances, and limited to development proposals which have an essential need to be located in the countryside. The proposed development would not meet any of the criteria listed by Policy MTRA 4, and would therefore not accord with this policy.
6. Policy DM32 of the Winchester District Local Plan Part 2² (LPP2) permits the change of use of redundant agricultural and other rural or industrial buildings of historic or architectural interest such as the appeal building. The Council accept that the building is capable of conversion without significant structural alterations or replacement. Furthermore, no objection has been raised by the Council's Historic Officer in respect of the alterations required to enable the conversion of the building, which is regarded as a non-designated heritage asset. However, Policy DM32 requires that the conversion of such buildings also accords with the Development Plan. In instances where the building is proposed for residential conversion, it must also be demonstrated that other uses have been properly considered and justifiably discounted.
7. The information submitted as part of the appeal indicates that a number of non-residential uses have been considered. The provision of a community use would be unlikely to represent a realistic proposition, particularly by reason of the number of existing facilities that already fulfil this function within Durley, and the car parking provision that would normally be required. It is also accepted that the level of parking required for other potentially suitable uses could not be accommodated on site, and such proposals would therefore be unlikely to be considered acceptable in planning terms. Furthermore, it seems reasonable to discount industrial and storage uses, by reason of the site's proximity to an existing residential property.
8. Mixed use schemes comprising a holiday let and an office element have also been discounted, because of the parking requirements associated with these uses, and for amenity reasons. Whilst the submitted evidence does not explore the possibility of a 3-bed holiday let with office which, the Council suggests, would accord with their parking requirements, I accept that such a mixed use scheme could nevertheless give rise to amenity issues.
9. Proposals for the reuse of existing rural buildings for tourist accommodation are permitted by Policy MTRA 4. In that regard, I note that planning permission was granted in 2016³ for the conversion of the outbuildings into 2 self-contained holiday lets, with associated parking and a garden for each unit. According to the submitted evidence, the appeal premises were marketed by Ian Judd & Partners, firstly alongside the main property known as 2 Lower Farm between April and September 2017, and then separately from September 2017. I understand that the marketing exercise notably included the preparation of sales particulars, but also advertising on property websites and in the local press.

² Adopted April 2017.

³ Local Planning Authority Reference 16/02860/FUL.

10. LPP2 Policy DM32 does not set specific requirements in respect of the time period considered appropriate for the marketing exercise. Nevertheless, whilst the premises were overall marketed for a period of 9 months, they were initially being advertised alongside the host property, which could have deterred prospective purchasers from submitting an offer. The premises were only separately marketed for a period of approximately 3 to 4 months. On this basis, it cannot be concluded with certainty that there is no demand for the outbuildings to be used as tourist accommodation or other non-residential uses, regardless of the appellant's reasons for acquiring the appeal premises.
11. The appellant argues that the lack of demand for the outbuildings could be explained by the lack of perceived demand for holiday rentals in Durley, which is some distance from any tourist attraction. However, having regard to the map showing tourist attractions in the area, it seems to me that, on the contrary, the premises are well located in that respect, being for example relatively close to Winchester, Southampton and the South Downs National Park.
12. There are wide disparities between the different quotes which have been submitted as part of the proposal, but I accept that the costs associated with the conversion of the appeal premises would be significant, irrespective of whether they would then be used as a holiday let, a dwellinghouse or for another purpose. However, although several quotes in respect of the costs that would be associated with the conversion to tourist accommodation have been brought to my attention, limited information is before me to explain how the projected letting income, which was obtained from local agents, has been arrived at. On this basis, I cannot be satisfied that the projection, which formed the basis of the viability assessment, reflects the letting income for comparable types of accommodation in the area, in terms of their size and offer. Consequently, I am unable to conclude that the use of the premises as holiday lets has been justifiably discounted.
13. The appellant considers that the proposal would accord with paragraph 78 of the Framework, by being located where it would enhance and maintain the vitality of rural communities. To that extent, a number of facilities have been identified within walking and/or cycling distance of the appeal site, including a Memorial Hall, pre-school, primary school, recreation ground, equestrian centre and public houses. However, the absence of a continuous roadside pavement to access some of the places identified by the appellant would constitute a disincentive to journeys on foot.
14. Future occupiers would have to travel further afield to access most everyday facilities and services, such as shops. Despite the site's proximity to a bus stop, the relatively limited frequency would require occupiers to plan their journeys in advance around bus services, which would lessen the appeal of this mode of transport as an alternative to the private car. Overall, I therefore consider that, for convenience purposes, there is a greater likelihood that for the large majority of trips, residents would rely on private motor vehicles, which is the least sustainable mode of transport.
15. For the foregoing reasons, I consider that the appellant has failed to satisfactorily demonstrate compliance with the requirements of LPP2 Policy DM32. On the basis of the evidence before me, I am unable to conclude with certainty that the conversion of the premises to a dwelling would constitute

their optimal viable use, and that it has been satisfactorily demonstrated that the previously permitted holiday let in particular would not be viable. The appeal site would not constitute a suitable location for a dwellinghouse, having regard to national and local planning policies, which seek to restrict additional residential development in the countryside. The proposal would therefore fail to accord with LPP1 Policies MTRA3 and MTRA4.

Other Matters

16. There is no suggestion that the Council is currently unable to demonstrate a five-year supply of deliverable housing sites. However, the appellant contends that the policies most relevant to the determination of the proposal are out of date, and that paragraph 11d) of the National Planning Policy Framework (the Framework) therefore applies. However, policies should not be treated as out of date simply because of their age or because the development plan is time expired. Weight should be given to existing policies according to their degree of consistency with the policies in the Framework⁴.
17. I ascribe significant weight to the Council's spatial strategy and settlement boundaries which, insofar as is relevant to the appeal, are broadly consistent with the Framework, by seeking to focus development in settlements and in the countryside in specific circumstances. Additionally, I note that the housing needs and targets for the District were subject to detailed scrutiny as part of the development of the LPP1 and the settlement boundaries were not reviewed as part of the preparation of the LPP2, which was adopted in 2017. The policies which are most relevant to the determination of this appeal are not considered out-of-date and therefore, the presumption set in paragraph 11 of the Framework does not apply in this instance.
18. I accept that changes to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) were notably introduced as a way of increasing rural housing through the re-use of agricultural buildings. Notwithstanding the above, there is no dispute between the parties that the appeal premises would not meet the relevant criteria set under Schedule 2, Part 3, Class Q of the GPDO. I therefore attach little weight to this consideration in the context of this appeal, which needs to be determined in accordance with the development plan, unless material considerations indicate otherwise.
19. My attention has been drawn to Winchester District Authorities Monitoring Report (2017-2018), which identifies a total of 127 individuals having registered their interest for a self and custom build plot in the district. Among the people listed on the Council's Self and Custom Build Register, there are 4 individuals who would like to live/develop in the Durley parish. The appellant indicates that the appeal scheme would partially meet the demand for self-build in this area. The demand for self-build plots is not disputed by the Council. Nevertheless, in the absence of a legal agreement, there would be no mechanism to secure the delivery of the proposed scheme as a self-build dwelling, thus limiting the weight which can be afforded to this consideration. Whilst the proposal would make a contribution towards housing supply and choice, the benefits resulting from the provision of a single dwelling would nevertheless be modest.

⁴ Paragraph 213 of the Framework.

20. The appeal site lies within 5.6km of the Solent Special Protection Area (SPA). There is a need to contribute towards mitigation measures due to the potential adverse impact that residential development may cause to this sensitive area. The Council has also expressed concerns over excess levels of nitrates entering freshwater notably as a result of residential development, which are causing a dense growth of certain plants, otherwise known as eutrophication, and adversely affect the SPA.
21. As I am dismissing the appeal on other substantive grounds, these are not matters, which need to be considered further here. However, had I considered the development acceptable in all other respects, I would have sought to explore the necessity for undertaking an Appropriate Assessment, to ensure the proposal's compliance with Habitats Regulations, in light of the decisions⁵ by the Court of Justice of the European Union.
22. A number of third parties have expressed support for the proposal, which I have taken into account. I have also had regard to the comments provided by the Parish Council. However, for the reasons detailed above, they do not persuade me to reach a different conclusion.

Conclusion

23. Having regard to all matters raised, I conclude that there are no material considerations which indicate that the appeal scheme should be determined, other than in accordance with the development plan. The proposal would not accord with the development plan and the appeal should therefore be dismissed.

S Edwards

INSPECTOR

⁵ People over Wind, Peter Sweetman v Coillte Teoranta (Case C-323/17) and Cooperative Mobilisation for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Case C-293/17 and C294/17).