



Appeal Decision

Site visit made on 6 January 2020

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2020

Appeal Ref: APP/D1265/W/19/3238662

East Farm, Hammoon, Sturminster Newton, Dorset, DT10 2DB.

- 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 Tweddell against the decision of Dorset Council (the LPA).
 - The application Ref. 2/2019/0770/FUL, dated 5 June 2019, was refused by notice dated 31 July 2019.
 - The development proposed is *demolish small agricultural barn with prior approval to convert to 2 dwellings under 2/2017/0378/AGDWPA dated 26.04.17, erect 2 dwellings and garage building.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In April 2017, prior approval¹ was granted for the change of use and conversion of the agricultural building on part of the appeal site into two 1 bedroom dwellings (ref. 2/2017/0378/AGDWPA). The LPA has informed me that the conditions attached to that approval have been discharged and that prior approval was recently renewed (ref. 2/2019/1240/AGDWPA). The appellant, with reference to case law², has argued that this is a fallback position. I shall address this matter as part of my reasoning below.
3. The LPA is unable to demonstrate a five year supply of deliverable housing sites (HLS). On behalf of the appellant, I have been informed that there is only 3.3 years HLS. This would amount to a significant shortfall in supply. The 'tilted balance' contained within paragraph 11(d) of the National Planning Policy Framework (the Framework) is engaged.

Main Issue

4. The main issue is whether any adverse impacts of the proposal, having particular regard to any conflict with local and national planning policies for the location of new housing and the impact upon the character or appearance of the area, would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.

Reasons

Local and National Planning Policies

5. The development plan includes the North Dorset Local Plan Part 1 2011-2031 (LP), which was adopted in 2016. The most relevant LP policies to the determination of this appeal are 2 (spatial strategy) and 20 (the countryside).

¹ Under Class Q of the Town and Country Planning (General Permitted Development) Order 2015 [GDPO].

² Mansell v Tonbridge and Malling BC [2017] EWCA Civ 1314.

6. To ensure that homes, jobs and facilities are easily accessible LP policy 2 seeks to focus the vast majority growth in the main towns. Outside these areas, where access and proximity to services is more limited, development is more strictly controlled with an emphasis on meeting local and essential rural needs. This approach is broadly consistent with the provisions of the Framework.
7. The appeal site lies within a hamlet. However, it does not form part of a village or group of smaller settlements that have been identified as a focus for growth outside the main towns. It is part of the countryside³, to which LP policy 20 applies. Furthermore, the proposed development is not one of the types specified in LP policy 20 that are deemed appropriate within the countryside. This policy is consistent with the rural housing provisions of the Framework.
8. I note the appellant's argument that, given the HLS situation, LP policy 20 should be treated as out of date. However, it is not a policy for the supply of housing. Moreover, whilst the LPA may have to release some areas of the countryside in order to meet its housing requirement, the most likely focus for this would be around the main towns and villages rather than hamlets, such as Hammoon, that have very limited services and facilities.
9. On behalf of the appellant, I have been informed that it is the intention to accommodate some of the staff who are employed on this 200 hectare farm within the proposed dwellings. However, the application/appeal has not been advanced on the basis of any essential need and it is unclear why the approved one bedroom units would be insufficient to meet any such need. It has not been demonstrated that there is an "*overriding need*" for the proposed development to be located within this part of the countryside.
10. The proposal would not be conveniently located with regards to services and facilities and would not meet any local or essential rural needs. It would conflict with the provisions of LP policies 2 and 20 and the rural housing provisions of the Framework. I attach considerable weight to this conflict.

Character and Appearance

11. The appeal site includes the concrete walls of a small barn and the remains of its steel framed roof⁴. It lies within a farmyard and is immediately adjacent to two other former agricultural buildings that have been converted into residential use⁵. A mobile home (which I understand is occupied by an agricultural worker) is stationed approximately 20 metres to the north and in close proximity to a large Dutch barn⁶. The proposed dwellings would be built on the site of the mobile home and a new garage block (for use by the occupiers of the two converted buildings alongside) would be constructed on the site of the small barn that has prior approval for 2 one bedroom units.
12. Although the proposed buildings would not encroach into any surrounding fields, their combined 'footprint' would be larger than the barn and mobile home that currently occupy part of the site. These new buildings would also have a larger mass than the small barn and mobile home and the proposed

³ For the purposes of the LP, the countryside is defined as all land outside the settlement boundaries of the main towns, unless settlement boundaries are defined in a neighbourhood plan or Part 2 of the LP.

⁴ I understand that the barn was built in about 1980 and the roof covering was removed in 2016.

⁵ One of these is described by the appellant's agent as an "open market dwelling" and the other as "holiday lets".

⁶ At the time of my visit, this barn was being used for the storage of silage and agricultural machinery.

dwelling would be taller than this existing barn. The residential curtilages would also be larger than the approved small barn conversion.

13. The proposed buildings would be visible from the public highway to the east. Whilst not be especially prominent, they would be discernible as new residential/domestic buildings and would erode the open, rural qualities of this part of the countryside. The development would have an adverse effect upon the character and appearance of this part of the countryside. This adds additional (moderate) weight to the case for withholding planning permission.

Benefits

14. I note the claimed benefits made on behalf of the appellant. Whilst the permitted barn conversion would be in close proximity to the buildings that have already been converted, the proposed garage block would be even closer to one of these existing buildings. It is very far from certain that the proposal would result in a more suitable living environment.
15. It is also by no means certain that the proposed dwellings would be constructed to a higher energy efficient standard than the approved barn conversion. Much depends on the method of construction and any benefit is likely to be very limited. If a fallback exists, the proposal would not provide any additional benefits in terms of addressing the shortfall in HLS.
16. The landscape planting that is proposed as part of the appeal scheme would be beneficial. However, this would not diminish the impact of the proposed dwellings. It is also unclear to me why the appellant would not wish to undertake such planting as part of the existing conversion schemes alongside. New planting would enhance the attractiveness of buildings from which the appellant is expecting to derive additional income.
17. I attach very little weight to the claimed benefits of the appeal scheme.

The Fallback Position

18. For there to be a fallback position there must be a real prospect (more than a theoretical possibility) of the permitted barn conversion taking place. In this regard, I note that several years have passed since prior approval was first issued and the roof covering removed. However, following the 'renewal' of prior approval in 2019 the appellant now has several more years in which to undertake the conversion works.
19. Whilst some of the appellant's claimed benefits of the appeal scheme could be interpreted as a reluctance to undertake the conversion works, on balance, there is a clear possibility of this scheme being undertaken. In this regard, I am mindful of the recent conversion works undertaken by the appellant on the neighbouring buildings.
20. On the basis of the information before me, it appears that the appellant is committed to developing this part of his farm to its full potential. The permitted barn conversion is a fallback position available to him. I shall therefore take it into account.
21. Both the fallback and the appeal scheme would result in the provision of two additional dwellings within the countryside at odds with the provisions of the

LP⁷. Nevertheless, I have identified above some material differences between the permitted scheme and the fallback, not least the increase in size and massing of the appeal buildings, as well as and the proposed garden areas. These are important material differences. In comparison to the fallback, the appeal scheme would have a greater impact upon the character and appearance of this part of the countryside. This impact would be adverse and the fallback does not outweigh the harm that I have identified above.

22. I note the findings of another Inspector who, having also considered a fallback of a prior approval scheme, allowed an appeal⁸ on a different site in Dorset. However, unlike that development, neither the siting nor the design of the proposed dwellings in the appeal before me would be preferable to the fallback. I also note that in the Tonbridge case, the planning officer found that the exercise of permitted development rights would be detrimental to the site as a whole. This is also different to the situation before me. Whilst mindful of these cases, I have determined this appeal on its own merits.

Other Matter

23. I have also reminded myself of the purpose of the Class Q of the GDPO. Whilst my decision does not turn on this matter, this part of the GDPO was introduced, amongst other things, with the following objectives: new opportunities for sustainable development through the reuse of existing buildings; changes of use with the minimum need for planning permissions and; the avoidance of the proliferation⁹ of buildings.
24. The proposed development would result in the demolition of an existing building that has approval to be converted, the erection of two new buildings and, has entailed the submission of a both a planning application and an appeal. The proposal is at odds with the above noted objectives.

Planning Balance / Overall Conclusion

25. When all of the above are weighed together, I find that the adverse impacts of the proposal (the conflict with local and national planning policies for the location of new housing and the impact upon the character or appearance of the area) would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole. I therefore conclude that the appeal should not succeed.

Neil Pope

Inspector

⁷ The provisions of section 38(6) of the Planning and Compulsory Purchase Act 2004 did not apply to the fallback.

⁸ APP/N1215/W/18/3200120.

⁹ The very close proximity of the proposed two bedroom houses to the Dutch barn could result in future pressure to cease the agricultural use of this building and provide the necessary floorspace elsewhere on the holding. Whilst not a building, it is also unclear if the existing mobile would be relocated to another part of the holding.