
Appeal Decision

Site visit made on 4 February 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Appeal Ref: APP/J3720/W/19/3240141

Castle Hill Copse Farm, Castle Hill Lane/Tysoe Road, Upper Brailes OX15 5AS

- 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 and Mrs M Barnes against the decision of Stratford on Avon District Council.
 - The application Ref 19/02006/FUL, dated 17 July 2019, was refused by notice dated 12 September 2019.
 - The development proposed is the conversion and modification of existing barn to residential dwelling, removal of polytunnel, utilisation of existing access and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Brailes Neighbourhood Development Plan 2011-2031 (NP) was made in December 2019 and now forms part of the development plan. Given the advanced stage of the plan at the time the application was determined, reference was made to the emerging policies in the Council's delegated report and both parties have had the opportunity to comment on the NP as part of their case during the appeal. On that basis, I am satisfied that no injustice will result from my consideration of the NP as part of my determination of the appeal.

Main Issue

3. The main issue is whether the site is in a suitable location for housing having regard to local and national planning policies.

Reasons

Location of the site

4. The Stratford-on-Avon District Core Strategy 2011-2031, July 2016 (CS) describes Stratford-on-Avon as a predominantly rural district¹. As part of the strategy towards the rural area, policy AS.10 of the CS seeks to limit the nature and scale of development taking place in the countryside and villages of the district. This is in order to help maintain the vitality of rural communities

¹ Paragraph 6.12.4 Stratford-on-Avon District Core Strategy 2011-2031, July 2016

and a strong rural economy. Support for residential development outside of the defined Built-Up Area Boundaries (BUAB) in the CS is limited to nine specified scenarios². This is consistent with policy E2 of the NP which supports residential development within the defined BUAB for Brailes.

5. The appeal site concerns an existing modern agricultural barn east of Castle Hill Lane some distance from Upper Brailes, which is where the nearest local facilities are located. It is therefore outside of a BUAB as defined in the CS and NP, and for the purposes of the development plan is in the countryside. The appellants have indicated that they no longer have an agricultural requirement for the building as part of their wider holding, and from their perspective, it is therefore redundant.
6. It is the appellants' view that the proposal would accord with one of the supported scenarios for residential development as referred to in policy AS.10(d). This states that residential development meeting the following criteria would be acceptable in principle: *'Conversion to a residential use of a redundant or disused building in open countryside, constructed of brick or stone, that is listed or of local historic, architectural or other merit. In such cases, residential should be the only viable use and the building should be capable of conversion in a manner that is appropriate to its character and setting.'*
7. However, the modern barn is constructed from concrete block walls and sheeted cladding over a steel portal frame³ rather than brick or stone. Neither is it part of the appellants case that the building is listed or of local historic or architectural merit. The appellant highlights that modern portal framed buildings are not unusual in the countryside. However, this would tend to counter the assertion that it has 'other merit', the wording of which implies some notable aesthetic or other characteristic that distinguishes it from the commonplace. As such, notwithstanding the viability report submitted, the evidence does not show that the building complies with the requisite criteria under policy AS.10(d). Neither is it shown that the proposal would fall within any of the other scenarios described in policy AS.10 where residential development is supported.
8. Moreover, policy SE2 of the NP, although broadly consistent with the approach in policy AS.10 of the CS, is more restrictive than AS.10(d) in that, subject to specified criteria, support is only given for the conversion of redundant agricultural buildings built of traditional materials and of architectural merit to permanent business space or residential tourist accommodation in preference to residential use. The explanation behind policy SE2 refers to the desire for the economy in the village to be maintained. There is no direct support in the NP for the conversion of modern agricultural buildings to other uses, which would be consistent with maintaining their economic contribution towards the rural economy.
9. Policy AS.10 further stipulates that all other development in the countryside will need to be fully justified, offer significant benefits to the local area and not be contrary to the overall development strategy for the district. I have had regard to the viability appraisal⁴ provided by the appellants that indicates that

² Policy AS.10, Residential (b)-(j)

³ Section 7 Planning application form

⁴ Howkins & Harrison Viability Appraisal dated 19 June 2018

the most appropriate and viable use of the barn would be a residential conversion based on the limited alternatives considered. Nevertheless, whilst this provides some justification, I have concerns regarding the rigour of the analysis for the following reasons. Firstly, there is limited evidence provided to substantiate the assumptions made in the financial analysis. Secondly, there is only limited consideration of the nature of the local rural economy in the area and its potential to support either the continued use of the building in an agricultural use or as part of a rural business that did not comprise a B1 or B8 class use. Taken in combination, I am not assured that all the potential alternatives have been fully assessed.

10. My findings in this regard are broadly consistent with the approach of the Inspector in the appeal⁵ to which I am referred. Whilst there are some notable differences in the circumstances of the appeal proposal, there are similarities with the consideration of policy of AS.10(d) and viability that resonate with the scheme before me. As such, it is of moderate weight.
11. In addition, the provision of one additional dwelling is not of a scale whereby it would deliver significant benefits to the local area. I acknowledge there would be economic benefits for the appellants, and some short and long term economic benefits associated with the conversion and activity of the future residents. Nevertheless, these would be modest in nature rather than significant. Taking these factors together, the evidence does not show that the circumstances of this case fulfil the criteria in policy AS.10 of the CS, and therefore the proposal would conflict with it.
12. Paragraph 77 of the National Planning Policy Framework (the Framework) states that planning policies and decisions should be responsive to local circumstances and support housing development that reflect local needs. In addition, paragraph 78 indicates that housing should be located where it will enhance or maintain the vitality of rural communities. Although policy AS.10 predates the Framework, this is not true of the recently adopted NP which carries full weight. Moreover, paragraph 213 states that policies should not be considered out of date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them according to their degree of consistency with it.
13. Policy AS.10 of the CS generally reflects the approach in paragraphs 77-78 of the Framework in relation to rural housing. However, it is more stringent than paragraph 79 which indicates that decisions should avoid the development of isolated homes in the countryside unless it meets specific exceptions, one of which is the re-use of disused buildings that enhances the immediate setting. Given the distance of the appeal building from other built form, and the surrounding rural environment, I consider that the appeal proposal would result in an isolated home in the countryside.
14. The proposal would reuse an existing building. However, I do not consider that it is shown that the proposal would enhance its immediate setting for the following reasons. The existing building is a modern agricultural building in good condition, which it is accepted is commonplace and appropriate to the rural setting. I observed that the building and its surroundings, including the polytunnel, forms part of, and contributes towards, the rural agricultural character of the area. The introduction of a residential use with its consequent

⁵ Reference APP/J3720/W/17/3190820

associated garden, parking, lighting, domestic effects and everyday activity would not enhance the immediate rural and agricultural setting of the building. Whilst I acknowledge that there would be potential for additional landscaping around the building, this is nevertheless likely to be commensurate with a domestic curtilage. Although I acknowledge that the Council have not found harm in relation to the design of the converted building, this does not necessarily equate to evidence of a positive enhancement of the immediate setting but rather reflects a more neutral position.

15. I am referred to Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 which sets out permitted development for the change of use and some associated building operations relating to the conversion of agricultural buildings to dwellings. There is no dispute between the parties that the scheme before me falls outside of the limitations of the permitted development in Class Q. Accordingly, the fact that this applies in other circumstances is of little weight in relation to the appeal proposal, which must be assessed against the development plan policies and national policy.
16. Therefore, I find that the site would not provide a suitable location for housing and would result in an isolated home in the countryside contrary to paragraph 79 of the Framework. Furthermore, for the reasons outlined it would be contrary to policy AS.10 of the CS and policy SE2 of the NP. The Council also refers to policy CS.1 of the CS in the refusal reason on their decision notice. However, this is a general policy setting out the overall approach towards sustainable development. Given its broad scope, I have not found a direct conflict in relation to this policy.

Other matters

17. I am referred to the level of local support for the proposal, some of which attest to the positive contribution that the appellants have made to the local area, which I do not doubt. Whilst I have taken into account the representations received both in support and objection to the scheme, I am required to assess the proposal against local and national planning policies. Therefore, expressions of support are not, of themselves, a sufficient basis to determine the development other than in accordance with the adopted development plan.
18. One letter of support⁶ refers to two modern barn conversions having been permitted in the local area. However, as I am not provided with the full details of the cases, this inhibits a comparison with the circumstances of the appeal proposal. As such, they attract little weight.
19. The appellants point to inconsistency by the Council in relation to the requirements for viability evidence when considering proposals against policy AP.10(d) of the CS. Be that as it may, it will be seen from my reasoning that I did not find that the proposal met the qualifying criteria of policy AP.10(d) and therefore, the approach of the Council to other cases that may have fulfilled those criteria are of little weight. Nevertheless, in determining the proposal on its own merits, I have had regard to the submitted viability appraisal.

⁶ K Durham

Planning balance and conclusion

20. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁷. The proposal would conflict with policy AS.10 of the CS and policy SE2 of the NP which attracts significant weight. Furthermore, it would result in an isolated home in the countryside that is not supported by paragraph 79 of the Framework which further counts against the proposal.
21. The proposal would contribute to the overall housing supply and there would be some associated economic benefits. Nevertheless, the extent of benefits arising from the provision of one dwelling would be modest and therefore, these attract limited weight.
22. In support of the proposal the appellants, and some representations, highlight that no objection was raised by the Council in relation to other policies within the CS⁸ and that no harm was identified in relation to the design of the building, the living conditions of residents or on landscape, ecological, drainage, heritage or highway grounds. Be that as it may, the absence of identified harm in relation to these matters is a neutral factor in the overall balance. It does not count in favour of the proposal as they are matters that would have had to be addressed in any event.
23. Therefore, the reasons put forward would not justify departing from the local and national planning policies identified which resist housing in the countryside unless specific circumstances are met. Hence, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

⁷ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

⁸ Policies CS.5 Landscape, CS.9 Design and Distinctiveness, CS.11 Cotswolds Area of Outstanding Natural Beauty, CS.15 Distribution of Development, CS.16 Housing Development and CS.20 Existing Housing Stock and Buildings – paragraph 72 Appellants' Appeal Statement