
Appeal Decision

Site visit made on 14 January 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2020

Appeal Ref: APP/T3725/W/19/3239363

Building adjacent to Little Manor Farm, Manor Lane, Pinley Green, Warwick CV35 8NH

- 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 A Townsend against the decision of Warwick District Council.
 - The application Ref W/19/0350, dated 1 March 2019, was refused by notice dated 26 April 2019.
 - The development proposed is change of use of a building to create a three bedroom dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be consistent with local and national planning policies relating to the location of new housing and, if so, would it lead to an enhancement of the site;
 - Whether it would provide acceptable living conditions for future occupiers, with specific regard to outlook and light; and
 - The effects on protected species.

Reasons

Location of site

3. The appeal site is located outside of the settlement boundary of Claverdon as defined by Policy H1 of the Warwick District Local Plan (2017) (WDLP) and therefore is located within the open countryside. Paragraph 79 of the National Planning Policy Framework (the Framework) states that decisions should avoid the development of isolated homes in the countryside, save for a number of exceptions, including where the development would re-use redundant or disused buildings and enhance its immediate setting. Policies H1 and Policy BE4 of the WDLP echo the Framework in this regard.
4. The Council contend that the term “isolated” relates to both physical separation from other properties and accessibility to local services and facilities. The Council accept that the site is not physically isolated being within a reasonable

distance of a number of other dwellings and buildings. However, the Council also argues that as the site is not well connected to services and facilities or accessible by means of public transport the site is isolated with regard to the wider area.

5. My attention has been drawn to Court of Appeal case *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610 where the word "isolated" was considered, albeit in the context of paragraph 55 of the previous version of the Framework. The judgement concluded that the term isolated should be understood in its plain meaning i.e. physically separated or remote, and that adding a second limb to the policy relating to accessibility to services and facilities only serves to make the policy more onerous than intended. Furthermore, no such restriction is implied in its text. In other words, the term isolated should be taken to mean physically remote or separate only, in the sense of being isolated from other dwellings or settlements.
6. Taking the above into account and the evidence before me, in my judgement, the site is therefore not isolated in the context of paragraph 79 of the Framework and Policies H1 and BE4 of the WDLP. I now turn to whether the proposal would lead to an enhancement of the site.
7. The barn whilst of relatively modern construction is in a good condition with features including timber framing, deep roof overhangs and a barn door that make it an attractive rural building. Whilst the proposal does not involve the construction of any extensions it would include external alterations in the form of extensive new brickwork and modern openings in the walls and roof.
8. I find that the loss of the traditional barn features and the modern appearance of the windows and doors would be unsympathetic to the building and would erode its attractive rural appearance. The proposal would significantly change the appearance of the barn into something more suburban that would appear discordant in the surrounding rural setting.
9. Whilst the proposal would not result in an isolated dwelling in the countryside it would be contrary to the other aims of Policies H1 and BE4 of the WDLP which requires proposals to protect and where possible enhance the character and appearance of the countryside.

Living conditions for future occupiers

10. The second bedroom would be reliant on three rooflights for light and outlook. I acknowledge that bedrooms are usually occupied at night, however, this does not preclude use during the day. In any event I find this arrangement would be unduly oppressive and would not provide a satisfactory outlook from that bedroom or enable it to receive an acceptable amount of light. Consequently, this would result in unacceptable living conditions for future occupiers, contrary to the residential amenity aims of Policy BE3 of the WDLP.
11. Whilst the appellant has provided a revised plan showing an alternative configuration in relation to the second bedroom it has not been considered by the Council at application stage. In the interests of fairness, I must ensure that what is considered at appeal is what was considered by the Council and therefore I have not taken the revised plan into account.

Protected species

12. The Council's Ecological Services has stated that the site was a private nature reserve and is a potential Local Wildlife Site and Ecosite 'Pinley Abbey Pool and Springs', and that the area could provide a suitable habitat for mammals, amphibians including protected species. There are also records of bats within the area and that the building has the potential for use by them. Notwithstanding the submission of the Ecological Impact Assessment Report, by the appellant, the Council has suggested that further surveys are undertaken.
13. From the evidence before me there is the possible presence of protected species in the area. In addition the site falls within the impact risk zone of a Site of Special Scientific Interest (SSSI).
14. The appellant is willing to undertake additional survey work as part of an appropriately worded planning condition post-decision and before occupation of the barn. However, Circular 06/2005: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system, states it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. In this case I see no reason to depart from the guidance set out in the circular and the advice of the Council's Ecological Services.
15. The potential for bats and other protected species on site carries statutory duties and is a matter of considerable weight particularly given its immediate setting. I am not satisfied that this matter has been investigated to demonstrate that there would be no harm to protected species.
16. Therefore, the proposal would be contrary to Policies NE3 and NE5 of the WDLP which, amongst other things, requires new development to avoid negative impacts on existing biodiversity and protection of the district's natural resources.

Other Matters

17. The site lies within the Green Belt. The Council's decision notice does not allege harm to the Green Belt, even though the Officer's report refers to harm by reason of loss of openness, amongst other things.
18. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Certain forms of development are not inappropriate in the Green Belt provided they preserve its openness. This includes the re-use of buildings provided that the buildings are of a permanent and substantial construction. I find that to be the case here and therefore the proposal is not inappropriate development in the Green Belt and very special circumstances do not need to be demonstrated in order to justify the proposal.
19. I acknowledge that a residential use is likely to increase general levels of activity at the site. However, this would be contained by existing hedgerow and fencing to an area to the front and side of the barn. I am satisfied that vehicles and associated domestic paraphernalia would not diminish openness.

20. I note that the Council has raised the potential for future extensions or outbuildings to be erected. Whilst I am mindful that the Planning Practice Guidance (PPG) states that planning conditions should not be used to restrict permitted development rights unless there is clear justification to do so, I am content that appropriate controls could be secured by condition to address concerns in this context.
21. Taking all of this into account, the proposal would not conflict with the Framework in relation to the Green Belt.

Conclusion

22. For the reason set out above the appeal is dismissed.

B Thandi

INSPECTOR