
Appeal Decision

Site visit made on 16 June 2020

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd July 2020

Appeal Ref: APP/C1570/W/20/3244453

Woodside Green Farm, Woodside Green, Great Hallingbury CM22 7UP

- 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 Ms J Schwier against the decision of Uttlesford District Council.
 - The application Ref UTT/17/3372/FUL, dated 17 November 2017, was refused by notice dated 9 July 2019.
 - The development proposed is described as 'conversion of part of agricultural building (former parlour) to create two apartments – retrospective'.
-

Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal site is located within a farm complex adjacent to the hamlet of Woodside Green. The site includes a 2 storey structure that is being used as 2 apartments. The structure is located within a series of attached agricultural sheds. One apartment is located at ground floor level with the other at first floor level.
3. The appellant states that the ground floor apartment was previously a milking parlour that was extended vertically and then divided into a 2 storey building. The appellant has therefore sought retrospective planning permission for the conversion of the parlour into the apartments. However, the Council considers that the works undertaken go beyond that which could reasonably constitute a conversion and assessed the application on the basis that a new building has been created. The Council subsequently found that the development is inappropriately located in the countryside and lacks adequate living conditions.
4. The appellant has sought permission for a conversion and thus I must assess the acceptability of the development on that basis. In doing so, I must have regard to relevant local and national planning policies and the issues identified by the Council.
5. I therefore consider that the main issue is whether the development is acceptable in respect of local and national planning policies relevant to the conversion of agricultural buildings into residential dwellings.

Reasons

6. The Council considers that, for the purposes of planning policy, the site is located outside of defined development limits and within the countryside. This is not disputed by the appellant and I have no reason to disagree.
7. Policy S7 of the Uttlesford Local Plan (LP) seeks to protect the countryside by only permitting development that needs to take place there or is appropriate in a rural area. It also requires the appearance of development to protect or enhance the character of the countryside. The supporting text to the policy sets out that the re-use of rural buildings can be appropriate in the countryside.
8. The appellant's Planning Statement and the Council's officer report refer to LP policy H6 which relates specifically to the conversion of rural buildings into dwellings and is a relevant policy in terms of this appeal. It states that planning permission will be granted where all its criteria are satisfied; however, it also specifies that conversions in isolated locations in the open countryside and substantial building reconstructions or extensions will not be permitted. It requires proposals to demonstrate that there is no significant demand for rural buildings to be used for specified business or community uses and that they are in sound structural condition. Its remaining criteria relate to matters that are relevant to the character and appearance of the area.
9. The National Planning Policy Framework (the Framework) does not indicate that development should be prohibited within the countryside. Instead, at paragraph 78, it states that housing should be located where it will enhance or maintain the vitality of rural communities. Additionally, paragraphs 102 and 103 of the Framework indicate that the planning system should actively manage patterns of growth in support of transport objectives, including the promotion of walking, cycling and public transport use.
10. The Framework adopts a less restrictive approach to development than LP policies S7 and H6. However, the policies are consistent with the requirements of the Framework insofar as they recognise the intrinsic character and beauty of the countryside, enable the growth of businesses through conversions and agricultural diversification in support of prosperous rural economies, and seek to avoid isolated homes, as per paragraphs 170, 83 and 79 of the Framework respectively.
11. LP policy GEN2 is also relevant. It provides design criteria for development and seeks to ensure that the living conditions of residential properties are acceptable. This policy is consistent with paragraph 127 of the Framework, which provides similar design criteria for development.

Whether the development is acceptable in respect of local and national planning policies relevant to conversions

12. I have set out the requirements of the relevant policies into appropriate sub-headings.

Location

13. The term "isolated" is not defined by LP policy H6 or its supporting text. However, in relation to the Framework, the Braintree judgement¹ confirms that

¹ Braintree District Council v SSCLG & Ors [2017] EWHC 2743 (Admin), and Court of Appeal judgement: Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin).

“isolated” in the phrase “isolated homes in the countryside” connotes a dwelling that is physically separate or remote from a settlement. I consider that the term should be interpreted in a similar way for the purposes of LP policy H6.

14. There are several residential properties within the farm complex and nearby in Woodside Green and thus the apartments are not isolated dwellings in the countryside. In this respect, the development is compliant with policy H6 of the LP and paragraph 79 of the Framework.
15. The Council considers that the development is in a remote location which lacks accessibility to services, facilities and sustainable transport options. Aside from Howe Green House School, the nearest services and facilities are a substantial distance from the site along narrow and winding country lanes, with no street lighting, interconnecting footways or bus services to them. The occupiers will therefore be reliant on private motor vehicles for day to day living and, as the range of services and facilities within the surrounding rural settlements is limited, will likely be reliant on the town of Bishops Stortford in order to meet their needs.
16. I recognise that opportunities to maximise sustainable transport options will vary between urban and rural areas and that travel by private motor vehicles is likely in areas such as this. I also note that some car sharing with occupiers of other residential properties may occur. Nonetheless, I do not consider that the development is located where it enhances or maintains the vitality of rural communities or where services, facilities and sustainable transport options are accessible. The development is therefore contrary to paragraphs 78, 102 and 103 of the Framework.

Size of conversion

17. LP policy H6 does not explain what is meant by “substantial building reconstructions or extensions”. Based on my observations on site and the photographic evidence provided by the appellant, it appears that the apartments have been constructed using the walls of the parlour, supports and part of the western shed wall that were in situ prior to the development taking place. However, the works are clearly substantial, having created a significant amount of new floorspace and resulted in a structure that has the appearance of a new building. The sheds are mostly open-sided, particularly on their southern and eastern sides, and thus the works cannot reasonably be considered to only be internal to the sheds. I therefore find that the apartments constitute a substantial extension, in conflict with LP policy H6.

Demand for alternate uses

18. Evidence has not been provided to demonstrate that there was no demand for the site to be used for the specified business and community uses set out in LP policy H6 before the development was undertaken.
19. The Planning Statement suggests that, as the works have taken place, the site is not usable for any other uses in its current form. However, the carrying out of the development does not indicate that the site could not have been used for alternative purposes or that the requirements of LP policy H6 should be obviated. In addition, harm to the living conditions of the occupiers of the apartments is likely to arise from the use of the sheds and the adjacent land for agricultural purposes or, alternatively, the business and community uses

supported by LP policy H6. This limits the desirability and the scope for the remaining parts of the sheds to be put into uses which support the growth of the rural economy. The development thus fails to comply with LP policy H6 and paragraph 83 of the Framework.

Character and appearance

20. The sheds are large, utilitarian and steel framed structures that are predominantly clad with corrugated metal sheeting. Although the appearance of the sheds is befitting of the farm complex, they have limited historic, traditional and aesthetic merit and thus I find that their form preserves rather than enhances the character and appearance of the rural area.
21. The apartments are clad with timber to reflect the local rural vernacular. However, the development appears as a new building with domestic fenestration that sits uncomfortably within the sheds and contrasts poorly with their functional appearance. I do not consider that the apartments are compatible with the characteristics of the sheds as a result.
22. Furthermore, at the time of my site visit hardstanding in front of the apartments, which appears to form part of the yard to the sheds, had outdoor seating and pot plants on it which suggests that it is used as an informal outdoor amenity area for the occupiers. This space is unbound, encroaches into the yard and appears obtrusive in its agricultural setting. The appellant has indicated that a private garden could be provided if this appeal is allowed. I have not been provided with any details regarding how this would be achieved; however, the erection of a formal boundary to the garden would nonetheless encroach into the yard or the sheds in an obtrusive manner.
23. I note that visibility of the apartments from outside the complex is limited because of their location within the sheds; however, they are visible from Woodside Green to the east and appear incongruous from that perspective despite being set behind residential properties. Moreover, the development would result in the retention of at least part of the sheds and they do not enhance the character and appearance of the rural area as required by LP policy H6.
24. I therefore find that the development has a harmful effect on the character and appearance of the area, contrary to policies H6, S7 and GEN2 of the LP and paragraphs 127 and 170 of the Framework.

Living conditions

25. The windows in the southern and eastern elevations of the apartments are set back under the shed roof. The roof slightly overhangs the windows serving the ground floor apartment's kitchen and the first floor apartment's bedrooms and as such those rooms receive adequate levels of sunlight, daylight and outlook. However, the apartments' other rooms are overshadowed by a much greater proportion of the roof and receive little daylight and sunlight as a result. Additionally, the roof restricts outlook from these windows and has a looming presence which results in an overbearing effect.
26. I acknowledge that part of the roof features translucent panels that provide light to the apartments but the amount of sunlight, daylight and outlook that the apartments benefit from is nonetheless limited. I note that the apartments are an appropriate size and that occupiers have direct access to the

surrounding countryside; however, these matters do not overcome the issues I have identified.

27. Anecdotal evidence has been provided which suggests that the current occupiers may consider that the apartments provide acceptable living conditions. However, I must consider the living conditions for all existing and future occupiers of the development and find that the living conditions are inadequate. The development is therefore contrary to LP policy GEN2 and paragraph 127 of the Framework.

Structural condition

28. No evidence has been provided to demonstrate that the sheds were structurally sound prior to the development taking place. However, I have no reason to conclude that the sheds were not structurally sound and thus the development complies with LP policy H6 in this respect.

Other matters

29. I note that the application was determined a significant amount of time after its submission, council tax may be being paid on the properties and communications may have occurred between the appellant and the Council regarding the naming of the apartments. However, these matters are not relevant to the matters which are subject to this appeal.
30. The appellant indicates that it may have been possible to convert the sheds into residential accommodation by means of permitted development rights granted by Class Q of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, Class Q requires prior approval to be granted prior to the commencement of development and, as the apartments have been constructed, prior approval cannot be granted. Accordingly, this has little bearing on my consideration of the appeal.

Planning Balance and Conclusion

31. The Council has confirmed that it cannot currently demonstrate a 5 year supply of deliverable housing sites. In such cases, paragraph 11 of the Framework requires that planning permission is granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
32. The development contributes to the district's supply of housing, provides homes for the existing occupants that may otherwise be lost and makes use of land that was not in agricultural use immediately prior to its creation. In addition, there are likely to have been local economic benefits from the construction of the apartments and the occupants will be contributing to the local economy. However, only 2 apartments are provided and construction work is temporary. I therefore find that these matters constitute limited benefits weighing in favour of the development.
33. The appellant has put forward that current rental housing market demand exceeds property availability, particularly in terms of affordable housing. However, I have not been provided with any firm evidence in support of this specific claim and no mechanism has been proposed to secure the apartments as a recognised form of affordable housing as per the definitions in the glossary

to the Framework. Thus these matters do not constitute benefits that weigh in favour of the development.

34. I attach substantial weight to the adverse effects of the development in terms of the conflict with LP policies H6, S7 and GEN2 in respect of the failure to demonstrate that the site could not have been used for supported business and community uses and the inadequacy of the apartment's living conditions. The development is contrary to the Framework for these reasons and the LP policies are consistent with the Framework in these respects. However, I attach limited weight to the conflict with LP policy H6 arising from the size of the conversion as this requirement has a lesser degree of consistency with the Framework.
35. The development has a harmful effect on the character and appearance of the area. It is contrary to LP policies H6, S7 and GEN2 and the Framework for this reason. However, the development is not prominent when viewed from outside the site and this tempers the harm caused. I thus attach moderate weight to this adverse effect.
36. The development is not located where it enhances or maintains the vitality of rural communities or where services, facilities and sustainable transport options are accessible. The development is contrary to the Framework for these reasons. However, as LP policy H6 is the most relevant policy in respect of conversions and it supports the location of the development I attach moderate weight to these adverse effects.
37. I conclude that the adverse effects of the development significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. A decision should therefore be taken in accordance with the development plan.
38. The development is contrary to the development plan taken as a whole. There are no material considerations which outweigh my findings in respect of the development plan. Accordingly, the appeal shall not succeed.

Mark Philpott

INSPECTOR