



Appeal Decision

Site visit made on 9 June 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th July 2020

Appeal Ref: APP/K0235/W/20/3246026

Hollow Farm, Rushden Road, Milton Earnest MK44 1RZ

- 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 P Gray (Freshfields Property Development Limited) against the decision of Bedford Borough Council.
 - The application Ref 19/00731/FUL, dated 3 April 2019, was refused by notice dated 21 August 2019.
 - The development proposed is described as the "demolition of existing agricultural buildings followed by the erection of five dwellinghouses, access and parking provision, landscaping and associated works".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the Council issued its decision to refuse planning permission, the Bedford Borough Council Local Plan 2030 (the Local Plan) was formally adopted on 15 January 2020. Therefore, the policies of the Bedford Borough Council Local Plan 2002 and the Bedford Borough Council Core Strategy and Rural Issues Plan 2008, referred to in the Council's decision notice, have been replaced by the Local Plan.

Main Issues

3. The main issues are:
 - whether the location of the proposal is suitable having regard to the Development Plan and the National Planning Policy Framework (the Framework), and,
 - the effect of the development on the character and appearance of the area.

Reasons

Location

4. The appeal site forms a group of agricultural buildings that lie beyond the Settlement Policy Area (SPA) of Milton Earnest and therefore lies within the countryside. The proposal seeks to demolish the existing barns, including the reduction of a further barn, and to erect five dwellings on the site. The area is typically rural in character with the site being surrounded by agricultural land with the village of Milton Earnest some 1km from the site.
5. The appellant argues that the development would not result in isolated dwellings in the countryside and the site has access to a wide range of facilities and services

within the immediate area. Moreover, although paragraph 79 of the Framework makes it clear that new isolated homes in the countryside should be avoided, unless there are special circumstances to justify that location, the Braintree¹ case found that “*isolated*” should be given its ordinary objective meaning of “*far away from other places, buildings or people, remote*”. I have also had regard to the Dartford² case referred to by the appellant.

6. The proposed development would be sited adjacent to three existing dwellings and as such they would not be physically or spatially isolated from other built development. I consider that this particular cluster of dwellings is sufficient to ensure that the new dwellings would not be far away from other places, buildings or people and so the appeal site does not constitute a remote or isolated location, albeit the cluster clearly sits within the defined countryside. Accordingly, I find that the dwellings would not be isolated for the purposes of the Framework and therefore the special circumstances of paragraph 79 do not apply.
7. Nevertheless, Policy 3S of the Local Plan seeks to deliver the spatial strategy for the Borough, and sustainable development and growth that enhances the vitality of the Borough’s urban and rural communities. It also seeks to safeguard the intrinsic character of the countryside and delivering the majority of rural growth through neighbourhood plans. Furthermore, Policy 7S of the Local Plan makes it clear that development within the countryside and outside of defined SPAs will be permitted if it is appropriate and in accordance with the criteria as set out at i-v of Policy 7S, none of which have been advanced by the appellant. Moreover, in exceptional circumstances, Policy 7S also supports developments that are well related to a SPA, a small settlement or the built form of other settlements providing the criteria at vi-xiii are met. The site does not meet the locational criteria as it is removed from any built form of a settlement.
8. The appeal site falls some 1km from Milton Ernest where limited facilities such as a garden centre, a public house, a village hall, primary school and nursing home are available, with other services further afield. However, there is no interconnecting footway that would enable safe walking to Milton Ernest. Whilst I recognise that some of the settlements such as Milton Ernest and Bletsoe could be reached by cycling, I would only expect a small proportion of trips to be made in this way given the intervening distance and the speed of traffic on Rushden Road. There are also no details before me that would indicate the presence of a sufficiently frequent local bus service to these other settlements to significantly diminish the reliance of future occupiers on the private motor car.
9. I recognise that in rural locations access to sustainable rural transport solutions will be typically less than that of an urban area and that development in one village may support services in another nearby. However, in this case, I found the overall level of day-to-day access to services and community facilities by walking, cycling and public transport to be of a poor standard, and consequential reliance on the private motor car to be so high, that I consider the appeal site’s location to be inappropriate for new residential development.
10. Thus, notwithstanding that the development would not result in isolated dwellings in the countryside, it would be in conflict with Policies 3S and 7S of the Local Plan, the specific requirements of which are specified above. I also find that the scheme conflicts with paragraphs 9 and 103 of the Framework as it would result in a planning decision not playing an active role in guiding development towards sustainable solutions and failing to actively managing patterns of growth in support

¹ Braintree District Council v SSCLG and others [2017] EWHC 2743 (Admin)

² Dartford Borough Council v SSCLG and others [2017] EWCA Civ 141

of the transport objectives outlined in paragraph 102 that seeks to promote walking, cycling and public transport.

Character and Appearance

11. The appeal site forms a cluster of farm buildings of various styles and sizes. There is also a terrace of three dwellings adjacent to the site. The group of buildings are at the end of a long driveway between fields. Nevertheless, the buildings are visible from the access onto Rushden Road, although partly hidden by distance and topography. Nevertheless, the appeal site is also visible from the existing properties adjacent to the site and I observed that the site itself is relatively exposed to distant views from Rushden Road, as the land rises towards Milton Earnest. The buildings within the appeal site have an agrarian character and make a positive contribution to the local rural character.
12. The development proposes to demolish all the buildings on the site, including part of the larger barn to the east to allow a greater area of land to be given over to the appeal site and development. The proposed dwellings would roughly follow the same form as the development permitted under Class Q of the GPDO³, with amendments to increase the overall floorspace from 642 sq. m to 711 sq. m. The large agricultural building to the east would be reduced in length by some 12m to allow the formation of a parking area. The curtilages of each unit would also be extended to create larger garden areas.
13. While I acknowledge that the site has an extant Prior Approval⁴ (the fallback application) for the conversion of the barns to create five dwellings, I am not persuaded that this sets a precedent to create larger dwellings and garden areas. The permitted development regime is specifically designed to ensure that tolerances and floor areas are adhered to, especially size of units and associated curtilages.
14. The additional floorspace would create a development of larger dwellings across the site. Although I accept that the existing dwellings have larger curtilage areas and that the totality of built development would be marginal and seeks to rationalise voids in buildings two and three, the increase in parking areas as a result of the reduction of the building to the east and the proposed gardens for each unit would extend the built areas and residential boundaries beyond the approved conversion. Additionally, I do not find the curtilages to be provided under the fallback application to be contrived as they seek to ensure that the agricultural nature of the buildings and their settings are retained and follow existing boundaries, such as the wall that separates building one from the access into the field. The proposed curtilages would extend the residential areas into land which would enable further domestic garden features and equipment to be erected, such as sheds and other outbuildings that would be out of character with the surrounding area.
15. The gardens would be significantly larger than the fallback application to serve the converted barns and would contribute towards the identified incongruous addition of residential character to the farm building grouping. Although I acknowledge that permitted development rights could be removed to prohibit the erection of sheds and other outbuildings within the curtilages, this does not preclude future occupiers from erecting domestic structures such as garden furniture, washing lines or lighting on the land or using it for domestic cultivation and recreation.

³ Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO)

⁴ Application 18/03232/CPNQ

16. Moreover, I am not persuaded that the demolition of the central building coupled with the reduction of the building to the east represents a significant improvement to the overall openness of the site. The central building was to be demolished as part of the fallback application and thus, is not a material gain to the openness of the site. Furthermore, notwithstanding the rearrangement of the centre of the site, the reduction of the building to the east would serve to extend the curtilages of buildings three and four and would also provide a very large area for parking of numerous vehicles, resulting in the further erosion of the group of farm buildings, in contrast to the more discreet development proposed by the fallback application.
17. The appellant refers to a decision at Keysoe⁵ (the Keysoe appeal) whereby, in allowing the demolition of agricultural buildings to be replaced by dwellings, it was found that larger curtilages and domestic paraphernalia need not have a greater impact on the character of the area. However, I have not been provided with details of the layout and its location to enable me to make a direct comparison to the development before me. However, inevitably their contexts would differ to that of the scheme before me, and so it does not lead me to a different view in this case.
18. While I acknowledge that public views of the site are limited from a distance and through the access, the harm that I have identified would nonetheless be visible from the existing properties within the site, and those users of the access that visit the remaining agricultural buildings. Moreover, the lack of visibility does not diminish the harm that I have identified to the group of buildings.
19. Thus, the development would result in material harm to the character and appearance of the area. It would be in conflict with Policies 7S, 28S, 29, and 37 of the Local Plan, and the Framework which seek, amongst other things, to ensure that developments are sympathetic to local character, protect and enhance the characters and qualities of the local landscape, integrate well with and complementing the character of an area and be appropriate to its countryside setting.

Other Matters

20. The appellant refers to the fallback application and the significant weight that should be afforded the fact that should this appeal fail, the site can still be developed to provide five dwellings. The appellant also refers to the High Court decision that considered the *Mansell v Tonbridge*⁶ case and argues that as the site has an extant permission to convert the barns into five dwellings and there is a real prospect that the fallback will be implemented, it is a material consideration that weighs heavily in favour of the proposal.
21. However, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any proposal must be determined in accordance with the development plan unless material considerations indicate otherwise. I acknowledge the fallback position can be attributed weight in planning decision making, and in this instance the implementation of the fallback application would nonetheless deliver five residential units at the appeal site. Nevertheless, the clear intention of Class Q is to make use of existing agricultural building stock, irrespective of locational matters. It does not follow that this is a method to gain the construction of new dwellings that would side-step the spatial policies of the Local Plan.

⁵ APP/K0235/W/18/3208821 dated 16 January 2019

⁶ *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314

22. I have had regard to the Keysoe appeal and that the fallback position of an appellant is a material consideration of significant weight. However, although of significant weight, the fall-back position would not be a determinative factor, as to afford it overriding importance would prejudice the Council's spatial strategy, which is based on, amongst other things, delivering sustainable development and growth that enhances the vitality of the Borough's urban and rural communities. Furthermore, as I stated previously, the extent of operational development permitted in respect of Class Q is intentionally limited and only reasonably necessary to convert the building. In this case, I find the objectives of the Development Plan and of the GPDO to be mutually exclusive.
23. Consequently, there is no justification for reducing the weight that should be given to Policies 3S and 7S of the Local Plan, and to do so would allow residential development in the countryside without regard to the quantified need for it. It would be in direct conflict with the core planning principle at paragraph 15 of the Framework that planning should genuinely be plan-led.
24. I accept that the ability of the Council to demonstrate a five year housing land supply should not be a barrier to boosting the supply of housing within the district. However, should this appeal fail, there is a realistic possibility that the site would still provide five additional dwellings, helping to boost the supply of houses within the Borough.
25. I acknowledge that the development would provide an improved environment for future occupiers of the dwellings and that landscaping and ecological enhancements would be made. I also accept that the new dwellings to be constructed would allow improved building performance in terms of energy efficiency. I recognise that the fallback application was permitted by default of the Council failing to make a decision on time, and thus the development before me could be the subject of planning conditions. I also note that there were no objections to the development on highway safety, amenity, ecology and drainage grounds. However, while noting the benefits that would result in this respect, I do not consider that either individually or cumulatively they outweigh the harm identified above.

Conclusion

26. For the reasons given above, and having regard to the Development Plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR