
Appeal Decision

Site visit made on 15 September 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2020

Appeal Ref: APP/P1615/W/20/3255038

Bayliss Farm, Staunton, Gloucester GL19 3RJ

- 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 DT Rand and Son against the decision of Forest of Dean District Council.
 - The application Ref P0356/20/FUL, dated 16 March 2020, was refused by notice dated 20 May 2020.
 - The development proposed is conversion of existing barn to dwelling with associated parking, landscaping and works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development has been taken from the appeal forms and decision notice, which more accurately describe the proposal and include details absent from the application forms. The appeal is dealt with accordingly.
3. Both parties offer contentions about Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). For the avoidance of doubt, it is not for me, under a section 78 appeal, to determine whether any works, pursuant to Class Q or otherwise, are lawful. To that end, it is open to the appellant to make an application under sections 191 or 192 of the Town and Country Planning Act 1990 (as amended) and this would be unaffected by my determination of this appeal.
4. Accordingly, any fallback position would be predicated on the existence of a lawful development certificate pursuant to Class Q. In the absence of such evidence any fallback position or other arguments relating to the building in this context carry limited weight under the appeal.

Main Issue

5. The main issue is whether the works are conversion or not and whether the site is in an appropriate location in accordance with the area's development strategy and in relation to services.

Reasons

6. The site is located on land at Bayliss Farm, which is outside of defined settlement boundaries as shown on the Proposals Map associated with the Forest of Dean Core Strategy 2012 (CS) and Allocations Plan 2018 (AP).

7. In this context, Policy CSP.4 of the CS states that areas outside of defined settlement boundaries will be treated as part of the open countryside. The site is therefore in the open countryside for the purposes of this appeal. The policy goes on to state that most development will be expected to take place within the existing defined settlement boundaries with limited exceptions, including conversion.
8. Policy CSP.16 of the CS states that the defined settlement boundary will be a key determinant in judging the acceptability of proposals, and that land in the open countryside will not generally be suitable for new housing, with the possible exception of very modest developments of affordable housing under Policy CSP.5 of the CS, and exceptionally conversions.
9. As described, the development plan is not silent on conversions and Paragraph 11 d) of the National Planning Policy Framework (the Framework) is not engaged in this regard. Noting Paragraph 79 of the Framework, notwithstanding whether the site is in an isolated location, and accepting that the proposal would put the building to beneficial use, the site would still be located within the open countryside for the purposes of the development plan, where new housing is strictly controlled.
10. Paragraph 79 of the Framework does not absolve the proposal from meeting such requirements therein, even if it were to be established that the site was not isolated or where local enhancements (to character and appearance, among other things) would make an isolated dwelling otherwise acceptable.
11. The existing building is open in its construction, in keeping with its functional agricultural use. The proposal would require works to the building's southern wing in order to achieve an enclosed weather sealed environment for occupants. The level of work required to achieve this is substantial. It would include entirely new structural elements, such as an external cavity wall to enclose and strengthen the building, alongside other elements, such as a roof to make the building habitable, which would be a complete replacement for something more suitable and would therefore be virtually the same as new.
12. The relevant judgement¹ reinforces that building operations undertaken pursuant to Class Q should fall short of rebuilding and not involve construction of new structural elements. Although Class Q is not relevant in this case, I see no reason why the same principles should not apply and they are consistent with the thrust of the appellant's cited appeal decisions. For the avoidance of doubt, the appeal² on Land at Hunts Corner concerned a structure comprising blockwork and brickwork that largely enclosed all sides of the building. The building in this case is not enclosed and requires substantially more than maintenance works, therefore the appeal is not comparable.
13. Consequently, notwithstanding whether the footprint remains the same and other elements that may be suitable for conversion in the building's northern wing, as detailed in the structural report, the new structural elements in the building's southern wing (as far as they are presented and evidenced in this case) would appear to comprise rebuilding. This would take the proposal beyond the scope of what can reasonably be considered a conversion.

¹ Hibbitt v SSCLG & Rushcliffe BC [2016] EWHC 2853 (Admin)

² APP/F2605/W/19/3240798

14. The site's location within the open countryside is underlined by its lack of close functional relationship with any settlement or other built up area within the locality. Staunton and Corse are located to the west but because of the configuration of the highway network are functionally around 2km away from the site. Notwithstanding Paragraph 103 of the Framework, a number of bus stops are present in the area, but the infrequency of service is unlikely to provide the level of timely convenience required to constitute a genuine alternative to the private car. Whether the 351 service is still in operation or not is somewhat peripheral, in that it has not been substantiated that the frequency and means of getting to the bus stops in question provide a genuine alternative for future occupants over and above the private car.
15. There is no evidence to suggest that the public right of way nearby is direct or utilitarian and can be used for day to day needs. Due to its indirect cross country nature, it seems more likely that the public right of way would be used as a recreational route. Consequently, it is unlikely to be used for accessing the services of Staunton and Corse as a genuine alternative to the private car. In any event, due to its intrinsically unpaved nature it is unclear whether such a route would be accessible to all and therefore cannot be relied upon to serve the potentially broad accessibility needs of future occupiers. The site is not linked to Staunton or Corse by any other non-vehicular routes, such as paved foot or cycle ways. Consequently, occupants would need to travel along the vehicular highway, which would increase the potential for user conflict, especially at night due to the unlit nature of the route.
16. Overall, the proposal is not a conversion and would not constitute an appropriate location for housing with suitable access to services. Consequently, there is conflict with CSP.1, CSP.4, CSP.5 and CSP.16 of the CS and Policy AP.1 of the AP. Among other things these seek to ensure development comes forward in accordance with the development strategy for the area.

Other Matters

17. There is no evidence submitted, in the form of a viability report or similar, establishing what reliance the business would have on the proposal to help sustain operations. Consequently, this argument carries limited weight under the appeal. It has not been evidenced that the Council cannot demonstrate a sufficient supply of housing. However, even if there was a substantial shortfall, the contribution and other benefits (such as footfall within settlements pursuant to supporting the rural economy) arising from the proposal would be limited. Consequently, the adverse impacts would significantly and demonstrably outweigh the benefits and would not engage the presumption in favour of sustainable development under the Framework.

Conclusion

18. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR