
Appeal Decision

Site visit made on 5 October 2020

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 21 October 2020

Appeal Ref: APP/L1765/W/20/3253938

Office at Wassalls Hall, Bishops Wood Road, Mislingford PO17 5AT

- 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 & Mrs Tavender against the decision of Winchester City Council.
 - The application Ref 20/00449/FUL, dated 27 February 2020, was refused by notice dated 1 May 2020.
 - The development proposed is conversion of the existing B1(a) office building to 2x C3 dwellinghouses and associated hard and soft landscaping.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the site is a suitable location for the proposed dwellings having regard to local and national planning policy.

Reasons

3. The appeal site is located outside of a designated settlement boundary and within the countryside. It comprises an office building on the east side of Bishops Wood Road. The proposal is for the conversion of the office building to two dwellinghouses.
4. There is no dispute between the parties that the proposed development, by virtue of its location within the countryside, would not meet any of the exception criteria within Policy MTRA 4 of the Winchester District Local Plan Part 1 – Joint Core Strategy 2013 (WDLP). Indeed, the appellants state that as a starting point, there is an in-principle conflict with the development plan.
5. The National Planning Policy Framework (the Framework) makes clear in paragraph 79 that the development of isolated homes in the countryside should be avoided unless one or more of the five listed circumstances apply. The word “isolated” is not defined in the Framework. However, I have had regard to the *Braintree* Judgement¹.
6. The Court of Appeal concluded that the word “isolated”, in the phrase “isolated homes in the countryside” simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or

¹ *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

is not, “isolated” in this sense is a matter of fact and planning judgment for the decision-maker in the circumstances of the case in hand.

7. The appellants contend that as the appeal site is physically separate from the nearest settlement, Swanmore, the provisions of paragraph 79 c) of the Framework outweigh the conflict with Policy MTRA 4 of the WDLF. However, the Court of Appeal also concluded that what constitutes a “settlement” for these purposes is also left undefined in the Framework. There is no specified minimum number of dwellings, or population.
8. The proposed dwellings would not be physically isolated from other buildings by virtue of the proximity of other development along both sides of Bishops Wood Road, including Wassalls Hall located adjacent to the appeal site. On this basis, I consider that the proposed dwellings would not be remote from a settlement. Consequently, the proposal would not constitute isolated homes in the countryside in the context of paragraph 79 of the Framework. Having reached this conclusion, it is not necessary for me to consider whether the proposed development accords with one or more of the circumstances listed in paragraph 79, including the re-use of a redundant or disused building and any enhancement to its immediate setting. Therefore, in this regard, the appeal decisions² that the appellants have referred me to are not directly comparable to this proposal.
9. The appellants have referred to two other appeal decisions³ where weight was given to Class O (change of use of a building from offices to dwellinghouses) permitted development rights. However, I am not aware of the full circumstances of these other schemes in regard to permitted development rights. In any event, the appellants confirm that the site does not benefit from permitted development rights (such as Class O) due to a restrictive condition applied under a previous planning permission⁴. Even if there were no restrictive condition and the site did benefit from permitted development rights, development under Class O would only be permitted subject to the condition that before beginning the development the developer must apply to the local planning authority for a determination as to whether prior approval will be required in respect of various specified matters. The appellants contend that the proposal would pass all the tests set out within Class O. However, this would be a matter for the local planning authority to determine as part of a separate application. Therefore, this is not a matter, in this case, that leads me to conclude that the appeal proposal should be determined other than in accordance with the development plan.
10. Paragraph 59 of the framework states that to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed. The Council contend that it can demonstrate a five-year supply of housing sites. Indeed, it states that it currently has 7.4 years supply of housing sites and the appellants have not contested this position. Consequently, the modest contribution that the proposal would make in housing supply terms is a matter that weighs in its favour to only a limited degree.

² References: APP/M1710/W/15/3010471, APP/D3125/W/18/3218868, APP/V0728/W/15/3005579 and APP/P3040/W/15/3029744

³ References: APP/L1765/W/15/3002206 and APP/L1765/A/13/2202937

⁴ Planning Application Reference: 03/01397/FUL

11. The appellants state that the creation of two houses carries substantial weight in favour of the development regardless of the Council's current housing land supply position, referring to an appeal decision⁵ (Hayes Street Farm) where the Inspector stated *"That is because the NPPF seeks to boost significantly the supply of housing, which signals that any new houses must command substantial weight as a benefit. It would be nonsensical to consider otherwise, because if only a large amount of housing would be considered substantially beneficial then an equal cumulative benefit arising from a number of smaller sites would not have been afforded the same weight as a benefit"*. However, I note that in that case it was not necessary for the Inspector to determine whether the Council did or did not have a five-year housing land supply because, unlike in this case, the proposed development complied with the development plan. Furthermore, that decision was in the context that the Council, as stated by the Inspector, had *"struggled in recent years to even deliver its minimal annual housing requirement"*. I have not been presented with any evidence to indicate that the same applies in this case. Thus, it cannot be said, having regard to the Council's current housing land supply position, that the Hayes Street Farm case is directly comparable to the case now before me.
12. My attention has also been drawn to another appeal decision⁶ where the Inspector attached more weight to the Framework in regard to new development in the countryside in comparison to the equivalent local planning policy. However, the site in that case is not within the Winchester City Council area and hence the proposal would have been considered against the planning policies of a different development plan. I do not know the circumstances which led to the Inspectors' conclusion in that case. In any event, I have determined the appeal proposal in accordance with the prevailing policies relating to the site and the area within which it lies.
13. There is no dispute between the parties that the appeal site is brownfield land. However, support for the re-use of brownfield land in paragraph 117 of the Framework in particular is not at the expense of ensuring that the proposal is in accordance with the development plan, which it is in conflict with.

Conclusion

14. Paragraph 47 of the Framework states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
15. Having regard to all matters raised, in this case, I conclude that there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
16. The proposed development would not accord with Policy MTRA 4 of the WDLP and the appeal is therefore dismissed.

Andrew Bremford

INSPECTOR

⁵ Reference: APP/G5180/W/18/3206947

⁶ Reference: APP/Y0435/W/17/3174524