
Appeal Decision

Site visit made on 10 November 2020

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 December 2020

Appeal Ref: APP/Z1510/W/20/3255127

Rainbows End, Sheepcotes Lane, Bradwell CM77 8ER

- 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 and Mrs Michael Turner against the decision of Braintree District Council.
 - The application Ref 19/01472/FUL, dated 11 August 2019, was refused by notice dated 12 June 2020.
 - The development proposed is the conversion of building ancillary to the established smallholding, to residential use, including provision of curtilage.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of building ancillary to the established smallholding, to residential use, including provision of curtilage at Rainbows End, Sheepcotes Lane, Bradwell CM77 8ER in accordance with the terms of the application, 19/01472/FUL, dated 11 August 2019, subject to the conditions set out in the attached schedule.

Background and Main Issues

2. The proposal is to convert a former stable block into a single residential unit. The building forms part of a 2.2ha smallholding located some 1.2km from the settlements of Bradwell and Silver End. An appeal for a similar proposal was dismissed in September 2018 (Appeal ref APP/Z1510/W/18/3194146). Since then the Bradwell with Pattiswick Parish Neighbourhood Plan (NP) was adopted in July 2019 and it contains policy relevant to the appeal proposal.
3. The main issues in this case are:
 - whether the proposal accords with development plan and national policies for the location of housing in rural areas;
 - whether the proposal would be suitably located with regard to access to local services and facilities;
 - the effect of the proposal on the character and appearance of the area.

Reasons

Suitable location - policy

4. The appeal site falls outside the settlement boundaries defined in the Braintree District Local Plan Review (2005) (LP). Therefore, the proposal conflicts with Policy CS5 of the Council's Core Strategy (CS) and LP policy RLP2 which seek
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to control residential development outside of settlement boundaries. Policy RLP38 allows for the conversion of rural buildings. Conversions to residential use are required to demonstrate that, amongst other things, every reasonable effort to secure suitable employment or community re-use has been made and that the application is supported by a statement to that effect. The appellant considers that the proposal accords with this policy on the basis that a business use exists and is intended to grow. Whilst that may be so for the smallholding as a whole, the proposal would take the appeal building itself out of business use and put it into residential use. As such, there would be a degree of conflict with Policy RLP38.

5. Policy 7 of the NP deals with housing and part b) allows for small scale residential development and conversions outside of the Bradwell settlement boundary as an exception to planning policies, subject to three criteria. The Council does not dispute that the appeal site forms part of a cluster of buildings at Goslings Farm. The cluster is designated as a 'hamlet' for the purposes of the NP. Therefore, the proposal meets the second bullet point of Policy 7b. The third bullet point on NP Policy 7 (linear extension of development in Bradwell) is not applicable to the appeal proposal.
6. The first bullet point requires proposals to demonstrate a 'significant contribution' towards maintaining the future viability and sustainability of the adjacent settlement. The supporting text for the policy does not provide further explanation of this criterion. However, since the policy is concerned with small scale residential development and, in this case a conversion to a single dwelling, 'significant' should be seen in this context.
7. National Planning Policy Framework (the Framework) paragraph 79 seeks to avoid the development of isolated homes in the countryside unless, inter alia, there is an essential need for a rural worker to live permanently at or near their place of work. Whilst the parties agree that the appeal building is not isolated for the purposes of this paragraph, the relevant development plan policies indicate that the development of homes in the countryside should be the exception and the appellants' submissions seek to address the need to live at the site. Planning Practice Guidance advises on the considerations to be taken into account in paragraph 79, including the essential need for a worker to live on site to ensure the effective operation of the enterprise and the degree to which there is confidence that the enterprise will remain viable for the foreseeable future¹.
8. The appellants' submissions include a Viability and Sustainability Statement and an Enterprise Plan. The former sets out the current activities at the smallholding which include keeping hens, ducks, guinea fowl and sheep for food production, alpacas for their fleece, vegetable and tree cultivation and ancillary uses such as craft workshops, public tours of the activities and educational visits.
9. The appellants intend to expand the food production and plant cultivation activities and proposals are set out in the Enterprise Plan. The information in support of the expansion of activities inevitably relies on projections and there is no certainty that they would be achieved. However, the Council accepts that they may be possible. Moreover, the appellants have operated the smallholding for four years which indicates that it is viable albeit with support

¹ Paragraph Reference ID: 67-010-20190722

from other paid work currently. The appellants' financial analysis indicates that revenue from the expanded activities would allow the smallholding operator to take a substantially increased wage from the business starting from 2021 and thereby reduce their reliance on other paid work.

10. Increasing the number of trees cultivated forms a significant part of the expansion proposals. This would be consistent with the Government's plans for a substantial increase in tree planting nationally and the appellants have also referred to their relationship with the Woodland Trust in this regard. Therefore, both this activity and the sale of locally produced food, appear to align with market trends and there is no firm evidence that the proposed scale of activities could not be achieved within the smallholding. Therefore, I consider that there can be reasonable confidence that the business would be sufficiently viable to financially support the smallholding operators. I have not taken into account the appellants' proposals for a visitor facility or dog breeding as they may require planning permission.
11. The appellants consider that the expansion of the business would require a constant on-site presence in order to deal with the increased workload, emergencies related to the keeping of livestock and tree and plant cultivation, provide security and relieve the financial burden of living off-site in rented accommodation. Although, individually these reasons may not justify a permanent on-site presence, the expansion proposals cover a wide range of livestock and plant cultivation activities, each of which potentially require someone to attend to them at short notice. Collectively, therefore I consider that they amount to an essential need to provide accommodation on the smallholding. There is nothing to suggest that such accommodation is currently available at the site or immediately adjoining the site. Accommodation in the nearby settlements would not meet the need for an on-site presence.
12. Surplus food produce and plants are sold locally and the appellants have submitted a statement from the Parish Council and a number of letters from people which indicate the appellants' engagement with the local community and the value placed on both the food sales and community activities at the smallholding. The appellants' submissions also consistently refer to the 'low-impact' operation of the smallholding and their commitment to purchase local goods and services.
13. I give considerable weight to the support of the Parish Council and others. There appears to have been a genuine effort to engage with the local community. The availability of locally produced food is valued as a means towards local self-sufficiency and reducing food miles. The educational and community activities undertaken would also help to foster social cohesion and well-being. These outcomes would contribute to the social and environmental elements of sustainability.
14. The Council has suggested a condition which would require the occupiers of the dwelling to be solely or mainly working in agriculture in the locality. The appellants have not objected to the use of such a condition and it would ensure that occupation would remain in accordance with the justification for allowing a dwelling in this location.
15. Overall therefore, I consider that the appeal proposal meets the requirements of Framework paragraph 79. I recognise that the Inspector in the previous

appeal reached a different finding on this matter. However, my conclusion is based on the evidence submitted for this appeal. By facilitating the expansion of activities at the smallholding it would also make a contribution to maintaining the future viability and sustainability of the local community. In the context of NP Policy 7 this contribution would be significant and, consequently, I find that the proposal would be in accordance with the policy. This represents a material change from the position when the earlier appeal was determined. For similar reasons, the proposal also draws support from Framework paragraphs 77 and 78 which seek to locate housing where it would enhance or maintain the vitality of local communities.

16. The NP post-dates the LP and the CS and the Council's evidence confirms that it was found to be in general conformity with the strategic policies contained within the Local Plan, including the general strategic growth approach. Consequently, I consider that the proposal's compliance with Framework paragraph 79 and NP Policy 7 outweighs the conflict with CS Policy CS5 and LP Policies RLP2 and RLP38 and, therefore, that the proposal accords with development plan policies for the location of housing in rural areas.

Suitable location - access to services and facilities

17. The nearest services and facilities are in Silver End (defined in the LP as a Key Service Village) and, to a lesser extent, Bradwell (defined in the LP as an 'Other Village'). The site is not on a bus route. Connections to both settlements are along narrow, unlit roads with no footpaths. As the Inspector in the earlier appeal found, the length and nature of these routes would not encourage travel by non-motorised modes, particularly during the hours of darkness. Travel to and from the site by non-motorised users could also lead to conflict with motor vehicles and highway safety risks.
18. However, on the basis that the occupation of the dwelling would, in the case of this appeal, be limited to a rural worker in the locality, the proposal would be likely to reduce the number of motorised journeys to the site compared with the current situation where the appellants commute to the site from Bradwell. I also note that, subsequent to the earlier appeal, part of the local road network has been found to be suitable for designation as Quiet Lanes, where non-motorised travel is encouraged. I also note that the highway authority did not object to the proposal and there is no substantive evidence to suggest that it poses a particular highway safety risk.
19. The Council has referred to Framework paragraphs 102 and 103 insofar as they seek to manage growth patterns in accordance with sustainable transport objectives. However, paragraph 103 goes on to advise that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Reference has also been made to Framework paragraph 104 in that it seeks to minimise the number and length of journeys needed for employment, shopping, leisure education and other activities. Again however, this objective relates to larger scale development.
20. Consequently, given that I have already found that the proposal would be suitably located in policy terms, there would be very limited conflict between the proposal and paragraphs 102, 103 and 104. On the other hand, I have already found that it draws a measure of support from paragraphs 77 and 78. As such, I find that the proposal would be suitably located with regard to access to local services and facilities.

Character and appearance

21. Policy CS5 of the CS seeks to protect and enhance landscape character and Policy RLP90 of the LP requires proposals to achieve a high standard of design and reflect local distinctiveness. Framework paragraphs 124, 127 and 170b have generally similar aims.
22. The conversion of the former stable block to residential use would inevitably give it a more domestic appearance which would be at odds with the original character of the building and its rural setting. Nevertheless, the existing building has little architectural merit and a condition could be imposed to control the external materials used. As the previous Inspector found, the introduction of a residential curtilage and associated domestic paraphernalia would alter the setting of the area. He found that this would result in minor to moderate harm.
23. However, the appeal site boundary is tightly drawn around the existing building which limits the extent of the residential curtilage. The building is also adjoined by more extensive agricultural style buildings and land uses which would continue to give the setting a rural character. Views to the appeal building from Sheepcotes Lane are restricted to glimpses through two intervening hedge lines. As such, I find that the proposal would cause no more than minor harm to the character and appearance of the area and the degree of conflict with Policies CS5 and RLP90 and Framework paragraphs 124, 127 and 170b would be similarly limited.

Other matters

24. The appellants are on the Council's self build register. Whilst the Framework provides support for people wishing to build their own homes, in this case, there is no mechanism to tie any planning permission to the appellants. As such, I give this consideration little weight.

Conditions

25. In addition to the conditions on occupation and external materials referred to above, the Council has suggested a time limit as required by the Act and a condition specifying the approved plans. The latter condition is necessary in the interests of certainty.

Planning Balance and Conclusion

26. I have found that the proposal would cause minor harm to the character and appearance of the area and result in minor conflict with Policies CS5 and RLP90. Conversely, the proposal is supported by development plan policies for the location of housing in rural areas and the policies dealing with access to local facilities and services. Overall therefore, I find that the proposal accords with the development plan taken as a whole.
27. The parties agree that the Council cannot demonstrate a five year supply of housing land. The supply is considered to be between 3.72 and 4.5 years. At the lower end of this range this would be more significant than the 'minor' shortfall identified in the earlier appeal. There is nothing to suggest that any of the considerations in footnote 6 of Framework paragraph 11 apply in this case. Therefore, in accordance with footnote 7, the development plan policies most important for determining the appeal are out of date. In these circumstances

paragraph 11(d)ii applies and the test is whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

28. As with the consideration of the development plan policies, whilst there is minor conflict with Framework policies on good design and the protection of the countryside, the proposal derives more substantial support from the policies on the location of rural housing and access to facilities and services. Moreover, the proposal would make a contribution to the supply of housing in an area where there is an acknowledge shortfall. Whilst the contribution would be very modest, it is supported by Framework paragraph 59. As such, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the proposal benefits from the presumption in favour of sustainable development.
29. In terms of the balance under S38(6) of the 2004 Act, there are no material considerations to indicate that the appeal should be determined other than in accordance with the development plan, notwithstanding that the most important policies in this case are out of date. As such, the appeal should be allowed.

Simon Warder

INSPECTOR

**Schedule of conditions attached to
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Rainbows End, Sheepcotes Lane, Bradwell CM77 8ER**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following plans: Site Location Plan submitted to the Council 12 August 2019, Block Plan submitted to the Council 12 August 2019, Proposed General Layout 003 Rev A and Roof Plan 004.
- 3) The occupation of the dwelling hereby approved shall be limited to a person solely or mainly working or last working, in the locality in agriculture as defined by section 336 of the Town and Country Planning Act 1990 or forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.