



Appeal Decision

Site visit made on 23 March 2021 by Ifeanyi Chukwujekwu BSc MSc MIEMA CEnv AssocRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2021

Appeal Ref: APP/G2713/W/20/3264445

Intake Farm, Mires Lane, Carthorpe DL8 2RW

- 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 Carmpton against the decision of Hambleton District Council.
 - The application Ref 19/02574/FUL, dated 2 December 2019 was refused by notice dated 5 June 2020.
 - The development proposed is conversion of traditional farm building and associated works to form a single dwelling.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The parties agree that the appeal site is located in the countryside, outside of any defined settlement limit, having regard to the policies of Hambleton District Council Local Development Framework Development Plan Document Core Strategy 2007 (the 'CS') and the Hambleton District Council Local Development Framework Development Plan Document Development Policies 2008 (the 'DP').
4. In view of the above, the main issues are:
 - Whether the appeal site represents a suitable location for housing having regard to its position within the open countryside outside of locally defined settlement boundary
 - the effect of the proposal upon the living conditions of future occupants of the dwelling with regard to noise, odour and flies.

Reasons for the Recommendation

Sustainability of site location

5. The NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural

communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. For the purposes of NPPF 79, the site is not isolated as there are other dwellings in the vicinity¹. Consequently, the criteria set out in paragraph 79 relating to isolated homes are not directly relevant to the proposal.

6. Whilst the appeal site may not be isolated due to the proximity to other dwellings it is poorly located in relation to local shops, services and employment opportunities, with limited access to public transport and non-existence of usable footpath linkages. Given the rural and dispersed nature of the surrounding area and the limited availability of a wide-range of local facilities and services, to meet their day-to-day needs future occupiers of the new dwelling would be likely to access facilities and services by private mode of transportation, which does not sit well with the Government's aim of reducing carbon footprint.
7. The aims of the NPPF are reflected in the locational strategy of the CS which seeks to focus new housing in sustainable locations with good access to facilities. Policy CP4 identifies a settlement hierarchy and states that new development should be located within defined settlement boundaries and that proposals should be of an appropriate scale and nature and contribute to the sustainability of settlements and their communities. Outside of defined settlement boundaries policy CP4 states that new development will only be supported in a number of exceptions. The proposal in this instance does not meet any of those exceptions. Whilst it would re-use an existing building, the position of the site, remote from shops and services, is such that the dwelling would not be well placed to support the rural economy. I have not been presented with any information to indicate that the proposal would meet a locally identified housing need.
8. I recognise that the CS is of some vintage and was made prior to the publication of the NPPF. The restrictive nature of some policies, including policy CP4 may not be entirely consistent with the current approach of the Framework. Nonetheless, the broad locational strategy of the plan is to direct development to the most appropriate and sustainable locations and I see no fundamental conflict with the aims of the NPPF in that respect, particularly in relation to new housing development. Reference has been made to a previous appeal where the Inspector considered that policy CP4 was not up to date but that related to a proposal for commercial units. The Framework is more flexible with regard to the rural economy in that regard than policy CP4 but the principle of directing new housing to sustainable locations remains consistent with the aims of the Framework, particularly paragraph 78, and I continue to give the relevant policies significant weight as a result.
9. The appellant has referred to policy S5 of the emerging Hambleton Local Plan (the EHLP), with particular reference to development in the countryside. The emerging Local Plan is at an advanced stage of preparation. The building in question is a traditional farm building which could potentially meet the criteria-based policy for the conversion of rural buildings. However, I note that the policy requires that domestic extensions meet the terms of other policies of the emerging plan and it is not clear what those policies are or how they may be relevant to the proposal. It is difficult to assess the emerging policy in

¹ Applying - Braintree DC v SSLG Greyread Ltd & Granville Developments Ltd [2017] EWHC2743 (Admin); [2018] EWHC Civ 610.

isolation. Reference is made to emerging policies E1 with regard to domestic extensions and E5 in reference to Heritage Assets. I have not been provided with those policies and it is not clear how they may affect assessment of the proposal, which includes an extension to the building.

10. In any event, although the examination took place in 2020, it is not clear if there were any objections to the emerging policy and I have not been provided with any report from the examining Inspector. That limits the weight that I can attach to the emerging policy and, as things stand, the emerging policy does not outweigh the need to conform to the currently adopted policies of the development plan which remain consistent with the Framework insofar as is relevant to the current proposal. Having regard to that, and the lack of a full picture of any other emerging policies, I attach little weight to emerging policy E5.
11. Having regard to all of the above, the proposal would conflict with the NPPF, Policies CP1, CP2 and CP4 of the CS), which amongst other things seek to restrict new development in the open countryside to locations in which they would contribute to the sustainability of settlements and would minimise the need to travel by private car.

Living conditions

12. The appeal property is within a short distance from a livestock building. I observed three cows outside the building on my visit to the site, and there was a heap of manure not far off. Odour was definitely detected, and though there was no indication of what the level of animal noise would be, it cannot be discounted that this can constitute nuisance especially at night-time. In addition, the extreme proximity of the adjacent buildings to the appeal site is such that noise from farm animals and/or agricultural vehicles and machinery has real possibility of causing noise and disturbance to a level that would be detrimental to the living conditions of future occupiers.
13. The appellant maintains that the adjacent buildings are part of a relatively small holding of land such that activities are likely to be limited. However, ownership is not necessarily indicative of use and the buildings could continue to be used for agricultural purposes, either as part of a small-holding or as rented units in association with other parcels of land. Consequently, the ownership arrangements do not dictate that future residents of the proposed dwelling would not be subject to odour or noise nuisance from the buildings that are very close to the appeal site.
14. I must also have regard to the presence of the large pig farm which is close to the west of the site. The Council's environmental health officer noted smells associated with the unit when visiting the site. Limited information is before me in relation to the precise scale of activities at the pig farm or the extent to which smells could be a problem. Consequently, on the very limited information before me, it is difficult to ascertain whether the odour associated with the pig farm would cause an unacceptable level of harm to the living conditions of future residents. However, given the proximity to the pig farm, down-wind of prevailing winds, and the nature of the adjacent use involving pigs, there is a clear possibility that smells could have a significant impact. Having regard to the lack of any real assessment of the likely impact it is a matter that weighs against the proposal, applying a precautionary approach.

15. The appellant's argument that there is no record of complaints of noise or smell from existing properties nearby is acknowledged. However, this is not necessarily an indication of absence of harm to living conditions, as the occupants of these existing buildings might be farm workers and their families or long-standing residents and, therefore familiar with associated farming activities. I recognise that future residents would be aware of the rural location of the property and its proximity to an animal farm and could reasonably expect that some associated noise or smells may result. However, there is no way of predicting that future occupants would be accustomed to such conditions.
16. Additionally, the proposed development would be located closer to the immediately adjacent farm buildings than any of the existing properties and thus occupants would be more impacted by noise and smell from those buildings due to the proximity to the source.
17. The appellant has referred to other decisions and appeal decisions where dwellings have been approved in rural areas close to agricultural uses. From the information before me, the precise circumstances of those cases are not directly comparable. None of the cases involved development directly next to existing farm buildings, as is the case here where agricultural buildings would be retained within the same farmyard. In the appeal in Rudby, the Inspector noted that there was little evidence to substantiate concerns regarding the chicken farm operating at Rudby Dairy. The Environmental Health Officer had raised no objections in that instance. That is not the case here where objections have been received and officers of the Council and I had witnessed odours whilst visiting the site.
18. Moreover, in the Ingleby Greenhow appeal, all of the buildings in the immediate complex were proposed to be converted into residential use. A modern livestock building was situated on the opposite side of an access track. However, in that case, the farm was a beef operation which is somewhat different to the pig farm adjacent to the present site. The appeal decision also indicates that technical information was submitted relating to noise and odour controls at the unit, unlike the present appeal where no information has been provided about the nature of operations at the pig farm, or any controls over future operation of the farmyard buildings. Consequently, the other examples cited are not comparable and do not alter my concerns in relation to the impact on the proposed dwelling.
19. On the information before me, I find that the proposal by virtue of its proximity to livestock buildings would not provide acceptable living conditions for future occupants and would have a negative effect upon their living conditions with regards to noise and odour. Accordingly, it would conflict with the objectives of the Framework and Policy DP1 of the DP which, amongst other things, seek to ensure that new development protects amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight.

Other Matters

20. The Council in its final statement has raised additional concerns with regard to the effect the proposal would have upon the appearance of the appeal property and character of the rural area. It is unclear why this concern was not reflected in either the planning officer's delegated report or the reasons for refusal.

21. Having visited the site, I concur with the earlier conclusion of the planning officer. Though the proposal would alter the existing simple form and style of the existing outbuilding, it would reflect the shape of the original grouping and, due to its relatively small scale, would not harm the appearance of the site.
22. Additionally, due to the existence of other nearby properties which have landscaping and associated domestic paraphernalia, any such associated with the appeal proposal would not seem unduly out of place.

Conclusion and Recommendation

23. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and the Appeal Planning Officer's report, and on that basis, I agree that the appeal should be dismissed.

Chris Preston

INSPECTOR