



Appeal Decision

Site visit made on 12 January 2022

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 07th February 2022

Appeal Ref: APP/F3545/W/21/3282431

The Barn, Farley Green, Stradishall, CB8 8PY

- 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 Young and Moreton against the decision of West Suffolk Council.
 - The application Ref DC/21/1203/FUL, dated 1 June 2021, was refused by notice dated 18 August 2021.
 - The development proposed is the retention and completion of building for use as one dwelling and one holiday let.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I am also dealing with four appeals¹ under section 174 of the Act which relate to two enforcement notices that have been served in respect of the site and adjacent land. These are the subject of separate decisions.

Main Issues

3. The main issues are:
 - whether the site is a suitable location for a dwelling, having regard to local policy for the provision of housing.
 - whether the site is a suitable location for a holiday let having regard to access to local facilities.
 - the effect of the development on the character and appearance of the surrounding area.

Reasons

Background

4. Prior Approval under Part 3 Class Q of the Town and Country Planning (General Permitted Development) Order for change of use of an agricultural building on the site to two dwellings was issued in January 2016 (the Prior Approval).
5. The works to the building were implemented but they were not completed before January 2019 as required by the Prior Approval. The timeframe during

¹ Appeal Refs: APP/F3545/C/21/3280106, APP/F3545/C/21/3280107, APP/F3545/C/21/3280109 and APP/F3545/C/21/3280110

which the Prior Approval scheme could have been completed has expired. Therefore, the Prior Approval scheme does not represent a viable fall-back position and it does not establish the principle of residential accommodation on the site.

Site Location (Dwelling)

6. The Council sets out in its Officer Delegated Report that there is a spatial hierarchy in the district including settlement boundaries which directs development to more sustainable locations. There is no dispute between the parties that the site is within the countryside outside defined development boundaries.
7. Policy DM5 of the Joint Development Management Policies Document (2015) (the DMPD) seeks to protect areas designated as countryside from unsustainable development. Policy DM5 sets out the circumstances where a new or extended building will be permitted.
8. The development is not for purposes directly related to agriculture, forestry or equine related activities and the horse racing industry and it does not relate to facilities for outdoor sport or recreation. It is not being argued that the new dwelling will be affordable housing to meet local needs.
9. The appellants refer to their intention to set up a livery business on the land, but they have not established a need to live on the site connected with the occupation of the dwelling by key workers in a commercial equine related business.
10. Policy DM5 refers to Policy DM27 of the DMPD which relates to proposals for new dwellings in the countryside. In this case the group of houses of which the new dwelling is part forms a cluster of less than 10 dwellings. Furthermore, the site extends the built form into the countryside, thus it does not constitute the infilling of an otherwise continuous built up frontage. Therefore, the new dwelling does not meet the criteria set out in Policy DM27.
11. Drawing all of these points together I conclude that the development does not meet any of the criteria set out in Policies DM5 and DM27 of the DMPD for housing development outside settlement boundaries. Consequently, the site is not a suitable location for housing, having regard to local policy for the provision of housing. The completion of the building and use as a dwelling would be contrary to Policies DM5 and DM27 of the DMPD.

Site location (Holiday Let)

12. In respect of the holiday let, the relevant policy is Policy DM34 of the DMPD which amongst other things requires tourism development to be well-connected to and associated with existing facilities and well-related to urban areas and defined settlements.
13. The position of the building within a small group of houses and in a countryside location at a distance from any settlement does not meet these requirements. Furthermore, the roads serving the site are narrow, unlit and have no footways and there is no evidence of a bus service. Walking and cycling would not be attractive options for users of the accommodation to access local services.

14. On this basis I conclude that the site is not a suitable location for a holiday let having regard to access to local facilities. The completion of the building and use as a holiday let is contrary to Policy DM34 of the DMPD.

Character and appearance

15. The area surrounding the site is characterised by country lanes linking small settlements, large open fields, and sporadic residential development. The site is close to the junction between two roads and adjacent to a dwelling.
16. The photographs provided by the appellants show that the building which occupies the site is an amalgam of parts of the original barn and new materials. On this basis they argue that the Council are incorrect in their assessment of the proposal as a new building on an otherwise empty site.
17. Setting aside the arguments made about the structural condition of the barn which stood on the site and the degree to which structural elements have been retained, there is no evidence to show that the original barn has been demolished in its entirety and the site cleared. On this basis the starting point for the consideration of the impact of the development on the character and appearance of the surrounding area should assume the presence of a building on the site.
18. The appellants contend that historic maps show that there have been more buildings on the site than currently exist and they refer to the 1886 map. However, there is no detail regarding the appearance of the structures which appear on the map and no information as to how recently they were on the site. On this basis it is reasonable to take the barn which is the subject of the appellants' photographs as the starting point for the consideration of the effect of the development on the surrounding area.
19. The evidence before me includes photographs of the barn which occupied the site and plans showing the elevations of it. The original barn was a substantial structure in terms of its footprint in particular and included two lean-tos on its rear face.
20. The position of the barn perpendicular and close to the road would have resulted in it being prominent in the view from the road for anyone approaching the group of dwellings. However, it would have been viewed in the context of the rural character of the surrounding area, appearing as an agricultural building associated with the adjacent field.
21. The building which currently occupies the site is incomplete and the area immediately surrounding it has not been laid out for car parking or amenity space. A key consideration is also that the external treatment which would resemble the timber cladding of the original barn has not yet been installed. Nevertheless, in comparison with the original barn, the proposed building would have a domestic appearance which would be intensified by the introduction of a formal car parking area, internal and external lighting, and associated domestic paraphernalia.
22. Whilst the finished building would be compatible with the design and style of some of the buildings in the area, the contrast between the previous barn associated with the agricultural use of the land and a domestic building in use by up to one household and one group of holidaymakers would be marked. In

the context of the character and appearance of the countryside which I have described, this change would be harmful.

23. Planning conditions could be imposed which would control and mitigate the visual impact of a residential use of the site. However even with such conditions the appearance of the site and the contribution which it makes to the wider area would be significantly different to the previous appearance of the site.
24. The appellants argue that were it not for shortfalls in the process the barn conversion would have been completed and the visual impact which the Council are concerned about would be present on the site. Matters relating to the process by which the Prior Approval application was dealt with fall to be resolved between the appellants and the Council. I must make my decision on the basis of the information before me and on that basis, the completion of the building on site cannot be undertaken in accordance with the Prior Approval.
25. The appellants also say that the resultant design and finished appearance of the building would be similar to that which was approved under the Prior Approval. However, as I have set out above the Prior Approval scheme does not represent a viable fall-back position and consequently a comparison between the Prior Approval scheme and the appeal scheme does not attract any weight in favour of the appeal.
26. I conclude that the retention and completion of the building for use as one dwelling and one holiday let would have a harmful effect on the character and appearance of the surrounding area. The development is therefore contrary to Policies DM2, DM13 and DM22 of the DMPD. These policies jointly require that new development including changes of use maintains local character and landscape character.
27. For the same reasons the development would be contrary to the National Planning Policy Framework (the Framework) which requires that planning decisions contribute to the natural and local environment by recognising the intrinsic character and beauty of the countryside and that sustainable rural tourism respects the character of the countryside.

Other Matters

28. The appellants submit that there are a number of material considerations which outweigh the policy objections in this case. For example, they consider that some policies in the DMPD support the development and they refer to Policies DM5 and DM28 in this regard.
29. In relation to DM5 they make reference to the application of criterion (g) of the policy relating to replacement dwellings and note that it does not preclude the replacement of an existing property with a larger building as a matter of principle. They say that in the case of the appeal building more of the building has had to be rebuilt and that a lean-to has been replaced. However, the starting point for the assessment of a development against Policy DM5 (g) is that the building on the site is a dwellinghouse. That is not the case here. Although Prior Approval was given the development has not been completed, therefore in planning terms there is no dwelling on the site which could be replaced.

30. Policy DM28 provides support for the conversion of redundant buildings in the countryside for residential use subject to four criteria. However, the appellants have not explained how the development meets these criteria and refer only to the Prior Approval which I have already discounted as a fall-back position.
31. The appellants state that their failure to complete the works permitted by the Prior Approval was in part due to their misunderstanding that a completion condition and not a commencement condition had been attached to the Prior Approval. They also argue that the medical condition of one of the appellants may have contributed to this misunderstanding.
32. However, the appellants also say that they sought advice from the original architect for the conversion before they carried out works to the building. Thus, they had professional advice and could have sought clarification of the duration of the Prior Approval either from the architect or the Council.
33. The appellants say that they discovered a number of flaws with the structure of the building and in the light of this it is not clear whether the barn was structurally capable of being converted when the application for the Prior Approval was determined. However, this is not material to the current appeal as the timeframe during which the Prior Approval scheme could have been implemented has expired.
34. The Framework supports a prosperous rural economy, and the appellants refer to the effects of the pandemic in terms of the increased demand for holiday accommodation in the UK. The development could give rise to a positive impact in terms of holidaymakers using local services and the direct and indirect employment resulting from the holiday let. However, the impact of this is likely to be limited given the small scale of the accommodation.
35. The appellants say that the holiday let will achieve a high level of occupancy but there is no substantive evidence to support this.
36. The appellants consider that the Council has been inconsistent in its decision making on proposals for holiday accommodation. They cite a case in Great Barton which has recently been approved by the Council (the Great Barton scheme). Reference is made in a quote from the Council's report to the economic benefits including those arising from farm diversification. Furthermore, a quote from the Council's minutes of the meeting of Councillors indicates that the decision makers placed greater weight on the economic benefits such that they outweighed other objections to the scheme.
37. The full details of the Great Barton scheme are not before me but on the basis of the information which has been submitted that scheme involved farm diversification which the appeal scheme does not. Thus, the two schemes are not directly comparable in terms of their impact on the rural economy.
38. The appellants also refer to a development which has been approved on the opposite side of the road to the site which they say will result in a large dwelling which will be more prominent than the buildings it replaces. The Council has not referred to this development, I have no details of the proposals and it was not clear to me that development had commenced at the time of my site visit. In such circumstances I cannot be sure that this case is directly comparable to the appeal scheme and as such it attracts limited weight in my consideration of the appeal.

39. The appellants observe that there have been no objections from local residents and that immediate neighbours are in support of the scheme. The comments made by neighbours include reference to the sympathetic conversion works which they consider have been carried out and that the demolition of the building (as required by the enforcement notice which has been served) is an extreme measure which will cause hardship and distress to the appellants.
40. For the reasons set out above I disagree with the views of the residents that the conversion has been carried out sympathetically. In my view the changes to the building render its appearance and the consequences of its use are harmful to the site context.
41. The comments made by some of the neighbours reflect the views of the appellants that a refusal of planning permission and subsequent enforcement action will make the appellants homeless. It is for the Council to enforce the requirements of the enforcement notice, nevertheless a consequence of dismissing this appeal could be the loss of the appellants home which would be an interference with the rights of the occupiers. Therefore, the right set out under Article 8 of the European Convention on Human Rights is engaged.
42. Article 8 is a qualified right, and in this case the rights of the individual are outweighed by the harm arising from the failure to comply with planning policy for housing and holiday accommodation and from the adverse effect of the development on the character and appearance of the surrounding area. It is necessary and proportionate to refuse to grant planning permission for the retention and completion of the building for use as one dwelling and one holiday let. It will also be seen from my decision in respect of the appeals against the enforcement notice relating to the demolition of the barn that there is no evidence before me to suggest that the appellants will not be able to find alternative accommodation within the compliance period of the enforcement notices.

Conclusion

43. The proposal would not accord with the development plan and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons set out above, I conclude that this appeal should be dismissed.

Sarah Dyer

Inspector