



Appeal Decision

Site visit made on 6 June 2022

by Chris Forreth BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd June 2022

Appeal Ref: APP/G2435/W/21/3288635

58 Moor Lane Farm, Moor Lane, Coleorton, Leicestershire, LE67 8FQ

- 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 Messrs A & B Webster against the decision of North West Leicestershire District Council.
 - The application Ref 21/01786/FUL, dated 10 September 2021, was refused by notice dated 25 November 2021.
 - The development proposed is the change of use of red brick agricultural building to dwelling houses with associated works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal was originally described as the change of use of two brick agricultural buildings to dwellings. The Council changed the description to that in the banner header above, and the appellant has confirmed that they have no objection to the revised description. I have therefore utilised this revised description for my decision.

Main Issues

3. The main issues are whether the site is an appropriate location for new dwellings and whether the proposal would provide suitable living conditions for its future occupiers.

Reasons

Location

4. The appeal site is located outside of any defined development boundary and is in a rural area where there are very limited facilities.
5. The Council have referred to Policy S2 of the North West Leicestershire Local Plan (2017) (NWLLP) in their reason for refusal. However, as part of the appeal submissions, the Council have confirmed that the proposal would not conflict with this policy as the proposal relates to the conversion of an existing building within a small village which is supported by the policy. In short, I agree.
6. Policy S3 of the NWLLP sets out that the re-use and adaptation of buildings for appropriate purposes including housing is acceptable (at the appeal site) subject to compliance with six criterion. It is common ground that the proposal accords with five of these. The sixth requirement is that the proposed

development is accessible, or will be made accessible, by a range of sustainable transport.

7. The National Planning Policy Framework (the Framework) also has objectives to promote sustainable travel modes that limit future car use. However, it also recognises that, at paragraph 105, solutions will vary between urban and rural areas and this should be taken into account in the decision-making process.
8. It is noted from the Council officers' report that the site is around 750 metres away from the nearest bus stops on The Moor where there is an infrequent bus service. There are also other bus stops on Ashby Road which are further away from the appeal site. On The Moor, there are also two public houses around 770 metres away. There is also a school around one mile away. As I understand it, the shop referred to in the officers' report has now closed for business.
9. As noted by the Council, to access the closest of these services would require travelling along Moor Lane for around 500 metres. As this is an unlit road which does not benefit from any pedestrian walkway, this would not be a particularly attractive route to walk. That said, this is not unusual for such a rural location and from my site visit there was very little traffic evident.
10. Whilst the future occupants of the dwellings would therefore be likely to utilise the private car for the vast majority of their journeys, it would nevertheless be possible to gain access to some services in the local area on foot or by bicycle.
11. Given that it would be possible to travel via these sustainable transport modes, this leads me to the view that the accessibility of the site is not inappropriate when considering the conversion of an existing building to a residential use.
12. Furthermore, the proposal may result in a small decrease in agricultural traffic as a result of the loss of agricultural floorspace from the appeal building itself which also weighs in favour of the proposal.
13. My attention has been drawn to a recent appeal decision¹ by the Council which also considered this issue from a conversion of a building perspective. From the limited information before me, that site was located in a Hamlet as opposed to a small village (as defined by Policy S2) and as such was located in a materially different type of location in respect of the availability of services.
14. I have also considered the other appeal decisions put before me, but none of these have the same support through Policy S2 as the current appeal proposal. The exception to this is the Norman Le Heath² case. However, in that case there were no services or facilities within a reasonable distance to that site other than a church.
15. Therefore, none of the cases put before me are directly comparable to the current appeal and I can only give them limited weight in my decision. Moreover, each proposal must be considered on its individual merits.
16. For the above reasons, the proposal would be an appropriate location for the conversion of an existing building to a residential use and would be accessible by sustainable transport modes. It would therefore be consistent with Policy S3 of the NWLLP and the overarching aims of the Framework.

¹ Reference APP/G2435/W/19/3243002

² Reference APP/G2435/W/21/3275058

Living Conditions

17. The appeal building consists of a brick/block built building with a slate roof. The building is just over 38 metres in length by around 6.2 metres wide. To the north-east of the appeal building are retained agricultural buildings, one of which appears to have been recently refurbished with brick cladding and roller shutter doors. These doors face a concrete service/access area which is also the route of the access to the proposed dwellings.
18. The dwellings themselves would include a living room, dining room, kitchen, utility and hall on the ground floor whilst there would be 3 bedrooms (each with an en-suite) on the first floor. There would also be an office to the first floor which would also have a further en-suite.
19. From the submitted plans the majority of the habitable room accommodation would be located on the south-western side of the building, albeit that there would be habitable room windows to both the kitchen and living room areas to the north-east elevation. That said, both of these rooms would also have windows to the south-east elevation with the living rooms also having French doors to the side elevations.
20. The retained agricultural buildings would be slightly less than 11 metres away from the front part of dwelling unit 1, whilst unit 2 would be slightly closer to the group of retained buildings.
21. In terms of the outlook from the dwellings, the majority of views would be to the south-west where there is an open field which would provide very pleasant views. Whilst the views from the windows on the north-east side the building would be constrained by the retained agricultural buildings (and to a lesser extent the service area to these), given that the windows which face this way are to non-habitable rooms (or are secondary windows to a habitable room) I consider that this is not an unacceptable outlook. Similarly, the proximity of the retained agricultural buildings would not result in an oppressive environment for the same reason.
22. However, the continued agricultural activities on the site in these buildings and the associated service yard would present the distinct possibility of a conflict of uses as a result of noise and disturbance. This is particularly the case as the occupants of the dwellings would not have any control or influence over these activities.
23. Significantly, the majority of unit 1 would be fronting onto the turning area to both dwellings and the service yard/turning area to the retained agricultural buildings. Given the route in which future residents would have to access the properties, there is little prospect of any meaningful screening or boundary treatment between the proposed dwellings and the service area to the retained agricultural buildings. Furthermore, it is not desirable to have the only access to these properties through this service yard area which would be an active agricultural yard. In respect of residential unit 2, there would also be potential noise and smells from the group of retained buildings, especially given their construction.
24. Whilst the Council have provided little evidence in respect of these issues, the juxtaposition between the respective buildings indicate to me that there is

great potential for the agricultural activities to adversely impact on the living conditions of the occupiers of the dwellings.

25. In the absence of any method to mitigate these impacts, to my mind, these factors present significant and fundamental issues over the acceptability of the proposal.
26. In coming to the above view I have had regard to various appeal decisions which have been put before me by both parties, including one³ where the appellant has drawn my attention to a statement that "the practicality and desirability tests evidently have high thresholds". However, this appeal was concerned with a prior approval rather than an application for planning permission. Furthermore, the main issue in that case was in relation to the length and condition of the access track rather than matters relating to living conditions.
27. I also acknowledge that the Environmental Protection Team from the Council raised no objections to the proposal stating that the proposed use would not negatively impact on its environment by way of noise, light, odour or other disturbance. However, it is significant that no comment is made in respect of noise and odour impact on the proposal from the existing agricultural buildings. The implication being that this was not considered by that team.
28. For the above reasons the proposal would not provide suitable living conditions for the future occupiers of the development contrary to Policy D2 of the NWLLP which amongst other matters seeks to ensure that development which is sensitive to noise or unpleasant odour emissions are not permitted where the amenity of future occupants would be adversely affected. It would also be at odds with the overarching aims of the Framework in this respect.

Other Matters

29. The Appellant has referred to a previous application for planning permission for the conversion of the appeal buildings to residential use which was recommended for approval at the Councils' December 2020 planning committee. However, from the information before me, that proposal involved the removal of the existing agricultural buildings adjacent to the appeal buildings. Furthermore, given that this application was withdrawn and not determined by the Council, I can give this very little weight.
30. As noted above, several appeal decisions have been provided to me in support of the appeal proposal. However, none of these provide a convincing reason why permission should be granted for an otherwise unacceptable development.
31. Finally, I have been provided with a copy of a Unilateral Undertaking which in essence is designed to relinquish the permission for a grain store building which was approved as part of the same planning permission as the appeal building.
32. However, the undertaking has not been fully completed in that it is undated and therefore has not been executed as a deed. As such, it has not legally come into force. As a result, I have given this very little weight.

³ Reference APP/V2255/W/16/3161427

Conclusion

33. For the above reasons the proposal conflicts with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

Chris Forrett

INSPECTOR