

Appeal Decision

Site visit made on 11 July 2022

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2022

Appeal Ref: APP/A2470/W/21/3283970

Glebe Farm, Empingham Road, Tinwell PE9 3UL

- 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 A Hinch against the decision of Rutland County Council.
 - The application Ref 2021/0479/FUL, dated 13 April 2021, was refused by notice dated 23 August 2021.
 - The development proposed is the redevelopment of an agricultural building to form 1 no. dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the site is a suitable location for a new dwelling.

Procedural Matter

3. As stated on the application form the development described above was commenced in March 2021. I have therefore assessed the scheme as seeking planning permission retrospectively.

Reasons

4. The appeal site is in a rural, but not isolated, location, being adjacent to an existing farmhouse. It falls within the countryside within the terms of Rutland Core Strategy (RCS, adopted July 2011) Policy CS4 and the Site Allocations and Policies Development Plan Document (SAP, adopted October 2014) Policy SP6. That is not in dispute.
5. Access to the site is taken from a private driveway which leads to the A606 which is a single carriageway at the national speed limit with no footpath or lighting. There does not appear to be access to public transport due to the rural nature of the site away from any settlement. Although it may be possible to walk or cycle to some services and facilities, that is unlikely to be welcoming to most or preferential to the use of private vehicles.
6. Accordingly, future occupants would, in my view, be highly dependent on the use of private vehicles for meeting their day-to-day needs. This would lead to an increase in vehicular emissions contrary to the approach in the RCS and SAP of concentrating growth primarily in or around established settlements. I note that the NPPF similarly seeks to ensure that the planning system actively manages patterns of growth in terms of promoting sustainable transport.

7. Setting aside the consistency of Policy CS4 with the NPPF, there is no indication in the evidence before me that any exceptions to the general position of restricting development in the countryside would apply here. Nor would any of the exceptions listed in paragraph 80 of the NPPF, notwithstanding my reasoning in paragraph 4 that the site is not isolated.
8. The proposed dwelling would be single storey, with a restrained footprint. It would be in close proximity to the existing, large farmhouse, and also to the substantial buildings that appear to form part of the farm. It would not be a prominent feature in the wider landscape due to its relationship with the surrounding buildings and in that respect would have a neutral effect on the local rural character.
9. Nonetheless, on account of the reasoning above, the appeal proposal would result in a new dwelling in the countryside whose occupants would be highly reliant on private vehicles in conflict with the approach in relevant provisions of RCS Policy CS4, SAP Policy SP6 and NPPF paragraphs 104 and 105. Given however, that the proposal is for a single dwelling, I accord such harm moderate weight.

Other Matters

10. There would be certain benefits arising from the appeal proposal. It would result in an increase in housing provision in an area where the Council cannot demonstrate a five year supply of housing land (and thus a situation where the provision of NPPF paragraph 11(d)ii are engaged). With reference to NPPF paragraph 79 and the guidance in the Planning Practice Guidance (PPG), I acknowledge that future occupants would bring trade to nearby services and facilities in the rural area. However on account of the scale of the proposal, I accord these benefits only limited weight.
11. The appeal site had the benefit of a prior approval for the conversion of the building to a dwelling under Class Q of the Town and Country Planning (General Permitted Development) Order 2015. I note that the PPG explains how there is no test of sustainability of location in terms of Class Q, which is not the case in this instance.
12. The appellant has put forward that had this scheme been submitted while it was still possible to implement the prior approval, permission would have been forthcoming due to the underlying principles remaining the same and the lack of any other harm identified. The Council disputes this and points to an appeal decision¹ which notes a clear distinction between the intentions of Class Q and allowing a new dwelling, even when the Class Q Prior Approval was acknowledged to be a realistic fallback position. The appellant has countered this with a further appeal decision² where the fallback position justified allowing new dwellings.
13. In any event, this is not the case before me. It is accepted by both parties that the Class Q prior approval has been lost due to the extent of the works carried out to the building. There is therefore no fallback position available to the appellant against which the appeal proposal could be assessed.

¹ Appeal reference APP/K2420/W/19/3237098 dismissed 2 January 2020

² Appeal reference APP/D0840/W/20/3259422 allowed 17 February 2021

14. The appellant has drawn my attention to two recent appeal decisions³ where permission was granted following enforcement appeals in circumstances where works had extended beyond the scope of a Class Q prior approval and the dwelling completed. The appellant has put forward that were that the case here, or if this proposal had been at least substantially complete, the appeal would be allowed. Again, this is disputed by the Council.
15. I have had regard to those decisions, however I note that the Inspector specifically distinguished the circumstances of the appeals, both in terms of extraordinary circumstances to which she attached significant weight and the personal circumstances of the appellants, to which she attached considerable weight. No combination of factors to demonstrate extraordinary circumstances or personal circumstances have been put before me that would allow me to draw parallels between the cases. I therefore attach limited weight to these decisions.

Planning Balance

16. I have identified that, in terms of location, the appeal proposal would result in moderate harm. Collectively I accord only limited weight to the benefits of the scheme. Accordingly the adverse effects of allowing the appeal would significantly and demonstrably outweigh the benefits. There are no other material considerations that would outweigh the conflict with the development plan, acknowledging that PCS Policy CS4 is more restrictive than the current approach in the NPPF.

Conclusion

17. For the reasons given, having considered the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR

³ Appeal references APP/N1025/C/19/3238932 and APP/N1025/C/19/3238933 allowed 6 January 2021