
Appeal Decision

Site visit made on 7 June 2022

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2022

Appeal Ref: APP/A3010/W/21/3288282

Livestock Building to North of Smeath Lane, Smeath Lane, Hayton, Retford, Nottinghamshire DN22 9JW

- 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 Nigel Williams against the decision of Bassetlaw District Council.
 - The application Ref 21/01278/FUL, dated 6 August 2021, was refused by notice dated 5 October 2021.
 - The development proposed is described on the application form as 'Change of Use of Redundant Livestock Building to Form one family Dwelling'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has described the development as 'Change of Use of Redundant Livestock Building to Form One Single Storey Dwelling (Resubmission of P.A. 21/00230/FUL)'. I note that the appellant has also utilised this description on their appeal form. I consider that this revision provides an accurate description of the proposal and I have therefore determined the appeal on this basis.
3. The appellant has raised concerns regarding the Council's handling of the case, and in particular about a perceived lack of opportunities to discuss potential amendments to the proposed development prior to their determination of the original application. However, in determining the appeal I have only had regard to the planning merits of the case.

Main Issues

4. The main issues are:
 - whether the appeal site is a suitable location for residential development;
 - the effect of the proposed development on the character and appearance of the area; and
 - whether it has been demonstrated that the conversion of the appeal property to an alternative use other than market housing would not be economically viable.

Reasons

5. The appeal site is located on the edge of Hayton/Clarlborough, two predominately residential villages set within a wider rural landscape. The existing development

pattern for the housing within the conjoined villages largely consists of buildings in a linear pattern being clustered around the road network with agricultural fields surrounding them. Whilst the villages are predominately residential, I consider their overall character to be intrinsically rural.

Whether a suitable location

6. In their officer report the Council raise a concern that the proposal would not be sustainable and appropriate in terms of location and accessibility. Both main parties agree that the appeal site is located outside the settlement boundary defined by the adopted Bassetlaw Core Strategy & Development Management DPD (BCS) meaning that it is in the open countryside.
7. Paragraph 79 of the Framework promotes sustainable development in rural areas where it will enhance or maintain the vitality of rural communities. In relation to economic and community benefits, the proposed housing would provide a limited boost to the local economy and businesses which would potentially help to sustain services within the village. However, these potential economic and community benefits would be dependent on residents being able to meet many of their service needs within the village.
8. Paragraph 80 of the Framework states that planning decisions should avoid the development of an isolated home in the countryside unless it meets certain specified exception tests. The Braintree Judgement¹ has held that the word "isolated" in the phrase "isolated homes in the countryside" simply connotes a dwelling that is physically separate or remote from a settlement. It has also held that the issue of 'isolated' in this regard must always be a matter of fact and planning judgment. Case law² is also clear that 'isolated' should be construed as meaning remote from a settlement, not remote from other dwellings.
9. It is therefore necessary for me to undertake an assessment of the appeal scheme in relation to its sustainability and its accessibility to services and facilities as well as assessing whether the proposal would be physically separate or remote from a settlement.
10. According to the evidence and what I saw on my visit, the services and facilities in Hayton comprise a village hall, playing field and church with those in Clarborough comprising a small shop, public house, village hall/post office, playing field, church, and primary school. While I note the presence of these services and facilities, they are somewhat limited meaning that the proposal's future residents would likely need to occasionally travel to larger service centres such as Retford, Gainsborough, and Doncaster to meet their day-to-day needs.
11. I note that there is a bus stop next to the small shop and public house in Clarborough. However, I have no substantive evidence before me showing how frequent the bus services are from this stop or where they run to. Furthermore, the appeal site is located on one side of a large gap between it and the main built-up area of Hayton/Clarborough which is on the other side of the canal bridge. The stretch of road between the appeal site, and the buildings opposite it, and the other side of the bridge is very narrow and does not have any footpaths linking one side of the bridge to the other. As a result, there is no clear pedestrian link between the appeal site, these other buildings, and the footpath next to the main built-up area on the other side of the bridge. The narrowness of the road at this point would, to my mind, also make cycling across the bridge potentially problematic.

¹ Braintree District Council v SSCLG Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

² Bramshill v SSHCLG [2021] EWCA Civ 320

12. Consequently, while I acknowledge that there are residential properties on the opposite side of Smeath Lane to the appeal site, including the proposed conversion of the public house, I am not convinced that the proposal's future occupiers would travel to the built-up area of the village by foot or bicycle or that they would access the services and facilities located in the village or larger service centres by means other than the private car. As a result, I find that the proposed development would not reduce the reliance of residents on private vehicles to obtain their day-to-day goods and services and that it would therefore not be in a sustainable location. Moreover, bearing in mind the Bramshill judgement, just because the appeal site is near to other dwellings does not mean that it is not in an isolated location.
13. Therefore, in the context of the above and again bearing in mind the Braintree judgement, I also consider that in functional terms the 'on the ground' situation in this case, would be that it would not be physically connected to the main built-up area of Hayton/Clarborough. Consequently, in my judgement the proposed dwelling would as a matter of fact and degree be physically separate and remote from a settlement and in an isolated rural location.
14. Consequently, taking into account all of the factors discussed above, and being mindful of paragraph 105 of the Framework, I find that the appeal site is not a suitable location for residential development meaning that the proposal would cause significant harm in this regard.

Character and Appearance

15. The proposal would be well-screened when viewed from Smeath Lane with the likely receptors being people travelling by motor vehicle. As I saw on my visit, the proposal would also be well-screened from the public right of way/canal path that runs towards Church Lane and is on the other side of the open gap between the appeal site and the residential properties on the other side of the bridge.
16. Similarly, as I also observed on my visit, even though the proposal would be visible from Church Lane, it would be set against the visual backdrop of the row of large mature trees to the front of the appeal site. In any event, the distance between the public vantage points on Church Lane and the proposal mean that it would visually resemble an agricultural building rather than a dwelling. Moreover, even if it did resemble a dwelling, from what I observed on my visit, while they are widely dispersed, dwellings are not an alien feature of the local rural landscape meaning that the proposal would not be visually at odds with its overall character.
17. In addition, even though the proposal would introduce new fenestrations to its elevations, replace its external cladding finish with wood weather boarding, and change the roof materials from sheeting to pantiles the size, height, bulk, scale, and massing of the proposal would not be larger than the original building. As a result, I consider that these external alterations would not be significant in relation to the size and appearance of the existing building.
18. Moreover, given the presence of other sporadic single dwellings within the local rural landscape and in the above context I also consider that the proposal would not be at odds with such other similar dwellings in the rural area. By the same token, I also consider the design of the proposal not to be particularly 'suburban' given its location and setting within the wider rural landscape.
19. I therefore conclude that the proposed development would not materially harm the character and appearance of the area. It would therefore meet the relevant requirements of policies DM2, DM4 and DM9 of the BCS.

Whether not economically viable

20. Policy DM2 of the BCS states that the conversion of non-residential rural buildings for solely market housing will only be supported where an economic, community/service or affordable housing use has been shown to be unviable.
21. I have no substantive evidence before me, such as marketing documentation or a viability assessment to demonstrate that all reasonable efforts have been made to sell and let the site or premises for an economic development, community/service or affordable housing use at a realistic price for a period of at least 12 months or that demonstrates that the conversion of the appeal property for such uses would not be economically viable.
22. I note the appellant's point that the sale or letting of the appeal property is not an option as this could lead to noise nuisance, increased vehicular movement and visual harm to the character of the area. I also note their point that the Council could have considered the proposal as an affordable housing option. However, they have not submitted any substantive evidence to support this.
23. I therefore conclude that it has not been demonstrated that the conversion of the appeal property to an alternative use other than market housing would not be economically viable. Accordingly, the proposal would fail to meet the relevant requirements of policy DM2 of the BCS.

Other Matters

24. I note the appellant's point with regards to similar development proposals being permitted in the area. However, I do not have all the details of these cases before me or the circumstances which led to those decisions being taken so I cannot be certain that the circumstances applicable to these schemes are the same as those presented in this case, which I have determined on its own merits. In any event, the existence of other similar development proposals in the locality does not outweigh my findings as set out above.

Conclusion

25. The proposed development would not conflict with development plan policies in respect of character and appearance. However, the avoidance of harm in this respect does not alter, outweigh, or overcome my conclusions on the other main issues. As a result, this also does not amount to a positive consideration in support of the appeal scheme overall. Consequently, the proposal would not accord with the development plan when read as a whole and the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies contained within it.
26. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR