
Appeal Decision

Site visit made on 14 July 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 16TH August 2022

Appeal Ref: APP/D3505/W/22/3290647

Prospect House, Stackwood Road, Polstead Heath, CO6 5BA

- 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 P Dunningham against the decision of Babergh District Council.
 - The application Ref. DC/21/03509 dated 20 June 2021, was refused by notice dated 16 August 2021.
 - The development proposed is conversion and alteration of outbuilding to form single storey detached dwelling, together with improved vehicular access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are: i) whether the location of the site is appropriate for residential development in terms of sustainability and ii) the suitability of the outbuilding for conversion

Reasons

3. The site is within the present curtilage of Prospect House, a substantial detached house situated in open countryside, although there is other sporadic development along Stackwood Road. Polstead Heath is a small settlement having a designated boundary to its built up area and is identified as a 'Hinterland Village'. The site is some 200m from the boundary of Polstead Heath.

Whether the of the location of the site is appropriate for residential development

4. The starting point must be the policies of the development plan. In respect of this issue, those that are cited in the refusal reason are CS2, CS11 and CS15 of the Babergh Core Strategy, 2014. The Core Strategy is clearly an aging document, but not necessarily out of date on that basis alone. However, these policies all fail to follow the flexible approach to decision making as set out in the National Planning Policy Framework (the Framework). Policy CS2 for instance, includes a section on 'Countryside', which states that development outside the defined settlements will only be allowed in exceptional circumstances. Similarly, CS11 has a sequential approach with criteria that do not sit well with the Framework, such as whether the development meets a proven local need. Again, CS15 has a long list of criteria, a good number of

which are consistent with the framework. However, it does not reflect the flexibility and balancing that its advocated in the Framework. For that reason it carries less than full weight.

5. There is also saved policy CR19 of the Babergh Local Plan, 2006 (BLP) which begins "*Proposals for the conversion of barns or other redundant or under-used buildings in the countryside into dwellings or holiday accommodation will only be permitted if:*" followed by a number of detailed criteria. The criteria include such matters as first thoroughly exploring the uses for business, community or leisure, and the buildings historic and architectural merit. Such criteria do not fully reflect the more flexible approach taken in the Framework. But to the extent that it is germane to my decision, I will deal with this policy under my second issue.
6. Since I have found the development plan policies referred to are either not in accord with the Framework or do not attract full weight, I will consider the appeal against the policies of the Framework taken as a whole. This must begin with paragraph 10 which states that at the heart of the Framework is a presumption in favour of sustainable development. Sustainable development has 3 overarching objectives: the economic, the social and the environmental (paragraph 8). I will come to these a little later. More explicit policy can be found in the section on rural housing – paragraph 78 to 80. Paragraph 78 is mainly concerned with affordable housing and opportunities for rural exception sites; this narrow subject matter is not relevant.
7. It seems to me that paragraph 79 gets to the nub of rural housing policy: "*To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby*". This is clearly in support of a housing location where the vitality of rural communities will be enhanced or maintained, with opportunities for villages to grow and thrive. Thus the emphasis for sustainable development in terms of rural housing is on settlements. As I have already noted, paragraph 3 above, the appeal site is not within the boundary of a settlement.
8. This leads to the 'isolated homes' paragraph 80, which is clear in its opening sentence: "*Planning policies and decisions should avoid the development of isolated homes in the countryside unless ...*". It then sets out 5 circumstances, only one of which can be considered as being relevant to this case: "*c) the development would re-use redundant or disused buildings and enhance its immediate setting;*". This is a proposal for the re-use of a redundant or disused building, and therefore would come within this criterion.
9. Therefore it is necessary to address the question of whether it would be 'isolated'. The judgement in the case of Braintree District Council ([2018] EWCA Civ 610), endorsed in the case of City & Country Bramshill Limited ([2021] EWCA Civ 320), determined that the meaning of isolated is "*whether [the development] would be physically isolated, in the sense of being isolated from a settlement*". As I described in paragraph 3 above, the site is some 200m from the boundary of Polstead Heath. The question then arises as to whether it is in or near any other form of settlement, such as a hamlet. There is other sporadic development along Stackwood Road, but I do not consider

that these other developments could be reasonably recognised as any sort of settlement. Thus I find that the appeal site is isolated in the paragraph 80 sense.

10. There are 2 other matters that I should comment on at this stage. Firstly the nearby settlements are small and Polstead Heath in particular has no facilities. I am satisfied that the site is in an unsustainable location where, for access to day to day facilities and services, the occupiers would be reliant on private vehicles for most such needs. I also need to examine the extent to which the 3 overarching objectives of sustainable development might lend support for the appeal proposal to be set against the harm of an unsustainable location.
11. For the most part these objectives are met by the preparation and adoption of development plans. But in this individual case the development would serve the economic objective by providing employment in the short term and perhaps sourcing materials from the locality, and the introduction of a new dwelling. The latter would also help with the social objective, but the development would be unlikely to assist in any meaningful way with the social activities in the nearest villages. I can find no material benefit to the environmental objective. I judge from this that there is no benefit from meeting the 3 objectives of sustainable development that is over-riding. Therefore I find that the location of the site is not appropriate for residential development in terms of sustainable development.
12. The paragraph 80 policy for isolated dwellings includes consideration c) that the development would re-use redundant or disused buildings ... ; I therefore turn to consider this within my second issue which revolves around whether the proposal would amount to a re-use, or in policy CR19 terms, the conversion, of the existing building.

The suitability of the outbuilding for conversion

13. The basic premise of re-use is the same in Framework paragraph 80 and BLP policy CR19. That being so, the essential matter is the suitability of the building for conversion to a dwelling. I saw that the main part of the building has clearly undergone some considerable transformation in its appearance since the photographs in the structural report and in the planning officer's report were taken, but I rely on the structural engineer's report as to its condition.
14. The appeal building is situated in the extensive garden that runs across the front of Prospect House which sits at right-angles to the road. It is described as an outbuilding, and has apparently existed since the early 1900s. Taking details from the structural engineer's report, the main part of the building measures approximately 8.5m by 3.0m and is constructed of 215mm solid brickwork, which continues down to form the foundations, bearing into soft to firm grey/brown sandy clay. It has a gabled duo-pitch clay pantiled roof. The floor is a concrete slab. In addition there is a rudimentary lean-to structure along much of the north elevation consisting of profiled fibre cement sheeting spanning from the main building to the side wall, with no timbers supporting the sheeting. The walls are generally of 215mm solid brickwork, which reduces in places to 103mm approximately 0.5m above ground level.
15. The structural report states that the lean-to should be rebuilt, but the main structure, with some remediation, would be capable of conversion. Based on a visual inspection, the report considers that the existing foundation would be

adequate for the increased loading from the proposed dwelling. It is also stated that, assuming that the height and pitch is acceptable, to be determined by others, the existing roof structure could be retained as part of the conversion, subject to the insertion of a ridge beam. However, the report also highlights that the existing foundation depths do not satisfy the minimum 0.9m required for NHBC standards for foundations bearing on clay subsoil or the minimum 0.45m depth required to ensure that the foundation extends below the influence of frost.

16. It is clear from the structural report that the lean-to element of the building would have to be demolished. It is the area of this element that would provide the kitchen and bathroom and part of the dining area. Furthermore, the open plan area accommodating the kitchen, dining area and sitting area necessarily requires a substantial part of the north wall of the main building to be removed. Thus a substantial part of the proposed dwelling would be new build from these factors alone.
17. I also have serious concerns about the practicality of a straight forward conversion of the main part. Whilst a design has been put forward that is sufficient to consider the appearance from a planning application point of view, there is nothing to suggest that it would be sufficient to satisfy building regulations. In the light of the arguments, it might have been helpful to have a brief account of what would be needed to meet the building regulations to achieve the conversion. The reference to the inadequacy of the existing foundation depths mentioned in paragraph 15 above suggests that remedying this inadequacy could well threaten the integrity of the walls that rise from the existing foundations which, in any event, are simply the walls extending down below ground level. In reality, I consider that it is more likely than not that the proposed dwelling would amount to a new building. I consider that the outbuilding is not truly cable of conversion, such that it could be said that the resulting building remains the same building with only conversion work carried out. The building is not suitable for conversion into a dwelling.

Conclusions

18. I have taken account of all other matters, including the letter from Mr A C Keeble and the letter from Brett Design, consulting engineers, dated 31 March 2022, letters from interested persons, and the objection from the Polstead Parish Council. For the reasons that I have given above, I find that the site is not appropriate for residential development because it is in a location where occupiers would place reliance on unsustainable modes of transport and that the outbuilding is not suitable for conversion. The proposed conversion does not meet the circumstances of either paragraph 80 of the Framework or of policy CR19. The appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR