



Appeal Decision

Site visit made on 2 August 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 August 2022

Appeal Ref: APP/E3715/W/22/3296706

Merlin Field Farm, Gibraltar Lane, Leamington Hastings CV23 8EX

- 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 L Tomes against the decision of Rugby Borough Council.
 - The application Ref R21/0997, dated 23 September 2021, was refused by notice dated 22 December 2021.
 - The development proposed is Conversion of an existing agricultural building to 4 no. dwellinghouses
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The reasons for refusal refer to policies from both Rugby Borough Council Local Plan and Rugby Local Plan. It is clear from the submitted evidence that the two development plans are one and the same, whose full title is Rugby Borough Council Local Plan 2011-2031. I shall hereafter refer to it as 'the Local Plan'.

Background

3. A number of Prior Approval (PA) applications have been submitted and determined for the agricultural building since 2016 under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GPDO'). These have sought to change the use of the agricultural building to a dwellinghouse or dwellinghouses and some are still extant. The most recent PA application¹ was granted for the conversion of the building into 4 dwellings.
4. The current appeal proposal before me is a planning application that requires the planning merits of the case to be considered, which is not the case with PA applications. The proposal differs from the most recent extant PA scheme that was granted in that first floors would be added to each of the converted units to create 2, 3 and 4 bedroom units and provide more dedicated car parking.

Main Issue

5. The appellant considers the sole issue in determining the appeal relates to the 'fallback' position of the most recent extant PA for 4 dwellings. However, it is not the sole issue as the Council has refused the application for other reasons. I shall deal with the appellant's alleged 'fallback' position as part of my determination.

¹ LPA ref: R21/0763 granted 9 August 2021

6. The Council's two refusal reasons both effectively relate to the suitability of the location of the site for housing. To avoid unnecessary duplication I have combined them into a single issue.
7. Therefore, in light of the above, the main issue in this appeal is whether the appeal site would be a suitable location for housing with regard to local and national policies.

Reasons

8. The appeal site comprises a large agricultural building, constructed of blockwork and profile sheeting fitted around a steel portal frame, although parts of some sides were open. At the time of my visit, it was in use for the storage of straw. The building sits on its own in a field, surrounded by other fields. It is close to the road and accessed via a short, gated driveway leading to hardstanding in front of the building. I saw there was a farm building nearby on the opposite side of the road that has been converted into a dwelling.
9. Local Plan Policy GP1 is a general policy that aims to secure sustainable development and improve the economic, social and environmental conditions of the area. In achieving this Local Plan Policy GP2 (Settlement Hierarchy) seeks to focus new development in locations in accordance with the Borough's settlement hierarchy in order to promote sustainable patterns of development and ensure access to a range of facilities and reduce the need to travel. The policy lists the hierarchy, with the main focus for all development on Rugby town. Moving down the hierarchy, development is allowed within the boundaries of Main Rural Settlements and Rural Villages. The site does not lie within the village of Broadwell or any other settlement and occupies an isolated location in the countryside. In Policy GP2 countryside locations are considered to be generally unsuitable for development and will generally be resisted unless national policy allows.
10. Local Plan Policy GP3 deals with the redevelopment of previously developed land, which the appeal site is not, and the re-use and adaption of existing buildings in rural areas, subject to a number of criteria, including whether the location of the building makes it suitable for re-use or adaptation. It goes on to state that Policy GP3 must be considered in the context of other policies in the Development Plan mainly in terms of sustainable development.
11. These policies are broadly consistent with the National Planning Policy Framework (the Framework), which states that to promote sustainable development in the rural areas housing should be located where it will enhance or maintain the vitality of rural communities (paragraph 79); seek opportunities to promote walking, cycling and public transport (paragraph 104), and by limiting the need to travel and offering a genuine choice of transport modes (paragraph 105). Furthermore, Framework paragraph 80 seeks to avoid isolated homes in the countryside subject to a number of exceptional circumstances, which includes the re-use of redundant or disused buildings. However, as already described the appeal building is in use so does not fall within the Framework exceptions.
12. The proposal would create 4 dwelling units. With the addition of first floor accommodation, the proposal would provide 1 x 2-bed unit, 2 x 3-bed units and 1 x 4-bed unit and 9 dedicated car parking spaces along the building's east roadside-facing elevation, and modest sized private gardens for each unit on

the west side of the building. Due to their size and accommodation, the units could well be occupied by families with children.

13. The nearest settlement is Broadwell, which lies approximately 1 kilometre to the east along two lanes. I saw Broadwell had a number of churches and a village hall. The Council advises there are no local shops within walking distance and I saw none in Broadwell. The nearest primary school would be in Hill near Leamington Hastings, which is some distance away and along the main A456 to the west of the site. The proposal could see an increase in the use of services and facilities in the area including the number of children attending the school. Secondary-school age children would have to travel further afield. I have not been advised if schools or other services and facilities in the area are at capacity so as to safeguard living conditions of existing and future neighbouring occupiers as Local Plan Policy SDC1 requires, amongst other things.
14. Although there are narrow grass verges alongside the lanes to Broadwell, neither lane has footpaths or street lighting. Even if Broadwell had a range of facilities, these lanes would not be conducive to walking or cycling. Similarly the lane and A456 to the school would not be at all suitable for young children to cycle or walk along the roadside verge. I did not see any bus stops along either lanes, or along the A456. The site is therefore not well served by, or accessible to, public transport and does not offer a genuine choice of transport modes. Due to the lack of public transport, the nature of the nearby lanes and the lack of nearby day-to-day facilities, future occupiers would be heavily reliant on the private car to access day-to-day facilities, as indeed are existing residents in the area.
15. The resulting reliance on the car would see increased traffic movements in the area, with the knock-on effects of increased carbon emissions, pollution and impacts on climate change. It would also undermine the Council's spatial and settlement strategy for the location of housing and promoting sustainable patterns of development.
16. The appellant regards the extant PA application for 4 dwellings as a 'fallback' position to which significant weight should be afforded. Should the appeal be dismissed he will carry out the Class Q conversions. I have had regard to *Mansell v Tonbridge and West Malling Borough Council*². From the evidence before me I am satisfied there is a more than a theoretical possibility and a reasonable prospect that the extant PA scheme for 4 units could be implemented by 9 August 2024. I therefore find the fallback position is capable of being a material consideration.
17. I appreciate the appellant has expended time and cost over the years in submitting the various previous applications and is committed to developing the building for residential use. However, for significant weight to be afforded to a fallback position there needs to be not only a reasonable prospect of it being carried out in the event that planning permission was refused, but it would also need to be equally or more harmful than the scheme for which permission is sought.
18. The PA scheme does not include the first floor accommodation. As a result, the dwelling units that would be created under the PA scheme would be smaller

² *Mansell v Tonbridge and West Malling Borough Council* [2017] EWCA Civ 1314

1-bed units, unlike the 2, 3 and 4-bed units under the planning application. The units would also have 1 parking space per unit instead of the 2 and 3 spaces under the planning application. With only 1-bed units the PA would likely see fewer people living at each unit, fewer people seeking local services and facilities and fewer vehicle movements. Hence the fallback scheme would be less harmful than the scheme for which planning permission is being sought. Consequently the fallback scheme cannot be afforded significant weight.

19. Drawing all the above points together the appeal site is not a suitable location for housing with regard to local and national policies that seek to promote sustainable patterns of development. The appellant's fallback position does not justify the development and the harm it would cause. Accordingly, the appeal proposal would be contrary to Local Plan Policies GP1, GP2, GP3 and SDC1 whose aims are outlined above.

Conclusion

20. For the reasons given above I conclude that the proposed development conflicts with the development plan read as a whole, and there are no material considerations to justify the development. The appeal should be dismissed.

K. Stephens
INSPECTOR