



Appeal Decision

Site visit made on 11 October 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2022

Appeal Ref: APP/X3540/W/21/3281525

Mariawood, Hulver Street, Henstead NR34 7UE

- 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 S Read against the decision of East Suffolk Council.
 - The application Ref DC/21/1064/FUL, dated 03 March 2021, was refused by notice dated 28 April 2021.
 - The development proposed is Full planning application for the conversion of a rural building to residential with associated landscaping and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since planning permission was refused a revised version of the National Planning Policy Framework (The Framework) has been published. Both parties have referred to this version and I have had regard to it in considering this appeal.
3. The reasons for refusal refer to the effect of the proposed development on the integrity of various habitat sites. However, the Council has confirmed that the appellant has now made a financial contribution towards the Suffolk Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The appellant has provided evidence, in the form of a receipt, to indicate that a payment has been made towards the RAMS. This issue is considered further under 'other matters'.

Main Issue

4. The main issue is whether the appeal site is a suitable location for the proposed development with regard to the Council's strategy for the location of residential development.

Reasons

Location of Development

5. The appeal site comprises an existing building which has a rural barn-style appearance. The appellant proposes to convert the building to a dwelling. The existing building is set back from the highway but is located in relatively close proximity to neighbouring residential development to the northwest. Whilst there is a proliferation of residential development along the B1127, the appeal site is not located within, nor in close proximity to, any development plan

defined settlement boundary. The appeal site is therefore located in the countryside.

6. Local Plan¹ Policy WLP 1.2 outlines that development will not be permitted in the countryside unless supported by other Local Plan policies. This is mirrored by Policy 7.1 which outlines that development in the countryside will come forward through specific local plan policies or through neighbourhood plans.
7. One such policy is Local Plan Policy WLP 8.7, which permits small scale residential development in the countryside subject to certain criteria. The first criterion requires that the site constitutes a clearly identifiable gap within the built up area of a settlement and the second necessitates that there are existing residential properties on two sides of the site.
8. The location of the proposed dwelling is not within a clearly identifiable gap in the built-up area. The fact that an existing building would be utilised does not overcome this policy requirement (particularly given that there is another Local Plan Policy applicable to the conversion of rural buildings). Furthermore, whilst there are dwellings further to the northwest of the appeal site, large areas of intervening agricultural land separate the site from the nearest dwellings to the east. As such, the site is not located within an identifiable gap, nor is it located between existing residential properties on two sides. For these reasons, the proposed development is not supported by Policy WLP 8.7.
9. Local Plan Policy WLP 8.11 permits the conversion of redundant rural buildings in the countryside to residential use, where such a conversion would secure or safeguard a heritage asset (which is not the case here) or subject to other criteria. The wording of the policy is such that, if not safeguarding a heritage asset, all of the other criteria must be met in order for Policy WLP 8.11 to be supportive of the principle of development. However, the first consideration in applying this policy is whether the building can be considered to be 'redundant'.
10. Insufficient evidence has been advanced to demonstrate the current lawful use of the building. Indeed, whilst the main parties have referred to two separate planning permissions, DC/77/0093/FUL and DC/81/0084/TPP, these do not appear to relate to the current use of the building. When I visited the site it appeared that the building was partly in use as a workshop and for storage purposes. The building did not have the appearance of being redundant or disused. With these observations in mind, insufficient evidence has been advanced to demonstrate that the building is redundant or disused. As such, the proposed development does not obtain any support from Policy WLP 8.11.
11. In any case, the first criterion of Policy WLP 8.11 requires that the building is locally distinctive and of architectural merit. Local Plan Paragraph 8.54 clarifies that it is unlikely that modern farm buildings would meet this requirement. Indeed, this is a matter of planning judgement. The existing building has a typical modern agricultural appearance with no features of any particular architectural merit. The design is functional, with very little elevational detailing and minimal fenestration. Therefore, it is not locally distinctive and neither is it of architectural merit.
12. In summary, the building cannot be considered to be redundant on the basis of the evidence before me and the first criterion of Local Plan Policy WLP 8.11

¹ Waveney Local Plan – Adopted March 2019

would not be met. As such, the proposed development does not derive support from Local Plan Policy WLP 8.11.

13. As a result, and in the absence of any other development plan policy supporting the principle of development, the proposal would conflict with Local Plan Policies WLP 1.2, WLP 7.1, WLP 8.11 and WLP 8.7, which together set out the Council's strategy for the location of residential development, including within the countryside.
14. Local Plan Policy WLP 1.1 sets out the broad strategy for the location of housing within the district and in doing so refers broadly to approximate proportions of housing growth. Given that these figures are approximate, the proposed development would not conflict with this policy.

Other Matters

15. The evidence before me indicates that the appeal site is located within the zone of influence (ZOI) of the Deben Estuary Special Protection Area (SPA); the Deben Estuary Ramsar Site; the Sandlings SPA; the Stour and Orwell Estuaries SPA and the Stour and Orwell Estuaries Ramsar Site. The Conservation of Habitats and Species Regulations 2017 as amended (Habitats Regulations) require that permission may only be granted for development after having ascertained that it will not affect the integrity of European sites such as these. However, given that I am dismissing this appeal on other grounds it is not necessary to consider this matter further, nor is it necessary to carry out an appropriate assessment in this instance.
16. The appellant has referred to Framework Paragraph 80 and in particular part 'c', which allows for development of isolated homes in the countryside where the development would re-use redundant or disused buildings and enhance their immediate setting.
17. Given my earlier conclusions in relation to the lack of substantive evidence that the building is redundant or disused, the provisions of this Paragraph do not apply to the proposed development. This is the end of the matter, but I will also seek to address the other points put forward by the appellant.
18. Whether or not a dwelling is isolated within the terms of Framework Paragraph 80 is a matter of planning judgement having regard to the case-specific circumstances². In this case, there are dwellings in very close proximity to the appeal site, with several located directly to the northwest. These neighbouring dwellings are part of a cluster of residential development known as Hulver Street.
19. The fact that this cluster of dwellings is not within a development plan defined settlement boundary and does not contain any notable services or facilities does not mean that the appeal site is isolated. Indeed, in this case, the close proximity of the site to a notable concentration of residential development, comprising at least 15 dwellings, means that it cannot be considered to be isolated within the terms of Framework Paragraph 80.
20. Local Plan Policy WLP 8.11 does not deal with 'isolated homes', it refers to the conversion of rural buildings in the countryside. As a result, its consistency with

² See: City and Country Bramshill Ltd v SSHLG and others [2021] EWCA Civ 320

Paragraph 80 is not relevant in this case, particularly given that the site is not isolated within the terms of Paragraph 80.

21. I note the appeal decisions provided by the appellant. In the first case³ the Inspector concluded that WLP 8.11 was inconsistent with the Framework. However, in that case it was common ground that the site was isolated and the Inspector did not dispute this. The second case⁴ denotes that the consideration of whether a site is isolated is a matter of planning judgement. As such, the conclusions reached do not alter my findings in relation to this case.
22. There would be social and economic benefits associated with the development, arising from the contribution of one dwelling to the housing stock. The development also provides the potential to improve the appearance of the building. However, these benefits would be minor, given that only one dwelling is proposed, and they would not outweigh the conflict with the development plan policies.
23. The appellant refers to the development being 'self-build', however there is no planning obligation before me to secure this. As such, it is not a matter to which I afford any significant weight.
24. The appellant also claims support from the Framework's emphasis at Paragraph 119 on effective use of land and at Paragraph 120 on the use of previously developed land. Even if the site was considered to comprise previously developed land, the substantial weight to be afforded to this benefit would not outweigh the harm resulting from the conflict with the Council's strategy for the location of residential development. Indeed, Framework Paragraph 15 emphasises that the planning system should be genuinely plan-led. This is a consideration which attracts greater weight than the combined benefits of the proposal.
25. The Council's evidence suggests that 'insufficient information has been supplied to assess contaminated land implications.' However, it is not clear whether this is an additional issue being raised, given that it wasn't referred to in the Council's reasons for refusal. Nonetheless, because I am dismissing this appeal on other grounds it is not necessary for me to consider this matter further.

Conclusion

26. The proposed development would conflict with the Council's strategy for the location of residential development in the countryside. As such, it would conflict with the development plan taken as a whole. There are no material considerations raised which outweigh this conflict. The appeal is therefore dismissed.

Luke Simpson

INSPECTOR

³ Appeal Ref: APP/X3540/W/20/3257951

⁴ Appeal Ref: APP/X3540/W/19/3232531