

Appeal Decision

Site visit made on 9 November 2022

by S Edwards BA MA TCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2022

Appeal Ref: APP/Y3940/W/22/3298014

Former Piggery Building, West Dean Road, West Tytherley SP5 1QA

- 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 R Simmonds against the decision of Wiltshire Council.
 - The application Ref PL/2021/11477, dated 2 December 2021, was refused by notice dated 25 January 2022.
 - The development proposed is change of use of barn to dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be suitably located, having regard to national and local planning policies which seek to restrict residential development in the countryside; and
 - Whether the appeal building is suitable for conversion to residential accommodation.

Reasons

Location

3. Core Policies 1 and 2 of the Wiltshire Core Strategy (CS) – Adopted January 2015 outline the settlement and delivery strategies for the area administered by the Council, and seek to direct development towards the most sustainable parts of the county. Outside the defined limits of development, Core Policy 2 does not support development proposals, other than in circumstances envisaged by other policies in the Wiltshire CS, and which are listed in paragraph 4.25.
4. The appeal site lies outside of the defined limits of development for Winterslow, which the CS identifies as a Large Village, with a limited range of employment, services and facilities. Paragraph 4.25 refers to Core Policy 48, which supports the conversion and re-use of rural buildings for employment, tourism, cultural and community uses. No clear evidence has however been presented in support of the proposal to demonstrate that these uses are not practical propositions, contrary to the requirements of Core Policy 48.
5. In isolated locations, Core Policy 48 permits the re-use of redundant or disused buildings for residential purposes, where justified by special circumstances, in

line with national policy. The Courts¹ have confirmed that the phrase “isolated homes in the countryside” simply refers to a dwelling that is physically separate or remote from a settlement, which is a matter of fact and planning judgment for the decision-maker, having regard to the particular circumstances of the case.

6. Whilst the proposed dwelling would sit within proximity to other residential properties, no substantive evidence has been presented to demonstrate that the site benefits from a reasonable access to local services in Winterslow. There is no suggestion that the site is located near employment opportunities or well connected to public transport. In the absence of continuous footpath or cycle lane, walking and cycling are unlikely to be viewed as attractive alternatives to public transport or motorised vehicles. Having regard to the site’s location in relation to the existing network, there is therefore a greater likelihood that future occupiers of the development would rely on private motor vehicles to access most of the services and facilities required for day-to-day living.
7. In that respect, my attention has been drawn to a number of residential properties which have been granted by the Council on the adjacent site. The Council recognises that these dwellings are sited in a similarly unsustainable, inaccessible location, at some distance away from the nearest settlement. The dwellings were constructed following the grant of prior approval and planning permission and, having regard to the presented evidence, it is my view that the circumstances of this particular scheme do not represent a direct parallel to the proposal before me or provide sufficient justification for permitting this development.
8. Given the above, the proposal would not be suitably located, having particular regard to the requirements of planning policies seeking to manage the location of residential development. Consequently, the appeal scheme would not represent a sustainable form of development and would be contrary to Core Policies 1, 2, 48, 60 and 61 of the Wiltshire CS. Policies 60 and 61 notably seek to reduce the need to travel particularly by private car, support and encourage the sustainable, safe and efficient movement of people within and through Wiltshire.

Building’s Suitability for Conversion

9. The appellant’s submissions are supported by a Structural Condition Report², which describes the building as being of steel portal frame, with blockwork dado wall and timber cladding, and corrugated metal profile sheeting. The Report indicates that the building is overall structurally sound, though there are signs of ageing and deterioration, and particular concerns have been identified in respect of the rear gable elevation.
10. Notwithstanding the above, it nevertheless remains unclear, on the basis of the available evidence, whether the existing structure could support the changes required to enable its conversion to residential accommodation. The plans indicate that the external envelope of the building would to a large extent be replaced, having particular regard to the external walls and the roof covering. Significant works to the internal fabric of the building would also be necessary.

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610.

² Structural Condition Report prepared by Cowan Consultancy Structural, Civil and Building Consultants (Reference HS/435096/djb, dated 14 April 2021).

11. In that respect, my attention has been drawn to the information that had been provided for the adjacent site, and an appeal decision³, where no evidence had been submitted to contradict the Inspector's own observations and the structural assessment undertaken by the appellant. However the nature and extent of the proposed building operations must be assessed as a matter of fact and degree, given that the circumstances vary in each case and for this reason, limited weight is afforded to this appeal decision with which it is difficult to make a comparison based on the presented information.
12. Paragraph 80c) of the National Planning Policy Framework (the Framework) permits the development of isolated homes in the countryside, in circumstances where it would re-use redundant or disused buildings and enhance its immediate setting. However, and whilst the appeal scheme would enable the creation of an additional dwelling, the proposal is not supported by detailed information, for example in the form of marketing evidence, to demonstrate that the building is disused or redundant. Furthermore, and whilst no objection has been raised by the Council regarding the effect of the development on the Special Landscape Area, the existing structure, though of no particular merit, is relatively unobtrusive, being set back significantly from the road frontage, and the development would therefore not enhance its immediate setting.
13. Overall, and in the absence of sufficient evidence to the contrary, I am of the view that the building would only be capable of functioning as a dwelling following significant works which are required to alter its original appearance and purpose. As a result, the structure is not suitable for conversion to residential accommodation. The proposal would therefore fail to accord with the aims of Core Policy 48 of the Wiltshire CS and paragraph 80c) of the Framework.
14. The appellant has confirmed that a package treatment plan would be provided as part of the development, to alleviate the concerns raised by interested parties and the Council. This would be provided outside of the appeal site, and would therefore not affect appropriate levels of amenity space for future occupiers of the development. In that respect, I find no conflict with Core Policy 57(vii) of the Wiltshire CS, which seeks to ensure that appropriate levels of amenity are achievable within the development itself.

Other Matters

Special Protection Areas

15. The appeal site lies within the buffer zone of the New Forest Special Protection Area (SPA), which forms part of the New Forest designated sites⁴. These are recognised as internationally important wildlife sites, as they support significant numbers of ground nesting birds. The Council considers that residential development such as the proposal would have a likely significant effect on the integrity of these sensitive areas (either individually or in combination with other plans or projects) notably by reason of additional recreational pressures, unless suitable mitigation is provided.

³ APP/Y3940/W/22/3296262.

⁴ These include the New Forest Special Protection Area, the New Forest Special Area of Conservation and the New Forest Ramsar site.

16. The Council has confirmed that an Interim Recreation Mitigation Strategy for the New Forest Internationally Protected Sites is now in place to ensure that appropriate mitigation for residential development proposals are secured through the Community Infrastructure Levy. Consequently, the Council no longer wishes to defend the fourth reason for refusal regarding the absence of adequate measures to mitigate the effects of the development on the New Forest SPA.
17. Furthermore, the site lies within the catchment of the River Test, which drains into the Solent, a maritime area protected by a number of international designations. Natural England has raised concerns regarding the increase in nitrates levels which have been found in the Solent water environment. The presence of high levels of nitrogen in particular is linked to increased wastewater associated with residential development. This is causing eutrophication in this sensitive water environment, which is also believed to have a likely significant effect on the designated sites.
18. The appellant's submissions are supported by details regarding a proposed package treatment plan for the new dwelling, though this would not be sited within the appeal site. The appellant has also confirmed that he would be willing to sign a Unilateral Undertaking, though there is no completed planning obligation before me.
19. Notwithstanding the above, there are not matters which need to be addressed further here, as the appeal is being dismissed on other substantive grounds. However, had the development been considered acceptable in all other respects, I would have sought to carry out an Appropriate Assessment, to ensure the proposal's compliance with the Habitats Regulations.

Planning Balance

20. The Council is presently unable to demonstrate a five-year supply of deliverable housing sites. The Case Officer's Report indicates that there are 4.7 years of housing land supply, which represents a modest shortfall. Nevertheless, in such circumstances, paragraph 11d) of the Framework, as directed by Footnote 8, states that the policies which are most important for determining the application have to be considered out-of-date. This means that planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
21. The proposal would make a contribution towards housing supply and choice, and support the local economy to some degree, notably during the construction phase. These benefits are afforded some weight. However, the proposed dwelling would not be situated in an accessible and sustainable location and would conflict with the development plan. These are considerations to which, cumulatively, I ascribe substantial weight. Overall, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits associated with the appeal development, when assessed against the policies in this Framework taken as a whole. The proposal does not, therefore, constitute sustainable development which the Framework carries a presumption in favour of.

Conclusion

22. In coming to this conclusion, I have also had regard to other material considerations identified by the appellant, notably regarding the lawful use of the appeal building and the effect that commercial activities could have on the living conditions of neighbouring residents. However, and for the reasons detailed above, these do not persuade me to reach an alternative view. Accordingly, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR