



Appeal Decision

Site visit made on 30 November 2022

by A. Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Appeal Ref: APP/M1710/W/21/3285785

Overbury Farmhouse Old Odiham Road, Alton GU34 4BX

- The appeal is made under section 106B of the Town and Country Planning Act 1990 against a refusal to discharge a planning obligation.
 - The appeal is made by Mr and Mrs S Roots against the decision of East Hampshire District Council.
 - The development to which the planning obligation relates is the change of use of agricultural land to residential and conversion of stable to dwelling.
 - The planning obligation, dated 22 December 2004, was made between East Hampshire District Council and Stephen Patrick Roots, Joanne Elizabeth Roots, Peter John Coomber and Eileen Lilian Coomber and Halifax PLC.
 - The application Ref 31210/003, dated 1 April 2021, was refused by notice dated 21 September 2021.
 - The application sought to have the planning obligation discharged.
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Decision

1. The appeal is allowed. The planning obligation, dated 22 December 2004, made between East Hampshire District Council and Stephen Patrick Roots, Joanne Elizabeth Roots, Peter John Coomber and Eileen Lilian Coomber and Halifax PLC, no longer serves a useful purpose and is discharged.

Preliminary Matters

2. Planning permission was originally granted under Ref F.31210/002/FUL for the conversion of a stable to residential use. This was subject to a planning obligation, restricting the occupation of the converted stable (now known as 'The Barn') as ancillary to the main site (Overbury Farm House). The effect of the obligation was to prevent the former stable from being sold, leased or transferred as a separate entity from the Overbury Farm House.
3. The planning permission has been implemented and the former stable is occupied.

Main Issue

4. The main issue is whether the planning obligation continues to serve a useful and necessary planning purpose having regard to whether the location is appropriate for a new dwelling in the context of national and local policy.

Reasons

5. The appeal site comprises the 'The Barn', its garden area and a large, derelict outbuilding. The site is located to the east of Old Odiham Road, adjacent to Overbury Farm House and Aylesfield Farm.

6. The appellant seeks to discharge the planning obligation so that both The Barn and Overbury Farm House can be inhabited separately.
7. The Planning Practice Guidance (PPG) sets out the circumstances in which a planning obligation can be modified or discharged. This includes a) through the agreement of the parties (a voluntary renegotiation) and b) on application to the local planning authority, if the obligation predates 6 April 2010, or is over 6 years old. The test under b) is whether that obligation no longer serves a useful purpose or would continue to serve a useful purpose if modified as proposed.
8. The Council sets out that the discharge of the planning obligation would result in the creation of a new dwelling in the countryside, outside of established settlement boundaries and away from key services and facilities. This is in a similar vein to paragraph 55 of the National Planning Policy Framework (the Framework), which seeks to avoid new isolated dwellings in the countryside, unless certain special circumstances are met.
9. The appellant argues that the Council assessed the proposed development against a number of policies which they deem not to be relevant. Nevertheless, I have considered the scheme against those policies set out in the Council's decision notice, which correctly relate to development in the countryside. I attribute weight to those policies where relevant.
10. Policies CP2, CP10 and CP19 of the East Hampshire District Local Plan: Joint Core Strategy (CS, 2014), in summary, seek to restrict development in the countryside. New dwellings outside settlement boundaries will only be permitted where they meet an identified need, reinforce a settlement's role or function, cannot be accommodated within the built-up area and have clear community support. CS Policy CP6 supports farm diversification and the conversion of rural buildings to residential and other buildings. CS Policy CP14 deals with affordable housing for rural communities.
11. Saved Policies C14 and H14 of the East Hampshire District Local Plan: Second Review (LPSR, 2006) allow for the use and/or conversion of buildings in the countryside for employment and community uses and rural workers or affordable housing. LPSR Saved Policy H7 refers specifically to the sub-division of existing dwellings outside settlement boundaries. This, amongst other things, requires the site to be located close to local services or public transport.
12. The above policies set out a general restriction on the creation of open market housing outside of settlement boundaries, other than in specific circumstances. Accordingly, the proposal would not comply with these local planning policies.
13. The LPSR was adopted in 2006 and the CS in 2014. They therefore pre-date the current Framework. The overall approach of a general restraint on development in the countryside, which CS Policy CP19 explains is to protect the countryside for its own sake, is out of step with the current national planning policy, which seeks to recognise the intrinsic character and beauty of the countryside and enable sustainable development in rural areas. From that perspective, in respect of their degree of consistency with the Framework, I attribute only moderate weight to these policies and the conflict with them that I have identified. Greater weight should be given to the Framework in these circumstances.

14. Paragraph 80 of the Framework permits the re-use of the redundant or disused buildings and the subdivision of an existing residential dwelling. The original proposal on the site was for the conversion of a stable to a dwelling and the effect of the planning obligation being removed is to subdivide the dwelling. This would, in principle, be consistent with the current national planning policy.
15. From the evidence before me and my observations on site, I am of the view that The Barn already effectively functions as a self-contained market dwelling. It has no functional dependence on the main dwelling of Overbury Farm House. Whilst the two properties are positioned physically close together and share a main driveway, they have separate garden areas and can be accessed independently. A parking area exists at the end of the shared driveway, providing separate parking to the main house. I concur with the appellants argument that the removal of the planning obligation and provision of a separate dwelling would not cause harm to the character and appearance of the countryside.
16. The site is located near to other dwellings and set within a hamlet. It is also around 4km from Alton, where access can be gained to a wide range of services and facilities. As such, the site would not be classed as 'isolated' with reference to paragraph 80 of the Framework. It is highly likely that users of both The Barn and the farmhouse would be heavily reliant on the use of private car to access most day-to-day services and facilities. However, this arrangement is already likely to be the case based on the lack of functional dependence between the two properties. Moreover, paragraph 105 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural locations.
17. Consequently, in practical terms, I am of the view that a separate dwelling unit already exists here. Therefore, if the planning obligation were to be discharged, a new dwelling would not be created.
18. Overall, I conclude that there would be conflict with the objectives of the local plan in that the appeal property lies in the countryside and does not form affordable housing, would not clearly provide accommodation for a rural worker and would be located away from local services and facilities. However, these local planning policies are given only moderate weight in respect of their degree of consistency with the Framework. Moreover, the appeal property already effectively forms a separate market dwelling. Given the above, and based on the evidence before me in this case, I consider that the planning obligation no longer serves a useful purpose, having regard to national and local planning policy.

Other Matters

19. The Council raises the issue of precedent. However, the particular circumstances of each site and context are different. I have determined the appeal based on the evidence before me and my observations on site.
20. I note comments from a neighbour that relate to developments other than in connection with the appeal case. My assessment is limited to the proposal before me.

Conclusion

21. In conclusion, I consider that on the basis of the evidence before me, and having regard to all other matters raised, the planning obligation no longer serves a useful purpose, having regard to national and local planning policy. The appeal is therefore allowed, and the obligation discharged.

A. Price

INSPECTOR