



Appeal Decision

Site visit made on 9 May 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2023

Appeal Ref: APP/W1850/W/22/3308448

Barlands Cottage, land to the west of the B4214, Bosbury

- 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 Mrs Sarah Hawkins against the decision of Herefordshire Council.
 - The application Ref 211365, dated 1 April 2021, was refused by notice dated 25 May 2022.
 - The development proposed is renovation and repair of the existing cottage building to a functional residential dwelling and the addition of a single storey side extension with associated car parking, landscaping and access track.
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Decision

1. The appeal is allowed and planning permission is granted for renovation and repair of the existing cottage building to a functional residential dwelling and the addition of a single storey side extension with associated car parking, landscaping and access track at Barlands Cottage, land to the west of the B214, Bosbury in accordance with the application, Ref 211365 dated 1 April 2021 subject to the conditions set out in the schedule to this Decision.

Main Issues

2. The main issues are:
 - Whether or not the existing structure on the appeal site constitutes a dwelling;
 - Whether the proposed development would be a suitable location for new housing having regard to local and national planning policies; and
 - Whether the proposal would represent an appropriate means of conserving Barlands Cottage as a non-designated heritage asset.

Reasons

3. Barlands Cottage is a derelict cottage surrounded by woodland. Although much of the stone walls of the structure remain, sections of walling and the roof have collapsed. There is no first floor and there are no windows or doors, and the ground floor appears to largely comprise earth and scrub. The site is located along a track once known as Bowley Lane. It sits within an agrarian landscape and for the purposes of planning policy is located within the countryside.
4. Whilst buildings in commercial use are located close to the entrance leading to the site the nearest settlement with services and facilities is Bosbury, located some 1.4km to the east.

Whether or not the existing structure on the appeal site constitutes a dwelling

5. The Council has drawn my attention to case law in support of their case in respect of whether or not the dwelling has been abandoned, which I have paid regard to.
6. The remains of the dwelling on site indicate that it has not been occupied for residential purposes for a considerable period. I note from the appellant's heritage evidence that the site once formed part of a hamlet and was built as a labourer's cottage. By the 1970s it appears that the hamlet had largely disappeared with only the appeal site remaining. Although not conclusive the Council contend that aerial maps of the area from 1999 and 2001 indicate that the surrounding woodland has largely enveloped the site.
7. Although it is unclear when the residential use came to an end it would not be unreasonable to suggest that the site has not been occupied for between 20 and 50 years. This is clearly a long passage of time.
8. Whilst there is no substantive information before me in relation to the owner's intentions or whether there have been any intervening uses, taking into consideration the physical condition of the building and the considerable period of time that has elapsed since it was last occupied, I am of the view that the dwelling has been abandoned.

Whether the proposed development would be a suitable location for new housing having regard to local and national planning policies

9. Policy RA2 of the Herefordshire Local Plan – Core Strategy (2015) (CS) states that new housing development will be supported in or adjacent to a number of identified settlements.
10. In rural locations outside defined settlements CS Policy RA3 sets out that residential development will be limited to a number of exceptions, including where it would result in the sustainable re-use of a redundant or disused building, leads to an enhancement of its immediate setting and complies with Policy RA5.
11. Policy RA5 introduces further policy criteria for such developments. Criterion 3 supports the replacement of a lawful dwelling; Criterion 4 states that development will be permitted where the building is of permanent and substantial construction capable of conversion without major or complete reconstruction and Criterion 5 sets out that buildings are to be capable of accommodating the proposed new use without the need for substantial alteration or extension.
12. The proposals seek to renovate the cottage reinstating features including stone walls, chimney, first floor and roof complemented by a contemporary extension. The proposals are supported by a structural survey which concludes that despite the absence of the roof and floors, the stone walls are in a reasonable condition and the depth and width of the foundations would support the works proposed.
13. In my view, little of the original building remains, and whilst this could be retained as part of the proposed development, reinstatement would amount to a relatively small proportion of the resultant building. The entire first floor and the whole roof would be newly built. This would be in addition to the new

extension. The extent of the necessary work would amount to substantive rebuilding. It would be akin to a rebuild rather than a conversion.

14. Based on my assessment on the evidence presented and my observations at the site visit the proposed development cannot be achieved without significant alteration, extension or substantive rebuilding. Moreover, I have found that the dwelling has been abandoned.
15. The development would not, therefore, be supported by Policies RA2, RA3, RA5 and SS1 which, amongst other things, seek to direct new residential development to the most appropriate locations.
16. Despite the above, the National Planning Policy Framework (the Framework) at paragraph 80 permits isolated new homes in the countryside in certain circumstances
17. The Council contend that the site is not isolated and have drawn my attention to Court of Appeal case *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610 where the word “isolated” was considered, albeit in the context of paragraph 55 of the previous version of the Framework. The judgement concluded that the term isolated should be taken to mean physically remote or separate only, in the sense of being isolated from other dwellings or settlements.
18. The appellant has referred me to the *Bramshill Ltd v SSHCLG* [2021] EWCA Civ 320 judgement. I have paid regard to both judgements and note that the Bramshill decision endorses the Braintree judgement. The essential conclusion of both judgements is that a decision-maker is required to consider whether the development would be physically separate or remote from a settlement rather than being isolated from other dwellings in the context of paragraph 80 of the Framework.
19. I note the presence of buildings and dwellings nearby. However, this collection of buildings and the mixture of uses are not of a scale and nature to be considered a settlement. The nearest settlement with services and facilities is Bosbury located some 1.4km to the east and, in my view, the site is divorced from it. In other words, the proposal is remote from a settlement, and as such would represent the development of an isolated home in the countryside under paragraph 80 of the Framework.

Whether the proposal would represent an appropriate means of conserving Barlands Cottage as a non-designated heritage asset

20. The Framework advises that heritage assets are an irreplaceable resource that should be considered in a manner appropriate to their significance. This could involve putting them to viable uses consistent with their conservation and, in the case of a non-designated heritage asset, requires a balanced judgment to be made that includes taking account of the effect of a proposal on its significance.
21. Despite the lack of a formal designation the building has a degree of significance and historic interest as a labourer’s cottage forming part of a former hamlet contributing to the agricultural heritage of the area. I note that the Council’s Historic Building Officer takes a similar view.

22. The proposed development appears to be sensitively designed including using traditional materials, utilising existing openings and a contemporary extension providing a pleasing juxtaposition between the old and new. Whilst there would be some domestication of the site through the access and parking area and domestic paraphernalia, I am mindful there would have been a degree of domestication of the site when it was previously in residential use.
23. Being mindful of the significance of the non-designated heritage asset, I must conclude that the development as proposed would result in a positive effect restoring a historical dwelling. Moreover, a residential use would represent the most viable use of the building taking into account its origins.

Other Matters

24. Given the small-scale nature of the proposed development I am satisfied that any associated vehicle movements would not be significant. Based on the evidence before me I am not persuaded that one dwelling would result in an unacceptable impact on highway safety or that the cumulative effect on the road network would be severe.

Planning Balance

25. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
26. Whilst the Core Strategy was adopted prior to the current version of the Framework, it sets out, at paragraph 219, that existing policies should not simply be considered out-of-date because they were adopted prior to the publication of it. Due weight should be given to policies depending on their degree of consistency with the Framework.
27. CS Policies SS1, RA2, RA3 and RA5 seek to direct new development to the most appropriate locations and support the appropriate use of rural buildings. The proposed development would not meet the exceptions for new rural housing set out in these policies. In addition, future occupiers would be more reliant on the use of private vehicles on account of its distance from nearby settlements with services and facilities, the absence of public transport and the rural nature of the surrounding roads.
28. Despite the above, the Framework at paragraph 80 permits isolated new homes in the countryside in certain circumstances. Having regard to the merits of the case before me the proposal is physically separated from any settlement and in the context of paragraph 80 of the Framework the proposed development would result in an isolated home in the countryside. It would in my judgement represent the optimal viable use of a heritage asset meeting the requirements of paragraph 80 b). Therefore, I give the conflict with the development plan limited weight.
29. The development would support the government's objective to significantly boost the supply of housing. Whilst the Council does not have a shortfall in its supply of housing land this does not diminish the value of new housing. These are significant benefits of the proposals.

30. The proposal would provide a limited amount of short-term employment during construction of the house, and future occupiers may enhance and maintain the vitality of Bosbury, albeit these benefits would be modest.
31. Overall, I find that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
32. In this case the presumption in favour of sustainable development is a material consideration which outweighs the conflict with the development plan. A decision should thus be taken otherwise than in accordance with the development plan.

Conditions

33. I have considered the imposition of conditions in accordance with the Framework and Planning Practice Guidance. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings as this provides certainty.
34. Conditions in relation to the stonework, external materials of the proposed development and boundary treatments are necessary in order to ensure the satisfactory appearance of the development.
35. In the interests of safeguarding wildlife and habitats a condition for the proposals to be carried out in accordance with the submitted ecological assessment has been imposed.
36. The Council has suggested removing permitted development rights for the enlargement, improvement or other alteration of a dwellinghouse, additions or alterations to the roof, the construction of a porch, a building or enclosure incidental to the enjoyment of the dwellinghouse and a microwave antenna falling within Classes A, B, C, D, E and H of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
37. I acknowledge that paragraph 54 of the Framework advises planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. However, in this particular instance it is necessary and reasonable to remove permitted development rights to ensure the satisfactory appearance of the development that reflects its historical and rural context and to maintain the appearance of the dwelling.
38. The Council has suggested a condition for sheltered, secure and accessible cycle parking. The site is within a rural landscape and covered cycle storage would not be appropriate as it would introduce further paraphernalia into the site. Furthermore, the development is for a modest sized dwelling and it is likely that ownership or use of bicycles would not be hindered by the absence of dedicated cycle storage. Therefore, the condition has not been imposed.

Conclusion

39. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing Number 6322/P/01 Rev D; Existing Site Plan Drawing Number 6322/P/10 Rev A; Proposed Site Plan Drawing Number 6322/P/11 Rev B; Existing and Proposed Block Plan Drawing Number 6322/P/12 Rev A; Existing Floor Plan Drawing Number 6322/P/300; Proposed Floor Plans Drawing Number 6322/P/310 Rev B; Existing Elevations Drawing Number 6322/P/701; Proposed Elevations Drawing Number 6322/P/710 Rev B; Proposed Timber Window Details Drawing Number 6322-P-1001 Rev A and Proposed Timber Door Details Drawing Number 6322-P-1002 Rev A.
- 3) No development, except for site clearance and groundworks, shall commence until details of the materials to be used in the construction of the external surfaces of the proposed development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Those parts of the development which are to be of stonework shall be of local stone, properly coursed, laid on its natural bed in a mortar approved by the local planning authority prior to the commencement of any works to the stonework. The works shall be carried out in accordance with the approved details.
- 5) No development, in relation to the boundary treatment, shall commence, until details of the boundary treatment have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to occupation of the dwelling.
- 6) The development shall be carried out in accordance with the conclusions and recommendations set out in the submitted Preliminary Ecological Appraisal.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration of the dwellinghouse, additions or alterations to the roof, construction of porches, buildings or enclosures incidental to the enjoyment of the dwellinghouse or microwave antenna falling within Classes A, B, C, D, E and H shall be constructed.