



Appeal Decision

Site visit made on 10 October 2023

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 30 October 2023

Appeal Ref: APP/E3715/W/23/3320918

Willoughby House, Moor Lane, Willoughby, Warwickshire CV23 8BU

- 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 Hayward against the decision of Rugby Borough Council.
 - The application Ref R22/1276, dated 22 November 2022, was refused by notice dated 16 March 2023.
 - The development proposed is the construction of three detached dwelling houses, car ports and associated works including demolition of existing buildings.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of three detached dwelling houses, car ports and associated works including demolition of existing buildings at Willoughby House, Moor Lane, Willoughby, Warwickshire CV23 8BU in accordance with the terms of the application, Ref R22/1276, dated 22 November 2022, subject to the following 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: 21-070/01A; 21-070/02A; 21-070/03; 21-070/03A; 21-070/04A; 21-070/05A; 21-070/06A; 21-070/07A; 21-070/08A; 21-070/09A.
 - 3) No development above ground floor level shall commence until details of the colour, finish and texture of the materials to be used in the construction of the external surfaces of the development hereby permitted together with samples of the facing bricks and roof tiles have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and samples.
 - 4) No development above ground floor level shall commence until details, which shall include elevations, of the proposed boundary treatment and means of enclosure, including any walls, fences and gates have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 5) No development above ground floor level shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

- 6) The landscaping works shall be carried out in accordance with the approved details and shall be implemented no later than the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) No development above ground floor level shall commence until full details of the siting, design and material to be used for the proposed bins stores have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before the first occupation of the development hereby permitted.
- 8) The development hereby permitted shall be carried out in accordance with the detailed mitigation measures for the safeguarding of bats and nesting birds as set out in Section 6 of the Protected Species Survey of Buildings at Willoughby House, Willoughby, Warwickshire dated February 2023.
- 9) 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 extensions, buildings, enclosures or other development shall be carried out which comes within Classes A-E of Schedule 2 Part 1 of the Order other than those expressly authorised by this permission shall be constructed.
- 10) The garages/carports hereby permitted shall be kept available at all times for the parking of motor vehicles by the occupants of the dwellings and their visitors and for no other purposes.

Main Issues

2. The main issues are:

- whether the appeal site is an appropriate location for the proposed dwellinghouses having regard to the settlement strategy and local and national policies relating to development within rural areas; and
- whether the proposed development would provide acceptable living conditions for existing and future occupants having regard to the effect on local amenities.

Reasons

Location

3. The appeal site comprises a large steel framed agricultural building, a lean to open sided barn and an area of hardstanding.
4. It is outside the settlement boundary and consequently the appeal site is within the open countryside. In such locations, Policy GP2 of the Rugby Borough Council Local Plan 2011-2031, June 2019 (RBCLP) sets out the Council's settlement hierarchy and advises that new development will be resisted, unless

it complies with national policy. Policy GP3 of the RBCLP sets out that the Council will support the redevelopment of previously developed land and that proposals to re-use and adapt existing buildings in rural areas will be permitted subject to meeting certain criteria.

5. The appeal site does not meet the definition of previously developed land as set out in the National Planning Policy Framework (the Framework) and does not involve the re-use or adaptation of the existing barn. As a result, local plan policies do not support the introduction of dwellings at the appeal site.
6. Further, the proposed dwellings would not be within a convenient walking distance of the local village, which in any event does not have extensive facilities. Moreover, there is only a very limited bus service to serve the area.
7. Taking these factors together, I consider that it is more likely than not that future occupiers of the proposed dwellings would be reliant on the private car. The proposed development would therefore not represent a location which is sustainable as it would not be located where the need to travel would be limited.
8. Moreover, although Willoughby House is located adjacent to the appeal site and there is a scattering of other houses and farms in this part of Moor Lane, the appeal site is located some distance away from other significant development in all directions with intervening fields. As such I consider that contrary to paragraph 80 of the Framework the proposal would be located within an isolated location in the countryside.
9. As outlined above, facilities within the local village are limited and the proposal would make only a very modest contribution to enhance or maintain the vitality of the rural community. This would be clearly outweighed by the fact that the proposal would not be located where the need to travel would be limited and would be located in an isolated location in the countryside.
10. I therefore conclude that the proposed dwellinghouses would not be located in an appropriate location having regard to the settlement hierarchy and would not accord with local and national policies relating to development within rural areas. It would therefore conflict with Policies GP1, GP2 and GP3 of the RBCLP which seek to secure sustainable development on appropriate sites. The proposed development would also conflict with the Climate Change and Sustainable Design and Construction Supplementary Planning Document (SDC SPD) which among other things recognises that the accessibility of a site to services and facilities can greatly reduce reliance on private car use and this is desirable as private car use contributes to carbon emissions and air pollution. The proposal would also be at odds with the Framework as the proposal would be located within an isolated location in the countryside.

Living Conditions

11. For the reasons set out above, the proposed development would not be located in an appropriate location having regard to the settlement hierarchy. I also accept that future occupiers of the proposed dwellings would be reliant on the private car in order to access facilities. However, I do not agree that the future occupants of the three proposed dwellings would potentially generate such a significant additional demand on the available facilities that this should weigh against the proposal. Rather, as outlined above, I consider that the proposal

would result in a very modest contribution to enhance or maintain the vitality of the rural community.

12. The Council has provided no detailed or compelling information to support a position that facilities would come under an unacceptable strain as a result of the proposal, or that the introduction of the three proposed dwellings would lead to an adverse impact on the living conditions of existing or future residents due to the need to travel to access facilities. For example, the Council do not know one way or the other if the primary school would be capable of accommodating any children who would live in the proposed dwellings. Further, the need to travel to access facilities such as secondary schools, colleges and more extensive shopping facilities would not unacceptably harm the living conditions of future occupants as such journeys would be expected for those residents who choose to live in such a location.
13. I therefore conclude that the proposal would provide acceptable living conditions for existing and future occupants as the proposed development would not put an unacceptable amount of additional strain on local amenities. The proposal would therefore comply with Policies GP1 and SDC1 of RBCLP and the SDC SPD so far as they seek to ensure that the living conditions of existing and future occupiers are safeguarded. Further the proposal would accord with the Framework which seeks to ensure that developments create places with a high standard of amenity for existing and future users.

Other Considerations

14. I have considered the submissions of the main parties on the fall-back position on the appeal site, including case law. Of particular relevance here is that an application for prior approval for the change of use of the existing agricultural barn to 5 dwellinghouses was granted permission in March 2022 (the permitted development).
15. I am satisfied that there is greater than a theoretical possibility that the alternative permitted development might take place and will be implemented if this appeal is dismissed. I therefore accord the fallback position significant weight as a material consideration in making this decision.
16. I have found that the proposal would result in the introduction of residential dwellings within an unsustainable location which would conflict with both local and national planning policies. However, the permitted development would introduce five dwellings in comparison to three under the proposed development. Importantly, the overall floor space and the number of bedrooms for the permitted development would be greater than for the proposed development.
17. It follows that the permitted development would likely generate more vehicular trips than the proposed development. Notwithstanding that it would re-use and adapt an existing building within a rural area it would nevertheless result in a less sustainable development that would result in more dwellings not being located where the need to travel would be limited and more dwellings being located in an isolated location in the countryside contrary to the Framework.
18. I have taken account of the fact that the Council highlight that their stance in relation to resisting housing within the countryside on sustainability grounds has been supported by recent appeal decisions. However, the full details of

these other appeals have not been provided, and the summaries do not suggest that they involved a legitimate fallback situation that had been given significant weight by the Inspector. As a result, these other examples do not alter my view that the permitted development would result in a less sustainable scheme.

19. The Council confirm that the proposed development would accord with Policy SDC1 of RBCLP in so far as the policy seeks to demonstrate a high quality inclusive and sustainable design where the scale, density and design of the development would respond satisfactorily to the character of the area. I agree.
20. The existing barn is rather utilitarian in appearance and overall, I consider that the proposal would improve the visual appearance of the area when compared to both the existing situation and if the permitted development was implemented. This also weighs in favour of the proposal.

Planning Balance

21. I have found that the proposal would not be located in an appropriate location for housing given the limited access to services and facilities and the resulting reliance on the private car. Consequently, the proposal would conflict with the development plan.
22. However, there is a realistic fallback which would result in a greater number of residential dwellings, a greater floorspace and more bedrooms being delivered in the same location. I have afforded this matter significant weight in the determination of the appeal. Furthermore, the proposal would improve the visual appearance of the area when compared to both the existing situation and if the permitted development was implemented. This also weighs in favour of the proposal.
23. Overall, notwithstanding that the Council can demonstrate a 5-year supply of housing, the benefits of the proposed development in comparison to the fallback position outweighs any conflict with the development plan. As a result, there are material considerations that indicate that the proposal should be determined otherwise than in accordance with the development plan which justifies granting planning permission in this case.

Conditions

24. I have had regard to the conditions suggested by the Council and amended them as necessary in the interests of precision and clarity, as well as to comply with advice in the Framework and Planning Practice Guidance (PPG).
25. A condition is needed to secure compliance with the approved plans for the avoidance of doubt and in the interests of proper planning. Conditions requiring the use of appropriate materials, the provision of landscaping, appropriate boundary and enclosure treatment and the control of extensions and other buildings are necessary in the interest of the appearance of the scheme and the surrounding area.
26. In the interests of ensuring protecting species are not harmed as a result of the development it is necessary to attach an appropriate condition. It is necessary to attach a condition requiring that the proposed garages/carports are kept for the parking of vehicles in the interests of highway safety.

27. It is also necessary to attach a condition requiring the provision of waste storage facilities to ensure the appropriate management of waste on the site.

Conclusion

28. For the reasons given above I conclude that the appeal should be allowed.

S Rawle

INSPECTOR