



Appeal Decision

Site visit made on 11 October 2023

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th January 2024

Appeal Ref: APP/U2615/W/23/3317602

Mill Barn, Hemsby Road, Martham, Great Yarmouth NR29 4QQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr H Alston against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/22/0197/O, dated 28 February 2022, was refused by notice dated 8 September 2022.
 - The development proposed is an outline application to replace existing barn conversion with dwelling, set back and including new vehicular access/highway improvements.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application form did not provide a full address for the site and lacked a postcode although the grid reference was given. However, I note in subsequent correspondence and the decision notice, it appears agreed between the parties that the site address is as noted above. I have used this address here for the benefit of clarity.
3. The application was submitted in outline, with details of access provided for consideration. Appearance, layout, scale and landscaping are reserved for subsequent approval. I have dealt with the appeal on that basis and treated the indicative layout plan as illustrative.
4. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Main Issues

5. The main issues are:
 - a) whether the site represents a suitable location for housing, having regard to its accessibility to services and facilities and development plan policy on development in the countryside;
 - b) the effect of the proposal on the character and appearance of the area, having regard to the loss of the existing building and whether or not this should be treated as a non-designated heritage asset; and

- c) whether there are material considerations to outweigh any harm or policy conflict identified in respect of the above issues, sufficient to indicate a decision otherwise than in accordance with the development plan.

Reasons

Suitability of the location for housing

6. The site comprises a parcel of land in the open countryside near to the village of Martham. It is outside the Development Limits and therefore subject to the provisions of policies CS1 and CS2 of the Great Yarmouth Local Plan Core Strategy (2015) (GYCS). The latter policy states that in the countryside, development will be limited to conversions/replacement dwellings/buildings and schemes that help to meet rural needs. These rural needs are expanded upon in policy GSP1 of the Great Yarmouth Local Plan Part 2 (2021) (GYLP). This identifies that agricultural or forestry development and utilities and highway infrastructure may be permitted outside development limits. Other specific policies may also indicate situations where new buildings will be permitted. In this regard, my attention has been drawn to policy H8 of the GYLP relating to replacement dwellings outside Development Limits. The requirements of policy H8 include reference to such proposals only being acceptable where they replace lawful, permanent residential uses and have not been abandoned. In this instance, no permanent residential use has ever occurred and there is no existing dwelling to replace.
7. As such, the proposed development does not fit any of the applicable categories of permissible development listed in policy CS2 of the GYCS or policies GSP1 and H8 of the GYLP. It is therefore in conflict with the provisions of these policies which protect the countryside.
8. The site is in reasonable proximity to the village of Martham. The settlement is noted as a Primary Village in the development plan and offers a good selection of shops, services, facilities, infrastructure and public transport links. This, however, does not alter the fact that the site is outside the Development Limits. It is only accessible to the village by way of a fairly narrow country road which, in the vicinity of the appeal site, has no pedestrian footway. There is no street lighting until reaching the village limits. This renders it distinctly different to other housing schemes within the Development Limits of Martham, including the large allocated site cited by the appellant. In many instances, such as after dark or during peak hours where road traffic may be a hazard, there will be no practical option other than to drive to the nearby village due to the practicalities of accessing those nearby services, notwithstanding their proximity.
9. I conclude that the proposed development conflicts with policies CS1 and CS2 of the GYCS and GSP1 of the GYLP and the Framework in respect of development in the countryside and the promotion of sustainable patterns of growth. No evidence has been provided to indicate that the Development Limits of Martham are out-of-date. Therefore, notwithstanding arguments relating to the proximity to services and facilities within Martham, the location of the site beyond the settlement boundary attracts significant weight against the scheme.

Character and appearance

10. Mill Barn is a detached agricultural building on the far eastern edge of the village of Martham which is largely surrounded by open fields with the exception of a small number of other homes addressing Hemsby Road. It is a functional, but not unattractive, structure formed of red brick and presently under a corrugated asbestos roof. The barn occupies a prominent position and is both visible, and quite noticeable, in longer views; no doubt in part due to its fairly exposed position on a corner along Hemsby Road.
11. Evidence provided in the appellant's heritage statement suggests the building is an early 19th century threshing barn which is likely to have been constructed following the enclosure of the parish. The building has clearly suffered from a decline in its relevance, loss of original features and minimal maintenance over the years. Nevertheless, it remains as an interesting feature in the landscape, makes a positive contribution to it, and stands as testament to the rural heritage of the area. Indeed, the Heritage Statement nominates numerous interesting features of the building, including a mix of brick bonding, date stone (albeit it weathered or damaged), diamond pattern ventilation holes and retained original timbers. For these reasons, I have treated the building as a non-designated heritage asset. I have noted that the building is not entered on the Norfolk Historic Environment Record and that the Council does not maintain a list of non-designated heritage assets. However, these matters do not change my reasoning in this respect.
12. Policies CS9 and CS10 of the GYCS encourage well designed places which consider the area's distinctive natural and historic characteristics which includes the retention of heritage assets. Policy E4 of the GYLP promotes the retention of landscape features. The barn is an interesting and historic landscape feature and its loss would harm the rural character and appearance of the area and conflict with the aforementioned policies. Although it may not represent a natural feature in the landscape, as a piece of longstanding man-made heritage, it nevertheless forms part of it and represents a piece of local history showing how the area has developed over time. There is a stated intention to re-use the materials from the barn in the proposed dwelling and it is further suggested that the development could adopt a barn style. However, this is not sufficient to convince me that demolition of the barn is acceptable, particularly in the absence of a suitable, high quality design for the replacement building.
13. Policy E5 of the GYLP makes specific reference to non-designated heritage assets and notes that their loss will only be permitted where they are structurally unsound and beyond feasible or viable repair. Although this policy pre-dates the current version of the Framework, it remains consistent with its provisions. Options for all alternative uses need to have been exhausted. In this instance, the appellant has made reference to an earlier permission¹ for the conversion of the building to a dwelling and considers that the permission is extant. It is also noted in the supporting statement to the planning application that this earlier permission did not progress further as, whilst it was viable, it did not prove to be as attractive to the market compared to a new-build dwelling.

¹ Ref 06/08/0136/F

14. Setting aside arguments relating to the fallback position, which I will turn to in due course; the reference to this earlier permission as being extant and viable suggests its conversion is a possibility, in the opinion of the appellant. In the absence of any substantive evidence to demonstrate that the existing building is structurally unsound and beyond feasible or viable repair, I have treated a residential conversion as representing the optimal viable use for this heritage asset. Demolition of the building would therefore be in conflict with Policy E5. I note that Policy CS2 of the GYCS is compatible with Policy E5 in supporting building conversions outside Development Limits.
15. Policy E5 is broadly consistent with paragraph 209 of the Framework. This states that the effect on the significance of a non-designated heritage asset should be taken into account. In weighing applications that directly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In this instance, I consider that the loss of the non-designated heritage asset would detract from the rural setting of the area and be harmful to the character and appearance of the countryside.
16. Insufficient consideration has been given to its re-use in order to comply with policy E5. Moreover, evidence has been provided to suggest the current building could be converted in accordance with this policy. The development therefore fails to comply with policies CS1 and CS2 of the GYCS and policies E4 and E5 of the GYLP. These policies seek to maintain local character and distinctiveness and retain heritage assets and these policies are consistent with the provisions of the Framework.

Other material considerations

17. Notwithstanding my above findings, the appellant has made reference to an earlier permission¹ for the conversion of Mill Barn to a dwelling. This has been argued as rendering the proposed development as a replacement dwelling. However, there is no residential use presently in existence that would allow the scheme to amount to a 'replacement'. Nonetheless, the earlier permission can be considered as a material consideration.
18. The appellant asserts that the permission from 2008 is extant. It is not my role, in the context of a s78 appeal to reach a finding on the issue of lawfulness. However, the Council does not appear to contest the point. Nevertheless, even if the discharge of pre-commencement conditions and the breaking up of a concrete floor and digging of a trench for footings were deemed sufficient to constitute a material commencement under s56 of the Act, this does not mean that the planning permission is likely to be implemented in full.
19. I have not been persuaded in the evidence presented that any fallback position would be greater than theoretical and that the conversion and occupation of the barn as a dwelling would be likely to come about in the event of this appeal being dismissed. The fact that there have been three previous planning applications to replace the barn with a new-build dwelling lends considerable weight to the argument that there is no intent by the appellant for the development to be carried out. This leads me to ascribe only limited weight to the fallback argument.

20. Reference has been made to a recent appeal decision relating to Monkwood Mission Church². This case differs from the present appeal as it was clear to the Inspector that in the event of the appeal being dismissed it was more than likely that the extant permission for a replacement dwelling would be completed, based on the significant level of work already carried out. The same conclusion cannot be applied to Mill Barn due to the negligible amount of work undertaken. Aside from the breaking up of a concrete floor and digging of a trench, a firm intention to complete the conversion of Mill Barn has not been satisfactorily demonstrated. The development must therefore be assessed as a new dwelling having regard to the development plan.
21. I have had regard to other benefits that would be delivered through the construction of a new dwelling, including construction activity, employment and support for local businesses and services. These benefits contribute positively to the social and economic objectives of sustainable development, and the Framework's aim to significantly boost the supply of new homes. Although matters of significant weight, the benefits are tempered by the small scale of the project and as such they are not sufficient to outweigh the identified harms.
22. I have noted the appellant's reference to the proposal potentially being taken forward as a self-build project. However, this is not what has been applied for and, in any case, does not alter my assessment of the scheme. No planning obligation has been entered into which could secure the delivery of a new dwelling as a self-build and no other mechanism to secure this has been brought to my attention. Accordingly, I can afford this very limited weight.
23. The appellant has argued that a new-build would be more energy efficient than the alternative of converting the building. However, there is no firm evidence to demonstrate that a conversion would not meet the relevant standards set out in the Building Regulations. Whilst I have taken the potential carbon benefits into account it is not a determining factor in my decision.

Other Matters

24. I note the contention that there could be highway improvements achieved through the removal of the barn. The barn's position in very close proximity to a corner along Hemsby Road does present a 'hit' obstacle and the building impairs visibility for both users of the highway and from nearby accesses. However, this is a rural lane where such obstacles are not uncommon and I have not been provided with any evidence to demonstrate that the presence of the barn has given rise to any collisions. I therefore attribute limited weight to the claimed benefits of road widening and visibility improvements.
25. I note that the appellant has already made a contribution relating to the Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy. The Council has advised that, at the time of its statement, this has increased and that further contributions will be required in line with inflation. I further note that a contribution has already been made directly to the Council for public open space but no S106 legal agreement has been provided to secure this. However, as the appeal is to be dismissed, this does not require further consideration.

² Ref. APP/M1710/W/21/3282948

26. In reaching my conclusions, I have had regard to the opinions and views of third parties including those of the Ward Member, Parish Council and neighbouring residents. However, these views have not altered my reasoning in this decision.

Planning Balance and Conclusion

27. The proposal would conflict with development plan policies relating to development in the countryside, character and appearance and the loss of non-designated heritage assets. These conflicts would bring the scheme into conflict with the development plan read as a whole. The Framework makes clear that the planning system should be genuinely plan-led and therefore any conflict with the development plan would need to be justified by reference to other material considerations.

28. I have taken account of the various material considerations put forward, including in relation to fallback and highway safety. I have also had regard to the very modest benefits for housing delivery and the local economy, both during construction and after occupation. However, these do not, individually or cumulatively, indicate a decision otherwise than in accordance with the development plan.

29. For the reasons given above, I conclude that the appeal should be dismissed.

Nick Bowden

INSPECTOR