



Appeal Decision

Site visit made on 14 December 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2024

Appeal Ref: APP/Y3940/W/22/3312433

Tre Oaks, Butts Lane, Kilmington, Warminster BA12 6RB

- 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 & Mrs K & T Day against the decision of Wiltshire Council.
 - The application Ref PL/2022/06380, dated 16 August 2022, was refused by notice dated 4 October 2022.
 - The development proposed is conversion of agricultural workshop/storage building to form a 2-bed dwelling with associated alterations, parking and amenity space, utilising a new vehicular access already granted planning permission under reference PL/2021/10977.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs K & T Day against Wiltshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the appeal was made, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023. I have taken the revised Framework into account as part of the determination of this appeal.
4. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONB's) in England and Wales became 'National Landscapes' (NLs). I have therefore made reference to NLs in my Decision and specifically referred to the Cranborne Chase and West Wiltshire Downs AONB as the Cranborne Chase and West Wiltshire Downs National Landscape. However, for the avoidance of doubt, the legal designation and policy status of these areas are unchanged, and I have proceeded on this basis, continuing to refer to the AONB where relevant.

Main Issues

5. There are 3 main issues. These are:
 - whether the proposed development would provide a suitable location for housing, having regard to the development strategy for the area and the accessibility of services and facilities;
 - whether the proposed development would harm the character and appearance of the area, including whether it would conserve and enhance

the landscape and the scenic beauty of the Cranborne Chase and West Wiltshire Downs National Landscape; and

- the effect of the proposal on the River Avon Special Area of Conservation.

Reasons

Suitable Location

6. The appeal site, which is a former agricultural workshop/storage building, is situated outside of any recognised settlement limits. A residential dwelling known as 'Greenfields' is situated immediately adjacent to the appeal site.
7. Core Policy 2 of the Wiltshire Core Strategy (Core Strategy) (2015) refers to the exception policies which supports development outside of the settlement limits. The relevant exception policy in this case would be Core Policy 48, which supports the conversion and re-use of rural buildings for residential purposes, but only where there is evidence that the rural building could not be practically used for employment, tourism, cultural or community uses. The tailpiece sentence of Core Policy 48 also states that in isolated locations, the re-use of redundant or disused buildings for residential purposes may be permitted where justified by special circumstances, in line with national policy.
8. The appellant has not provided any evidence as to why the existing building could not be used for employment, tourism, cultural or community uses. Instead, the appellant simply argues that as the proposal would consist of the re-use of a redundant or disused buildings for residential purposes in an isolated location, in line with paragraph 84 of the Framework (formally paragraph 80), the proposal does not have to be judged against all of the criteria set out in Core Policy 48. The appellant has drawn my attention to an earlier appeal decision¹ where the Inspector appeared to take this approach.
9. Nevertheless, even if I were to consider the proposal against the tailpiece sentence of Core Policy 48 alone and determine the proposal in line with paragraph 84 of the Framework, in consideration of the High Court judgement² regarding paragraph 84 of the Framework, as the proposed development would be sited adjacent to 'Greenfields', the physical location of the proposal would not result in an isolated home. Therefore, the proposal would not be in accordance with neither the tailpiece sentence of Core Policy 48 nor paragraph 84 of the Framework, notably criterion c).
10. Furthermore, the appeal site is within an area with very limited services and poor transport connections. Future occupants of the proposal would therefore be largely reliant on the private motor car to access services and facilities. This lack of accessibility to enable future occupants to carry out day to day activities demonstrates that the site would be an unsuitable location for the proposal.
11. The appellant has drawn my attention to a planning approval on the land adjacent to the appeal site³, which involved the conversion of an existing building to a dwelling. I have been provided with a copy of the Council's decision notice, the approved plans, and the committee minutes. Whilst there may be some similarities between the proposals, I have determined this appeal

¹ APP/Y3940/W/18/3210000

² Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743 (Admin)

³ PL/2021/03114

on its individual planning merits and on the basis of the evidence that is before me now. In particular, I do not consider that this earlier proposal has provided conformation that the appeal site is in 'an isolated countryside location' as alleged by the appellant.

12. Therefore, the proposal would not provide a suitable location for housing, having regard to the development strategy for the area and the accessibility of services and facilities. It would be contrary to Core Policies 2 and 48 of the Core Strategy. Amongst other things, these policies, in combination, direct growth and new housing to defined settlements and resist new homes in the countryside except in certain circumstances. The development would also fail to comply with the sequential steps set out in Core Policy 48, which supports the conversion and re-use of rural buildings for residential development but only where it has been demonstrated that it would not be practical for it to be used for employment, tourism, cultural or community uses.

National Landscape

13. The appeal site currently consists of a utilitarian agricultural workshop/storage building within the Cranborne Chase and West Wiltshire Downs National Landscape (the NL). Whilst the building is in need of repair, from my observations on site, it appeared of solid construction. There is an existing envelope of hardstanding to the front of the building, on which were various paraphernalia reflective of the sites former use, including piles of corrugated roofing, stonework, blockwork and timber boards. A 2m fence and established hedgerow runs along the boundary with 'Greenfields' to the northwest, with verdant open fields extending out to the south.
14. Whilst the existing building in its current state is relatively utilitarian and of poor visual quality, it does sit discreetly in the landscape and its appearance is appropriate for its former use. Consequently, rather than detract from the natural beauty of the NL, the site retains its rural character and consequently has a neutral impact on the scenic beauty of the landscape within the NL.
15. The proposed development would be a sensitive conversion. The external alterations have been thoughtfully designed, with the majority reflecting the existing openings. There would be no demolition or major rebuilding, with the conversion keeping to the existing footprint of the structure and surrounding hardstanding. Despite the utilitarian appearance of the building, the proposal would be an opportunity to enhance the existing neutral contribution the building makes to the NL, complimenting the locality and preserving its rural character.
16. Whilst the proposal would introduce a degree of urbanisation into a rural site, including domestic paraphernalia, this would be contained within the footprint of the existing hardstanding and would clearly be seen close to the former agricultural building. Notably, it would not encroach into the surrounding countryside. When compared to the existing situation, with paraphernalia spread across the site, it is considered that the proposed development would protect and conserve the scenic beauty of the landscape. Furthermore, it would be seen in the context of 'Greenfields' and its associated curtilage to the northwest.
17. The proposal would therefore conserve and enhance the landscape and the scenic beauty of the Cranborne Chase and West Wiltshire Downs NL. It would

be in accordance with Core Policies 51 and 57 of the Core Strategy. These policies, in combination, seek to ensure a high standard of design, drawing on the local context and being complimentary to the locality. They state that development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, and that great weight will be afforded to conserving and enhancing landscapes and scenic beauty of the AONB.

18. It would also be in accordance with the principles within Chapter 15 of the Framework in regard to the conservation and enhancement of the natural environment, in particular with paragraph 182 in regard to conserving and enhancing landscape and scenic beauty within the AONB.

River Avon Special Area of Conservation

19. The appeal site falls within the catchment of the River Avon Special Area of Conservation (SAC). The Council advises that developments within the river catchment have the potential to contribute to the elevated phosphorous levels through foul water discharges from sewage treatment works and package treatment plants, causing the river to be in an unfavourable condition. Residential development has potential to cause adverse effects alone or in combination with other developments through discharge within the river catchment of phosphorus in treated wastewater.
20. The proposal for one dwelling has the potential to cause adverse effects, either alone or in combination with other developments, through discharge of phosphorus in wastewater into the River Avon. Therefore, based on the evidence before me it is likely that, in the absence of mitigation measures, the proposal would have a significant adverse effect on the integrity of the SAC. Accordingly, I have carried out an Appropriate Assessment, as required under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regs).
21. The Council has agreed through a Memorandum of Understanding with Natural England and others that measures will be put in place to ensure all developments permitted between March 2018 and March 2026 are phosphorus neutral in perpetuity. To this end it is currently implementing a phosphorous mitigation strategy to offset all planned residential development, both sewered and non-sewered, permitted during this period.
22. As I have found that the proposal does not comply with Core Policies 2 and 48, nor is it an allocated site, then it would not be 'planned development' as defined by the Council and thus not covered by the mitigation strategy. I note that the conversion under the planning permission the appellant brings to my attention⁴ was considered to comply with the relevant housing policies and therefore is different to that before me now. Furthermore, I have not been provided with any other mechanism by which the required mitigation could be secured and controlled.
23. Therefore, based on the evidence before me, I conclude that the proposal would have a significant adverse effect on the integrity of the SAC and would be contrary to Core Policies CP50 and CP69 of the Core Strategy. These policies, in combination, seek to ensure protection of important habitats and

⁴ PL/2021/10973

species in relation to development and state that development proposals shall incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development. They require development within the catchment of the River Avon SAC to incorporate measures during construction and operation to avoid and prevent pollution and mitigate potential disturbance effects.

24. It would also be contrary to paragraph 186 of the Framework which states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Planning Balance and Conclusion

25. The main parties agree that the Council is unable to demonstrate a five-year supply of deliverable housing sites. Therefore, paragraph 11 of the Framework is engaged, which states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or there are specific policies in the Framework which indicate that development should be restricted.
26. The proposal would be contrary to the Framework in regard to the protection of biodiversity and habitat sites. Paragraph 188 of the Framework states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects) unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site. Accordingly, given that I have found that the proposal would have a significant adverse effect on the integrity of the SAC, the presumption in favour of sustainable development does not apply to this appeal.
27. The proposal would make a small contribution towards the provision of housing, consistent with the Government's stated aim in the Framework of significantly boosting the supply of homes. It would provide a dwelling which would be suitable for the appellants' retirement. There would also be economic benefits contributing to building a stronger, responsive and competitive economy, supporting growth with construction and post-construction benefits, as well as the payment of a New Homes Bonus. The proposal would encourage development and associated economic growth with future occupants contributing to the local economy and continued viability of services in the local area. I have also found that the proposal would conserve and enhance the landscape and scenic beauty of the NL. Together these benefits carry moderate weight in favour of the development.
28. The appellant has drawn my attention to paragraph 70 of the Framework which recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. However, paragraph 70 also states that in order to achieve this mix, great weight should be given to the use of suitable sites within existing settlements for homes. Given my reasoning above, the proposal would not be in a suitable location for delivering a small sized site. Therefore, I can only attach little weight to this benefit.

29. In conclusion, although acceptable in some regards, I have identified that there would be conflict with the development plan as a whole, as the proposal would not provide a suitable location for housing and would be contrary to the relevant policies in relation to the development strategy for the area. The proposal would also have a significant adverse effect on the integrity of the SAC. Considered in total, the material considerations referred to above do not outweigh the conflict with the development plan. The appeal should therefore be dismissed.

Laura Cuthbert

INSPECTOR