



Appeal Decision

Site visit made on 3 January 2024

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st January 2024

Appeal Ref: APP/K3415/W/23/3323860

Keepers Cottage, Brockhurst Lane, Canwell, Staffordshire Sutton Coldfield B75 5SN

- 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 Gerard Green against the decision of Lichfield District Council.
 - The application Ref 22/01482/COU, dated 10 October 2022, was refused by notice dated 19 April 2023.
 - The development proposed is the change of use from agricultural to form 1no. dwelling house and associated works including roof works, replacement annex and new boundary treatment.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Description in the header above has been taken from the Council's decision notice as it more accurately and concisely describes the development proposed. I note that the appellant has similarly used this description in their appeal form.
3. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023. I have determined this appeal in the context of the revised Framework.

Main Issues

4. The main issues are:
 - Whether the appeal site would be suitable for new housing; and,
 - The effect of the proposal on nearby trees.

Reasons

Whether the Appeal Site is Suitable

5. Core Policy 1 of the Local Plan Strategy 2008-2029 (February 2015, the LPS) sets out the Council's aim to direct development to the most accessible and sustainable locations and settlements. It goes on to state that residential development in rural areas should mostly be directed to identified key rural settlements. However, Policy Core Policy 6 sets out a number of exceptions to this where residential development in other rural areas can be found acceptable.

6. Alongside these policies, and in line with the spatial strategy directing residential development towards sustainable locations, LPS Core Policy 5 and Policy ST1 seek to reduce the need to travel, improve sustainable travel patterns and accessibility.
7. It is clear from the evidence before me that the appeal site is within a rural area and outside of any of the identified settlements and, would be contrary to the above policies unless it meets one of the exceptions set out under LPS Core Policy 6. Most relevant to the case before me is the exception for changes of use and conversion schemes.
8. At the time of my site visit the host building appeared to largely be in a good structural state with the main portion of the building only requiring some modest portions of the wall cladding to be replaced. To the rear elevation, the smaller brick portion of the building was in a poor state and would need much more extensive repairs to be useable.
9. Although I recognise the Council's concerns as to the scale of the proposed works, Core Policy 6 does not set out any requirements as to the level of development acceptable. In particular, there are no references to, or indeed requirements that reflect, those set out under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
10. Therefore, whilst the conversion of the host building may require the rebuilding of the brick extension, given the above and its small scale relative to the overall building, I do not find that it would result in a development that could be described as a new build. I therefore find that it meets the above exception for Core Policy 6 and would be a conversion.
11. However, and although it is adjacent to an existing dwelling, the appeal site is a significant distance away from any services and facilities. Given the distance and nature of the road network nearby, I find it unlikely that future occupiers would be able to walk or cycle to meet their daily needs. It has not been demonstrated that there are any public transport options near the site that future occupiers could use and so, I find it likely that they would be reliant on private motor vehicles.
12. The Framework, under Paragraph 109, requires account be taken of the differing opportunities for sustainable transport options between urban and rural areas. Future occupiers would be wholly car-dependant to meet their daily needs and as such, even mindful of the differing opportunities, I find this does not comply with the access requirement of the Council's spatial strategy.
13. Framework Paragraph 84(c) sets out an exception allowing isolated dwellings where they would re-use redundant buildings and enhance their setting. Although redundant I do not find, from the submissions before me and my observations on site, that the host building makes an adverse visual contribution to the surrounding area. Moreover, I do not find that the works would be so significant as to improve the existing contribution it makes. Consequently, whilst the proposal involves the re-use of a redundant building as a dwelling as it would not enhance its immediate setting, it does not meet this exception.

14. Although the proposal would meet the exception for rural residential development, it would not be in a sustainable or accessible location and future occupiers would be reliant on private motor vehicles to meet their daily needs. Consequently, the proposal is contrary to the Council's spatial strategy for residential development. It would therefore conflict with LPS Core Policies 1, 3, 5, 6, and Policy ST1 as set out above. It would also conflict with the aims set out under Section 5 of the Framework for directing residential development.

Effect on Trees

15. The appeal site comprises a large portion of a substantial garden serving Keepers Cottage. This area contains a number of trees, including some significant mature examples, and connects on to a wider wooded area surrounded by fields. The host building is set close to a number of trees, including some smaller ones that are immediately adjacent to the building. I understand that the trees within the appeal site and wider wooded area are all protected by Tree Preservation Order 1990/19119/TPO-W2 (the TPO).
16. The proposal involves lifting the crown of two trees, T01 and T02 and the felling of a further three trees, identified as T06, T09 and T10. I understand that the Council are content with these works and that their concerns stem instead from pressure, for future works, being put on the remaining trees due to their potential impact on the living conditions of occupiers.
17. Although the shadow plan submitted by the appellant shows overlapping arcs of solid shadow covering the host building, I find it unlikely that any shadows would be completely solid. Even when in full leaf, any shading would be dappled by gaps in the leaves and, the shadows would turn with the movement of the sun. The density of trees surrounding the building is not so great that the area would, even in full leaf, be a dark or dank environment. Consequently, given the level of glazing serving the habitable rooms, and in particular the open-plan kitchen, living, dining room, the dappled light reaching the property would be sufficient to provide a pleasant environment for future occupiers.
18. Although a number of trees of significant size are relatively close to the host building, I do not find that this would be detrimental to the quality of the outlook for future occupiers or be adversely overbearing. I find instead that the views out from the property would largely be open and of a green and natural landscape. In this way, the living conditions of future occupiers would be acceptable.
19. Future occupiers may have concerns that trees or their branches could fall on to the property. However, as the appeal building is already present, such concerns could already exist. Moreover, I find that concerns alone would not be sufficient to put undue pressure on the Council to accept the reduction or felling of trees. In particular, the Council would have the power to require sufficient, demonstrable evidence of a risk through their consideration of an application. Although the trees may drop various other things on the building, I am content from the information set out under section 10.14 of the Arboricultural Impact Assessment the level would not be excessive and would be manageable for future occupiers.
20. In conclusion, the proposal would not unacceptably risk the removal of those trees near the site. The proposal would therefore comply with Policies CP3, BE1 and NR4 which collectively, and amongst other things, seek to retain and

protect the natural environment, including trees, from development and long-term conflict as they are important visual and ecological assets. The proposal would also comply with the aims of the Trees, Landscaping and Development Supplementary Planning Document as well as those of Section 15 of the Framework.

Planning Balance and Conclusion

21. The Government's objective is to significantly boost the supply of housing and the proposal would provide one new dwelling by re-using an existing building. The scheme would also lead to a small and time-limited economic benefit during the construction phase, as well as potentially some very limited social and economic benefits resulting from future occupiers. Given the small scale of the proposal, these benefits attract modest weight.
22. Whilst the proposal may not result in any harm to the Green Belt and would make use of natural materials, these are a lack of harm and as such not a benefit. I have therefore afforded these matters neutral weight in my considerations.
23. Conversely, the site's location would undermine the Council's plan-led approach to the delivery of housing. This attracts significant weight and outweighs the benefits associated with the proposed development.
24. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons outline above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR