



Appeal Decision

Site visit made on 19 February 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29.02.2024

Appeal Ref: APP/L1765/W/23/3325181

The Old Smithy, Embley Wood Lane, East Stratton, Hampshire SO21 3DT

- 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 Lord and Lady Northbrook (Northbrook Farms Limited) against the decision of Winchester City Council.
 - The application Ref 23/00430/FUL, dated 15 February 2023, was refused by notice dated 6 June 2023.
 - The development proposed is change of use from an ancillary outbuilding for residential storage to a new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Policy MTRA4 of Winchester District Local Plan Part 1, March 2013 (the LPP1) is cited in the Council's officer report and in reason for refusal 1 in its decision notice. The main parties agree that LPP1 Policy MTRA3 should instead have been referenced. In this reason for refusal the Council also cited policies DM18 and DM23 'of LPP1'. The officer report confirms both of these policies are in Winchester District Local Plan Part 2, April 2017 (the LPP2). I have determined the appeal on this basis.
3. With the appeal the appellants submitted an amended site plan for a car parking layout¹. It does not materially alter the description or nature of the proposal, has been available to interested parties and the Council has considered it in its appeal statement so no prejudice would be caused. I have, therefore, determined the appeal on the basis of the amended site plan.

Main Issues

4. The main issues are:
 - whether the site would be an appropriate location for the proposed dwelling having regard to relevant development plan policy; and
 - the effect of the proposal on the character and appearance of East Stratton Conservation Area.

¹ Drawing number A.002 Revision A

Reasons

Location

5. The site is a parcel of mostly undeveloped land on the west side of Embley Wood Lane, opposite a swathe of open farmland. Part of it contains a former garage outbuilding, 'The Old Smithy', at the rear of No.48 Old Church Lane. It has been physically and functionally separated from this property for many years and is mainly used by the appellants for storage. It would be converted into a two bedroom market dwelling.
6. For the purpose of LPP1 Policy MTRA3, East Stratton has no clearly defined settlement boundary. The appellants describe the site as 'on the northern side' of the village and the Council agrees it is 'within' this settlement, in the countryside. I have no reason to find otherwise. This policy supports new housing at certain settlements, including smaller villages such as East Stratton, in restricted circumstances. This reflects an aim of the Council to avoid unduly sporadic housing and maintain an overriding impression of dispersed settlements of varying size in the countryside.
7. While there are dwellings near the site, the few behind it facing Old Church Lane, or with plots that back onto Embley Wood Lane, do not form a line of buildings along Embley Wood Lane. Some domestic outbuildings or structures a short distance further south, on the site side of Embley Wood Lane, are intermittent and mostly small. The site is mainly rough grassland, bordered either side by a pocket of trees and an overgrown driveway on it has largely blended into the landscape. The garage is the last building in Embley Wood Lane inside the 'East Stratton' village road sign. The lane north of it is undeveloped and not anyway within the built confines of the village.
8. There is, therefore, no built form next to either side of the garage or site of any substance or for a sustained distance in any direction along this side of Embley Wood Lane. Accordingly, even if it is a small site and the change of use is not 'infilling' (the appellants suggest because the building already exists the proposal does not result in the loss of any gap for this reason) it is not 'within a continuously developed road frontage'. Nor is it at the end of such a frontage. As a result, establishing a dwelling on the site, including by change of use of the garage and the entire site to a garden, would not conserve the settlement identity of East Stratton in terms of the prevailing pattern of residential development and erode its countryside setting.
9. In light of the above I find that the site would not be an appropriate location for the proposed dwelling having regard to LPP1 Policy MTRA3. Consequently, the proposal does not comply with this policy.

East Stratton Conservation Area (the CA)

10. The site is in the CA, which covers the whole village and some countryside to the north with a parkland appearance (part of the landscaped grounds of Stratton Park), as well as the stretch of Embley Wood Lane that passes the site and beyond to the north. The significance of the CA includes that it is a picturesque estate village² with mainly red brick two-storey dwellings or cottages (some white painted brick or render) and many with distinctive thatched or natural slate pitched roofs and chimney stacks. They are set in a

² East Stratton Conservation Area leaflet - 1986

street pattern that reflects the historic origins and residential expansion of the village and its interface at edges with the surrounding countryside, including the extent of such development as it exists today.

11. In contrast, the garage is a large, almost flat roofed rectangular shaped single-storey detached building. A timber frame is clad in corrugated cementitious sheet elevations above a narrow brick base with the same sheeting as a roof and painted timber doors and windows. It's non-descript, utilitarian design and functional form, originally used as a domestic outbuilding, is of its time from 1976, before control over development was influenced by designation of the CA in 1986.
12. Although the narrower end of the garage is perpendicular to the lane, all of one long side elevation also has an open aspect to it, seen at an angle. It is the first building next to the lane encountered in the CA entering the village from the north and the last when leaving from the south. Positioned at this sensitive gateway between the historic built environs of the village and rural landscape surroundings, which also form part of the setting of the CA, the garage has a significant negative effect on the character and appearance of the CA. This detracts from the way in which this designated heritage asset is experienced.
13. However, the change of use to a dwelling would maintain essentially the same position, size and form of building, including external materials (refurbished or replaced). It would, therefore, not appear materially different in these respects or alleviate the intrinsic adverse existence of this building in the CA. Conversion works include significant internal alterations or additions to render the building capable of being lived in as a dwelling. This would, though, inject a notable additional degree of permanence to this building so appreciably extend its longevity and unsympathetic presence in the CA.
14. The unsatisfactory conflation of garage structure with alterations for residential use would lack design conviction and cohesiveness, manifestly at odds and out of keeping with the prevailing design and form of dwellings in East Stratton, including those closest to the site. While the CA has necessarily embraced its prior existence as a garage, there is no evidence it would be entertained as a new build dwelling in this form now for essentially the same reasons as apply to the change of use and conversion. This anomaly would be prominent, conspicuous and jar in public views from Embley Wood Lane in the CA.
15. Part of the site has been used to park cars but this has been an occasional, transient use. Parking spaces, even in the more informal amended layout, would consolidate a more permanent visual presence of cars on the site and as opposed to originally out of sight in the garage. Though set back from the lane edge, parked cars would appear as an undesirable further residential encroachment along the lane and detract from the site's present mostly open, low key transition between village and countryside.
16. The structure and fabric of the building has deteriorated but likely through insufficient or timely maintenance or repair. While the proposal would effect improvement in this regard, there is no evidence that conversion to a dwelling is the only way to achieve this, or enhancement of its immediate setting. A betterment in external condition would not anyway overcome the innate adverse impacts outlined above. Overly tall boundary planting or a wall or fence would be overbearing and unduly restrict outlook from main habitable front facing room windows, so would not screen the upper part of the building.

17. I therefore find that the proposal would have a harmful, negative effect on this part of the CA and adversely affect and undermine the significance of the CA overall, so fail to preserve or enhance the character or appearance of the CA³.
18. Consequently, the proposal is contrary to LPP1 Policies CP13 and CP20 and to LPP2 Policies DM15, DM16, DM18, DM23 and DM27. These policies include that development should respond positively to the local distinctive area context and environment, protect heritage assets by respecting and conserving the special qualities and architectural or historic interest of Conservation Areas having regard to design, materials, detailing, layout and parking provision which takes account of the surrounding area and avoids erosion of character. It should also not have unacceptable effects on the rural character of an area by means of visual intrusion, incongruous features or elements which detract from the special qualities of the place or enjoyment of the countryside from the public realm, including in the setting of settlements.

Other Matters

Setting of listed building

19. No.48 Old Church Lane and No.47, the other half of this pair of semi-detached dwellings, are C17 or C18 grade II listed buildings (the LB). Their significance includes historic siting facing Old Church Lane, short rear gardens and that their traditional thatched cottage architecture can be glimpsed from Embley Wood Lane across the site. They also contribute to the significance of the CA.
20. The garage is close behind the LB on higher sloping ground so in the respective settings. However, for similar reasons as in the second main issue above, this building does not make a meaningful contribution to the setting of the LB. The proposal would cause no significant change in this regard or to the discrete spatial and visual relationship between the garage and the LB. Nor would domestic use of the site be incompatible next to similar use in the rear gardens of the LB. Accordingly, the proposal would have a neutral effect on the setting of the LB. This would preserve the setting of the LB and cause no harm to this designated heritage asset⁴.

Housing provision

21. There is no dispute that the Council can demonstrate more than a five year supply of deliverable housing sites, at between 5.6 and 6.1 years. It also did not fail the Government's 2022 Housing Delivery Test. In these circumstances, by virtue of Framework footnote 8, paragraph 11 d) is not engaged in this appeal and the presumption in favour of sustainable development does not apply. Nevertheless, the net gain of a single new home would contribute to meeting the Council's housing requirement, which is not a cap.
22. The garage is near other development so the proposal would not result in an isolated home in the countryside. The evidence before me is not sufficiently clear or consistent that I can be certain the garage and entire site is within a definition of previously developed 'brownfield' land⁵. There is no apparent reason why the garage is 'under used', other than at the appellants' own volition, but it is not therefore redundant or disused.

³ Section 72(1) - Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

⁴ Section 66(1) - Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

⁵ Framework Annex 2: Glossary

Solent European Sites (SES)

23. The site is within a zone of influence of the coast and water environments of the Solent in Special Protection Areas and Special Areas of Conservation internationally important for wildlife. A significant individual or in-combination adverse effect on the SES would be likely to occur from residential development due to nitrates entering the Solent via a foul drainage network connected to a wastewater treatment plant, exacerbating eutrophication. In conjunction with Natural England, the Council has adopted a position statement⁶. In essence this requires all new development to demonstrate it is 'nitrate neutral' with a 'nitrogen budget calculator' and a range of suitable mitigation measures to avoid harm to the SES. The Council would ordinarily seek to ensure this by its negatively worded Grampian planning condition.
24. The application form states the dwelling would connect to a foul mains sewer. However, the appellants have not submitted a nitrogen budget calculator or proposed any mitigation measure to demonstrate that the proposal would be nitrate neutral. This is a separate matter to potential land contamination at the site, which is otherwise what the appellants have referred me to in this regard but is not relevant to it.

Planning and Heritage Balance

25. The proposal would support the Government's objective of significantly boosting the supply of new homes to meet peoples living needs, as set out in the Framework, including with satisfactory internal and external living conditions and efficient and effective use of a small windfall site. Though important, a single dwelling would make a small contribution in this regard so this public benefit has limited weight in favour of the appeal.
26. The dwelling would fundamentally not be in an appropriate location supported by the development plan. The Framework also seeks to ensure that housing development takes place on suitable sites, including that rural housing should support local needs and be located where it will enhance or maintain the vitality of rural communities and support local services. There is no objective evidence in these regards.
27. The Framework aims to conserve the historic environment. It sets out that designated heritage assets, such as the CA, are an irreplaceable resource and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations. While the proposal would be limited in the context of the CA as a whole, it would have an unacceptable impact on features in this part of it that contribute to its significance, so the overall harm to the CA would be less than substantial. Nevertheless, great weight should be given to the conservation of the CA irrespective of the level of harm and any harm to, or loss of, its significance should require clear and convincing justification.
28. The Framework also aims to achieve well-designed places with development that is sympathetic to local character, history of the built environment and landscape setting to maintain a strong sense of distinctive places to live and visit; a matter of additional appreciable weight.

⁶ Position statement on nitrate neutral development – February 2020

29. In these respects the proposal would undermine the Council's relevant development plan objectives, which are broadly consistent with these aspects of the Framework. In my view, the support in the Framework to delivering housing is not at the expense of ensuring that residential development, in this case, is satisfactory in location and suitable in a conservation area.
30. The public benefits of granting planning permission do not, therefore, outweigh the harm. As the competent authority in this appeal it would ordinarily be necessary for me to undertake appropriate assessment with regard to the SES⁷. However, since I intend to dismiss the appeal, even if the proposal did not adversely affect the integrity of the SES there is no need for me to consider this matter any further because it would not affect my decision or alter the outcome of the appeal.

Conclusion

31. The proposal does not accord with the development plan and conflicts with provisions of the Framework. There are no other material considerations to indicate that the decision should not be made otherwise than in accordance with the development plan⁸. Consequently, for the reasons given above the proposal is unacceptable so the appeal does not succeed.

Robin Buchanan

INSPECTOR

⁷ Conservation of Habitats and Species Regulations 2017 (as amended)

⁸ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended) and Framework paragraph 12