



Appeal Decision

Site visit made on 16 July 2024

by B Astley-Serougi BA(Hons) LLM MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2024

Appeal Ref: APP/J3720/W/24/3340470

Wincotts Barn, Lower End, Whichford, Shipston-on-Stour, Warwickshire CV36 5PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr and Mrs P. Gregson against Stratford-on-Avon District Council.
 - The application Ref is 23/03118/FUL.
 - The development proposed is Change of use and conversion of barn to ancillary live-work unit.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an application for planning permission which was not determined by the Council within the prescribed period. I note the Council would have refused planning permission should it have made a decision on the proposal. I have had regard to the parties' submissions in establishing the main issue which I set out below.
3. On my site visit I noted that the gym and beauty salon had been constructed. The residential element of the appeal scheme has not commenced. I have considered the development as a whole, as did the Council.
4. The appellant has submitted a legal opinion of Counsel. The opinion was written prior to the revised National Planning Policy Framework (December 2023). The substance of the paragraphs referred to in the legal opinion do not differ in the revised documents. The paragraph numbers to which I refer in this appeal decision relate to the revised document.
5. The site is in the Cotswold National Landscape, where great weight is given to the conservation and enhancement of its landscape and scenic beauty. The main parties agree that the proposal would not be harmful and given the scale of the development and lack of visibility, I see no reason to disagree with that assessment. As a result, I have not dealt with this matter further in this appeal.

Main Issue

6. The main issue is whether the appeal site would be a suitable location for the proposed development, having regard to local and national policy.

Reasons

7. The appeal site is a barn located in close proximity to the residential property of Wincotts Barn which the appellant states has previously been used to restore classic cars. Located on the outskirts of the small village of Whichford and bordered by open fields and another barn development, for the purposes of the development plan the appeal site is located within the open countryside. The appeal scheme would be for the benefit of the appellant's daughter for her business and residential accommodation for her family. Both parties agree that the appeal scheme would constitute a live/work unit.
8. The appellant's daughter has historically had her business at a location between the villages of Hook Norton and the Sibfords. This is approximately 3 miles from the appeal site. Whilst there may be similarities between the appeal site and the previous business location, I do not have the details of the previous location of the business. Although the appellant's daughter has had a successful business at a different location, this cannot be assumed to be the case for a new location. Therefore, the Council's reference to a 'new beauty therapy business' is not unreasonable.
9. Policy AS.10 of the Stratford-on-Avon Core Strategy 2011-2031 (SoACS) seeks to ensure the vitality of rural communities and a strong rural economy. The Policy therefore provides support for development in the countryside subject to certain criteria.
10. Policy AS.10(e) of the SoACS provides support for the conversion of a building in the countryside provided that it is '*...ancillary to a business and is necessary to ensure the efficient and secure operation of the business.*' The Development Management Considerations explains in relation to Policy AS10(e) that schemes with a residential element will need to demonstrate it is essential for the efficient and secure operation of a business use. The consideration states in paragraph 6 that this information should be provided via a '*...comprehensive appraisal of the business...[and should] demonstrate the degree of linkage between the business and residential uses.*' Whilst the appellant has supplied a legal opinion which has provided information in relation to the appellant's daughter's qualifications, the services offered, the support for the business from existing clients and a brief history of the business at a different site, this does not sufficiently demonstrate the degree of linkage between the business and residential uses. Furthermore, it fails to demonstrate the essential need for the residential element for the secure operation of the business. Therefore, based on the evidence before me, the development would conflict with Policy AS.10(e) of the SoACS.
11. Paragraph 89 of the National Planning Policy Framework (the Framework) states that sites which are not well served by public transport can still be appropriate if they meet '*...local business and community needs in rural areas*'. Wincotts Barn has limited access to public transport and therefore any future clients are reliant upon private vehicles to access the business. The appeal scheme would have a maximum of 8 clients a day and consequently a maximum of 8 vehicle round trips daily. Additionally, periodical deliveries will occur. These do not result in a significant impact upon the local road network.
12. There are a significant number of letters of support from interested parties who prefer the appeal site location in comparison to other similar establishments located a similar distance away (such as Shipston-on-Stour, Chipping Norton or

Banbury) due to the ability to avoid traffic congestion and parking issues. However, the comments regarding the location of the appeal scheme and consequent ease of parking and avoidance of traffic congestion do not equate to a 'community need'. Even if they were found to constitute a 'community need' Policy CS.22 of the SoACS outlines that *'The provision of workspace in a proposed dwelling will not make that dwelling acceptable if its location is contrary to policies elsewhere in the core strategy'*. Therefore, despite the lack of harm to the local road network and support from the interested parties, the appeal scheme remains an unsuitable location given the overall conflict with Policy AS.10(e) I have identified above.

13. Policy CS.15 of the SoACS outlines the sustainable distribution of development in the Stratford-on-Avon District and classes Whichford as part of *'All other settlements'*. Therefore, according to the Policy, development in Whichford is restricted to *'...small-scale community-led schemes which meet a need identified by the local community'*. This is supported by paragraph 88(a) of the Framework which highlights that planning decisions should ensure *'sustainable growth and expansion of all types of business in rural areas...'*. The evidence before me does not suggest that the development would meet an identified local community need and consequently would not constitute a sustainable location for development. Therefore, the appeal scheme conflicts with Policy CS.15 of the SoACS and does not accord with paragraph 88(a) of the Framework. It would also be contrary to Part S of the supplementary planning document 'Development Requirements' (2019) in that it would not meet the criteria for a local need scheme.
14. Furthermore, based on the evidence before me, the gym is for private 1-1 personal training and the beauty salon will receive 1 client at a time. These cannot be justifiably classed as a community facility due to the private benefit of these facilities. In addition, as highlighted above, there is limited substantive evidence in regard to the need of the beauty salon in this location and therefore it cannot be classed as an accessible local service for the purpose of paragraph 88(d). Thus, the appeal scheme does not accord with paragraph 88(d) of the Framework which emphasises that decisions should enable *'...the retention and development of accessible local services and community facilities such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.'* However, even if, the business aspect of the appeal scheme was deemed to be an accessible local service, this does not mitigate or outweigh the conflict that would still exist with the SoACS.
15. Paragraph 86(d) of the Framework outlines that planning policies should be flexible to accommodate *'...needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation)...'* This does not equate to approving live-work accommodation, such as the appeal scheme, regardless of harm. I have identified above the policies with which the appeal scheme conflicts. These policies are compliant with the Framework and thus I have identified significant harm.
16. Finally, whilst the legal opinion has highlighted that a Unilateral Undertaking would give some control in regard to the relationship of the appeal barn to Wincotts Barn, as well as restrictions to possible further development, this does not justify or mitigate the harm I have identified above in relation to the suitable location of the development. Consequently, the appeal scheme does not constitute *de minimis* development in relation to the SoACS.

17. In conclusion, the appeal site has not been demonstrated to be a suitable location for the appeal scheme, having regard to local and national policy. Therefore, it is contrary to Policies AS.10, CS.15 and CS.22 of the SoACS. Which seek, amongst other things, to ensure sustainable development in rural settlements. Furthermore, the proposal fails to accord with the principles of sustainable development in the Framework.

Other Matters

18. My attention has been drawn to the curtilage of Wincotts Barn. The Land Registry Title clearly encompasses the land upon which the appeal site is located. I acknowledge that the appeal barn has a separate vehicle access, however, there is no necessity for a physical enclosure of the barn in relation to Wincotts Barn in order for it to be classed as part of the curtilage. Furthermore, the barn has previously had an ancillary use to Wincotts Barn. Therefore, it is not unreasonable to class the appeal site as being within the same curtilage. The appellant has provided a signed Unilateral Undertaking to ensure the appeal scheme would be ancillary to the main dwelling and would in future be sold as one unit. Whilst this ensures that the appeal barn and Wincotts Barn would be one planning unit, it does not overcome the conflict with Policy AS.10 and CS.15 I have identified above.
19. In determining this appeal, I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. From the evidence, my decision has the potential to affect persons with a protected characteristic for the purposes of the PSED such as people with reduced mobility and older people. The location of the beauty salon and gym may be beneficial for clients who would benefit from close parking provision to the business. There is a potential for an adverse impact upon persons with a protected characteristic if the development does not proceed. I attach moderate weight to these considerations.
20. Interested parties have highlighted the positive effect the proposed development would have upon the character and appearance of the barn and the surrounding area as well as their perception that living conditions (with particular regard to daylight and sunlight) wouldn't be impacted by the proposed development. The Council have highlighted that they have no concerns with regard to the living conditions of neighbouring residents as well as the character and appearance of the proposed development. I find no reason to disagree with the interested parties or Council's conclusions on these matters.
21. My attention has been drawn to Section 8, paragraph 96(c) of the Framework which states that planning decisions should: *'enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.'* The gym aspect of the appeal scheme would provide a health benefit to clients. However, there is limited evidence before me to demonstrate that there is an identified local health and

well-being need which would consequently be addressed. I therefore give this limited weight in favour of the appeal.

22. It is the personal preference of the appellant and their family to convert the existing barn into a live/work unit. This preference does not outweigh the harm I have identified above and there has been limited substantive evidence to demonstrate an absolute need for the development in this location. I acknowledge there are positive elements to the appeal scheme such as: the use of an under-utilised building as per Section 11, paragraph 124(d) of the Framework and an additional dwelling to the existing housing stock. However, I give these matters only limited weight.

Final Balance

23. The policies would result in a development in an unsustainable location in conflict with the development plan. As described above the benefits associated with a single dwelling in this location would be limited. The development would provide a limited health benefit to clients, on-site parking would benefit elderly clients and those with poor mobility and the scheme would have a small positive effect on the character and appearance of the area. The proposal would also not increase stress on the local road network and would not harm living conditions. However, the absence of harm in relation to these latter two considerations is a matter of neutral rather than positive weight that weighs in favour of the proposal.
24. Taking all these matters into account, I find that the benefits of the proposal would be insufficient to outweigh the harm that would be caused to the distribution of development within the District and conflict with the development plan. Consequently, it is proportionate and necessary to dismiss the appeal.

Conclusion

25. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, I therefore conclude that the appeal should be dismissed.

B Astley-Serougi

INSPECTOR