

Appeal Decision

Site visit made on 20 August 2024

by R Kent BA (Hons) MTP DipM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2024

Appeal Ref: APP/D1265/W/24/3344025

Agricultural Building At Paddock Farm, Bowridge Hill, Gillingham, Dorset SP8 5QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr David Fear (Melbury Developments (South West) Ltd) against the decision of Dorset Council.
 - The application Ref is P/FUL/2024/00839.
 - The development proposed is Conversion of redundant rural buildings to two dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposals refer to the “conversion” of a rural building. In this instance alterations are proposed to the buildings including an insulated sheet metal roof, stained timber boarding and new doors and windows on one building and an area of new roof on the other. Together with internal works proposed to the larger building, I therefore take the proposed “conversion” of the buildings to constitute the physical alterations to the buildings to facilitate their change of use to residential use and use the word “conversion” on this basis.
3. The evidence refers to an appeal decision¹ issued on 2 July 2024 in respect of a proposed development of up to 67 dwellings at Marnhull, Dorset (the ‘Marnhull decision’). The Inspector in that appeal found that the Council could demonstrate, at best, 4.83 years’ worth of housing supply. The Council has since submitted an update of its Annual Position Statement (APS) dated 31 July 2024 to the Planning Inspectorate. The Inspector’s “Report on the Council’s 5 Year Housing Land Supply Annual Position Statement 2024” was issued on 26th September 2024 and confirms that that the Council can demonstrate a housing land supply of 5.02 years. The Appellant has had the opportunity to make further comment and I have determined the appeal on the basis of this updated position.
4. On 30 July 2024, the Government published a consultation on proposed reforms to the Framework and other changes to the planning system.

¹ Appeal ref: APP/D1265/W/23/3323727. Land between Salisbury Street, Tanzey Lane and Sodom Lane, Marnhull, Dorset

However, these proposals form part of a consultation and could be subject to further change. Moreover, the draft Framework does not constitute Government policy or guidance. I have sought further comments from the parties on this and taken those into account in my consideration of the appeal. Accordingly, I have given the proposed changes limited weight in favour of the proposal.

Main Issue

5. The main issue in this case is whether the site is a suitable location for two dwellings taking into account local and national policy for the re-use of existing buildings, with particular regard to the effect of the proposals on the character and appearance of the site and surrounding landscape.

Reasons

6. The appeal site comprises a steel framed, 3 bay shed partially clad with profiled, horizontal cladding and blockwork walls together with a predominantly red brick, pantile roof outbuilding. Both buildings are in a relatively dilapidated state, missing sections of roof. They face each other across a yard.
7. The site is located on Bowridge Hill, defined as a visually sensitive area by Policy 22 of the Gillingham Neighbourhood Plan 2018 (GNP), and separated from the town of Gillingham by fields. It lies well beyond the settlement boundary of the town defined in the North Dorset Local Plan Part 1 2016 (NDLP) and the GNP.
8. NDLP Policy 2 requires that outside the defined boundaries, the remainder of the District will be subject to countryside policies where development will be strictly controlled unless it is required to enable essential rural needs to be met. NDLP Policy 20 provides further context, indicating that development in the countryside will only be permitted if it is of a type appropriate to the countryside or where it can be demonstrated that there is an overriding need. The re-use of redundant or disused buildings is identified in the supporting text to the policy as being an appropriate type of development.
9. Policy 29 sets out a list of criteria with which proposals for the re-use of buildings in the countryside should comply if they are to be permitted. The re-use of an existing building must comply with all of criteria (a) to (e) to satisfy the policy. Additionally, the re-use of a building for residential purposes will only be permitted where the proposals satisfy criteria (f) and (g). All applications for re-use are then assessed against criteria (h) to (m).
10. To comply with criterion (g) it must be demonstrated that the residential re-use of the buildings would enhance their immediate setting. I note that this part of the policy is consistent with paragraph 84 of the Framework and consider the setting of the buildings to be the surroundings from which they are visible. That is the land surrounding the buildings including the adjacent fields.
11. The land immediately to the south and west of the steel framed shed is currently an open and undeveloped field. To the south east is a small animal enclosure backing onto a bungalow and its garden. Adjoining this is Paddock Farm house which, at the time of my site visit, was undergoing significant

building works. The yard separating the buildings includes a large agricultural hopper, concrete ramp and disused caravan. Beyond the red brick building to the north is an open field separated from the building by a hedgerow and trees. Overall, the immediate setting of the buildings has a distinctly rural character comprising open, undeveloped countryside, interspersed with the occasional dwelling.

12. The definitive line of a public footpath runs between the appeal buildings and Paddock Farm house. This is currently obstructed by dense vegetation and objects in the yard and from the evidence appears to have been obstructed for some years. Nevertheless, it provides a means of public access from which the appeal site and its surroundings could be experienced. The site can also be experienced from the northern direction where the public footpath runs from Bowridge Hill westwards towards the town.
13. The introduction of large, enclosed gardens and the likelihood of associated objects commonly found in large gardens, such as possible future garden sheds, greenhouses, decking, garden furniture, washing lines and children's play equipment, would significantly change the setting of the buildings. Together with the change of use of the existing yard to create a domestic parking and turning area, it would give the land around the buildings a distinctly more residential character and appearance. Whilst existing agricultural structures and the old caravan would be removed, the agricultural structures, such as the hopper and ramp, are also part of the site's rural, agrarian character. Taken together, these changes would erode the agricultural character and appearance of the site and the immediate setting of the buildings.
14. The existing open frontage of the steel framed shed fronting the yard would be enclosed with window openings created in each elevation, including a substantial pair of full height, sliding windows in the south elevation. Whilst its utilitarian shape would remain, it would lose much of its current agricultural appearance and character. The scale and form of the building means that the resulting pair of semi-detached dwellings would be out of character with the existing, smaller detached dwellings adjacent to the site and with its immediate rural setting. Although the proposals would tidy the current unkempt appearance of the site, even taking into account the proposed hedge, biodiversity net gain and opportunity to improve energy efficiency in accordance with NDLP Policy 3, they would not enhance the immediate setting of the proposed development which is derived from its open, agricultural, rural character. It is suggested that the conversion of any rural buildings to residential use would result in domestic paraphernalia and this is "baked in" to the principle of such development. However, each case must be considered on its individual merits. For the reasons I have given, the proposals in this instance would significantly harm their immediate countryside setting.
15. I have given consideration as to whether an appropriately worded condition to control structures and uses in the proposed garden areas could be imposed if I were minded to allow the appeal. I do not consider it would be reasonable to seek to limit how future occupants might wish to use their gardens which, given their south-westerly aspect and views of the countryside, would be likely to be popular amenity areas for future occupants. Additionally, some garden features may not constitute development as defined in the Town and

Country Planning Act and therefore a condition to restrict their provision may not be enforceable.

16. Although not expressly referred to in the reasons for refusal, the Council's Officer Report suggests that the proposals fail to comply with other elements of Policy 29 and the Appellant has provided evidence in response to this. Criterion (e) of the policy requires that the building to be re-used merits retention. In this instance, the large steel framed building is a utilitarian structure of little visual or architectural merit. It was clearly constructed for functional, agricultural purposes and whilst of a type commonly found on farms, its standard form and design does not have any special character. Its scale and shed-like appearance, including the mix of profiled sheet cladding and blockwork, means it does not merit retention and re-use. The much smaller, red brick building does however have some visual merit. Despite its dilapidated state, it does contribute to the local character and I consider it merits retention.
17. The proposals to convert the larger shed involve the extensive alterations I have already referred to. Whilst the Appellant's Structural Report indicates that the existing steel frame is in generally good condition and would remain, it also notes that there would be a new internal structure independent of the original barn. Although internal works may not constitute "development" and the Structural Report has no concerns regarding the suitability of the existing concrete slab, albeit that additional insulation and water proofing will be necessary, in my view, and having regard to the *Hibbit*² judgement, the works to convert the building to residential use are substantial and would result in the steel framed shed building being substantially reconstructed. The Structural Report indicates that the masonry walls of the smaller brick building appear to be in a reasonable condition although some localised rebuilding would be required. Overall, whilst the roof of that building would need to be replaced, I consider that this building could be used as car ports and storage without the need for substantial reconstruction.
18. Turning to the effect of the proposals on the wider landscape, Bowridge Hill rises from the edge of the town towards the appeal site and forms a pleasant countryside setting to the town comprised of predominantly open fields bordered by trees and hedgerows and the occasional building. The site is located towards the top of the hill but is largely screened from long distance views from the south by intervening trees and hedgerows. Whilst it can be seen through a few small gaps in the hedgerows and is particularly visible in close views from the currently obstructed public footpath, it is not clearly visible from the town.
19. Although agricultural buildings of the form and scale of the existing large shed are often a part of the rural landscape, for the reasons given, dwellings of the size and nature proposed would appear incongruous and cause substantial harm to the character and appearance of the designated visually sensitive area when viewed from the public footpaths and land nearest the site. The introduction of a large number of windows, whilst needed to create satisfactory living conditions for future occupants, would also be likely to result in increased emission of light after dark. Dark skies at night form part

² *Hibbit and another v Secretary of State for Communities and Local Government* (1) and *Rushcliffe Borough Council* (2) [2016] EWHC 2853 (Admin).

of the rural landscape and this would cause further moderate harm. The proposed native species hedge along the site's southern boundary would not be sufficient to screen a building of such scale and would not overcome the harm to the landscape and surrounding area. The smaller, red brick building is hidden from views from the south. Whilst the roof is visible from the public footpath, the smaller scale of the building means that its conversion would not have the same adverse effect on the landscape.

20. I have been referred to other developments which are visible in the landscape. Whilst the edge of the town faces towards Bowridge Hill and the lights in the nearest houses in the town may be visible from the adjoining countryside, that does not justify the introduction of further intrusive development. The Council granted planning permission in 2019 for one dwelling at Bowridge Hill Farm following the demolition of an existing agricultural building. From the evidence, the circumstances in that case differ from the appeal proposals in that the scheme was an alternative to a scheme already permitted under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. The relevant Officers' report indicates the footprint of that dwelling to be approximately 210 sqm which is substantially smaller than the 522 sqm steel framed building in this appeal. Other buildings were also proposed to be demolished as part of that scheme which is not the case with the appeal proposals. Whilst the resulting new dwelling is partly timber clad and clearly visible from the road and in distant views up Bowridge Hill, as shown in the GNP, I do not consider that this or extensions to other existing buildings in the vicinity justify the harm caused by the appeal proposals.
21. Policy 29 criterion (d) requires that the existing building is not in an isolated location unless the proposed use is to support an existing business or is "allowed by national policy as a special circumstance." It is clear to me that the Framework's objective to avoid the development of isolated homes in the countryside makes an exception when specified circumstances apply. One of those circumstances is where "the development would re-use redundant or disused buildings and enhance its immediate setting." However, as I have found that the proposals would not enhance the immediate setting of the development, the proposals do not accord with the circumstances when isolated new homes in the countryside may be supported.
22. The site is physically separated from the settlement by open countryside. Even noting that it is within approximately 1km of local facilities in the town and having regard to the examples of isolated locations given in the supporting text to Policy 29, to my mind the appeal site is not well related to the settlement and would be isolated from it. The most direct pedestrian access to the town would be via a track to Bay Road and then along the unlit road towards the town. I walked some of the route during my site visit and the absence of footways coupled with the frequent passing traffic did not make it an attractive pedestrian route. Alternatively, there is also an indirect, unlit rough public footpath across the fields from Bowridge Hill down into the town. The uphill walk when returning from the town coupled with its length and rough nature, in particular, would not provide suitable pedestrian access for some users, especially after dark or in inclement weather. I have seen no evidence that the site is accessible by bus and the lack of a direct, convenient route accentuates the separation of the site from the town. Even though there

are occasional houses in the vicinity and it would be accessible by bicycle, the proposal would be isolated from the settlement and would not be in a sustainable location.

23. I recognise that many agricultural buildings by their nature are not in village settlements and therefore occupiers of possible future residential conversions are unable to rely on public transport for their daily needs. However, for the reasons I have given, the proposals would not comply with the policies for the re-use of buildings in the countryside. Policy 20 requires that any other development in the countryside will only be permitted where it can be demonstrated that there is an overriding need for it to be located in the countryside. I have not seen any evidence of an overriding need in this instance. Whilst I also note the PPG does not apply a test in relation to the sustainability of a location for the purposes of Class Q, the sustainability of the location is nevertheless a material consideration when considering an appeal against the refusal of planning permission.
24. With regards to the other criteria in Policy 29, whilst the buildings are dilapidated and in need of repair, I do not consider either building to be in such a state of disrepair as to be derelict. The Appellant submits that they are redundant and, taking account of the appeal decisions in the evidence which consider this point, I have seen no reason to come to a different view. The Structural Report notes that the structural elements of the steel framed building are in generally good condition and the brick building is of reasonably sound construction, although some elements would need replacing. There is no evidence to suggest that proposals would give rise to the future need for another building for the same use. Whilst I have no evidence that the viability of existing facilities would be affected, for the reasons given, the scale of the proposals would have an adverse impact on its surroundings. Overall, the proposals would conflict with Policy 29 when read as a whole.
25. For the reasons given, the site is not a suitable location for two dwellings taking into account local and national policy for the re-use of existing buildings and the development would harm the character and appearance of the site and surrounding landscape. They therefore conflict with Policies 1, 2, 4, 20, 24 and 29 of the NDLP; Policy 22 of the GNP which seeks to protect important green spaces; and the rural housing policies of the Framework.

Other Considerations

26. Set against the harm I have identified, the benefits of the development include making use of existing structures; the provision of two new dwellings to meet rural housing needs set out in NDLP policy 6; improving the buildings' energy performance and the opportunity to provide infrastructure for zero emission vehicles in accordance with NDLP Policy 3; the provision of 40% biodiversity net gain and green infrastructure in accordance with NDLP Policy 15; and the reinstatement of the currently obstructed public footpath. Given the proposal is for only two dwellings, these benefits, however, would be modest.
27. Reference has been made to other appeal decisions which concluded that the development plan policies in those cases were deemed to be inconsistent with the Framework as they take a more restrictive approach to development in the countryside. I have had regard to these decisions but note from the

information which has been submitted that there are clear differences between these appeal proposals and the individual circumstances in those cases. These include their location in Suffolk, the development plan policies which applied in those locations, and the nature of the buildings involved one of which had been rebuilt following a fire and the others having been domestic ancillary buildings. I have determined this appeal on the specific circumstances of the appeal site and the proposals in this case.

28. Reference is also made to the manner in which the planning application was considered by the Council and the consistency of its decision making. Whilst I have taken into account the previous decisions referred to, I have determined the appeal on its individual merits. Whilst no objections were submitted by the Town Council, for the reasons outlined above, the proposals would cause clear harm which gives rise to conflict with the development plan.

Planning Balance

29. As described above, the benefits associated with the development would be modest. The substantial reconstruction works proposed means the benefit of using existing structures carries moderate weight as does the small contribution the two additional dwellings make to rural housing needs. As the buildings are redundant, improving their energy performance attracts limited weight. So too does the opportunity to provide infrastructure for zero emission vehicles. The proposal to provide 40% Biodiversity Net Gain is consistent with the Framework's objective for enhancing the natural environment and carries significant weight. Whilst removing the obstructions to the public footpath would be a benefit, those works are not dependent on the appeal proposals and therefore carry little weight
30. The NDLP dates from 2016 and the GNP from 2018 but the weight to be attached to them does not hinge on their age. Paragraph 225 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. I have therefore considered whether the various criteria in Policy 29 makes the policy as a whole consistent with the Framework.
31. The Framework continues to require that development which would re-use redundant or disused buildings enhances its immediate setting. Policy 29 criterion (g) is therefore consistent with the Framework and conflict with it attracts substantial weight. For the reasons already given, whilst the wording of criterion (d) is drawn from the 2012 Framework and the word "special" is omitted from the equivalent wording in the current Framework, the Framework continues to make an exception when specified circumstances apply. As one of those circumstances is where "the development would re-use redundant or disused buildings and enhance its immediate setting," criterion (d) remains consistent with the Framework and conflict with it attracts substantial weight.
32. Criterion (f) is also consistent with the Framework's approach as it simply requires that the redundant or disused status of the buildings is confirmed. Compliance with it has substantial weight.
33. Whilst Criterion (h) provides an approach similar to that set out in the PPG for proposals under Class Q, which does not permit rebuilding work which goes beyond what is reasonably necessary for the conversion of the building to

residential use, it is more onerous than the Framework and not consistent with it. Conflict with it therefore carries moderate weight. Criteria (a), (b) and (c), whilst providing relevant local guidance, are also more onerous than set out in the Framework. Compliance with them therefore carries moderate weight. For the same reasons, conflict with criterion (e) also carries moderate weight.

34. The Framework recognises the intrinsic character and beauty of the countryside and the importance of development being sympathetic to local character and landscape setting. NDLP Policies 2, 4, 20 and 24 and GNP Policy 22 are consistent with this approach. Therefore, the conflict with those policies carries substantial weight in this appeal. Policy 29, including criteria (i) to (m) is also consistent with these objectives. However, as parts of Policy 29 are not consistent with the Framework, conflict with the policy as a whole carries moderate weight.
35. As there are no policies in the development plan which positively favour development of this kind in this location and as the proposal would be contrary to the policies referred to above, I conclude that there would be conflict with the development plan as a whole.
36. Since the Marnhull decision, the Inspector's report on the APS has subsequently confirmed that the Council has a housing land supply of 5.02 years. This is the most up to date, independent confirmation of the housing land supply and carries substantial weight. However, whilst I have found parts of Policy 29 to be more onerous than the Framework and therefore carry less weight, when considered as a whole, the most important policies for determining the appeal are not out-of-date for the purposes of NDLP Policy 1 and paragraph 11d) of the Framework. Therefore, paragraph 11d) is not engaged.
37. For the reasons given, the appeal proposal would cause substantial harm to the character and appearance of the site and surrounding landscape and would significantly harm the rural, agricultural setting of the development. I attach substantial weight to this harm and to the conflict with Policies 1, 2, 4, 20, 24 and 29 of the NDLP and Policy 22 of the GNP.
38. Reference has been made to the emerging Draft Dorset Local Plan and potential revised policy wording. As this is still at an early stage of its preparation, it currently holds limited weight.

Conclusion

39. The proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

R Kent

INSPECTOR