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## Appeal Decision

Site visit made on 18 March 2025

by **N Bromley BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 April 2025

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**Appeal Ref: APP/P1805/W/24/3352451**

**Berries View, Banks Green, Upper Bentley, Worcestershire B97 5SU**

- 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 John David Stubbs against the decision of Bromsgrove District Council.
  - The application Ref is 24/00097/FUL.
  - The development proposed is described as “The proposal seeks approval to convert a brick built garage/workshop into a 1/2 bedroom dwelling. Change of use from outbuilding to residential unit.”
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### Decision

1. The appeal is dismissed

### Procedural Matter

2. The Council refers to Policy BDP20 of the Bromsgrove District Plan 2011-2030 adopted January 2017 (the BDP) in their second reason for refusal. However, it is clear from the list of policies contained within the Council's delegated officer report that this is a typographical error, and the correct Policy is BDP21 of the BDP. I do not consider that the appellant has been prejudiced by this typographical error, as they have not referred to either policy in their submissions. I have therefore determined the appeal on this basis.

### Main Issues

3. The main issues are:
  - whether the proposal is in a suitable location having regard to local and national policies and access to services and facilities, and
  - the effect of the proposal on protected species, specifically bats.

### Reasons

#### *Suitable location*

4. Berries View is a two-storey, semi-detached dwelling at the end of a small ribbon of development along Banks Green, within the open countryside. The rear garden contains an existing modest, single storey building (the existing building) located immediately adjacent to the side boundary. The existing building would be converted to a separate dwelling.
5. Policy BDP1 of the BDP states that the Council will take a positive approach when considering development proposals that reflect the presumption in favour of sustainable development, and that for new development consideration will be had,

amongst other things, to accessibility to public transport. Policy BDP2 of the BDP seeks to focus new development in locations that are in accordance with the district's settlement hierarchy, as shown in Table 2, in order to promote sustainable communities, patterns of development and reduce the need to travel.

6. The nearest settlement to the appeal site is Webheath but there is otherwise limited information in respect of the services, facilities and public transport opportunities on offer within Webheath.
7. The appeal site is approximately 1.5 miles away from Webheath and the surrounding area has a prevailing rural character. The roads nearby do not have pavements or street lighting. For these reasons, future occupiers of the proposal would be discouraged from walking to access services and public transport opportunities, particularly during hours of darkness. For similar reasons, although it is suggested that National Cycle Network Route 6 runs through Upper Bentley and offers a cycling route to Bromsgrove, on the limited evidence before me, I am not persuaded that future occupiers would cycle to access the services and facilities on offer in nearby settlements.
8. While the appellant suggests that car-sharing schemes, the use of electric vehicles, and community transport initiatives can significantly reduce the reliance on traditional commuting, in a rural location such as this, the opportunities available are likely to be limited.
9. I acknowledge that the National Planning Policy Framework (the Framework) states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Even so, I consider the site to be highly inaccessible and physically remote from the nearest settlements. In these circumstances, the future occupants would be highly dependent on the use of private cars for their day-to-day needs and the proposal would not offer a genuine choice of transport or prioritise sustainable transport modes. Consequently, the proposal would not enhance or maintain the vitality of the nearby community.
10. Reference has been made to a number of approved planning applications for conversion schemes. The appellant suggests that these have deemed the area to be a suitable location, particularly in Upper and Lower Bentley. However, very limited information has been provided to enable me to draw any direct comparisons between those developments and the appeal scheme before me.
11. My attention has also been drawn to a previous decision<sup>1</sup>, which has been allowed at appeal. The full details of the case and a copy of the appeal decision have not been provided. Even so, the evidence suggests that the circumstances of that case were materially different to the appeal scheme before me. Given this, the identified planning applications and appeal decision do not add weight in favour of the scheme. Therefore, as I am required to do, I have determined the case before me on the site-specific circumstances and on its own merits.
12. For the above reasons and on the evidence before me, I conclude that the proposal is not in a suitable location having regard to local and national policies and access to services and facilities. It therefore fails to accord with Policies BDP1 and BDP2 of the BDP, as well as the aims and objectives of the Framework.

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<sup>1</sup> Appeal Ref: APP/P1805/W/23/3319415 – Lower House Farm, Border Fencing, Stoney Lane, Alvechurch

### *Protected species*

13. The nature and condition of the existing building and its location within the rural area, adjacent to existing trees, is likely to provide a habitat for protected species. Works to convert the building are therefore likely to have an effect on protected species, in particular, bats.
14. Circular 06/2005<sup>2</sup> states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before permission is granted, otherwise all relevant material considerations may not have been addressed. The use of conditions to require mitigation or compensation measures would also be inappropriate in the absence of a survey because there can be no certainty that such measures would satisfactorily address any harm that might occur to the protected species.
15. The appeal is not supported by an ecology or protected species survey. Without such information, I cannot conclude with any degree of confidence that the proposal would not result in harm to protected species or its habitats.
16. Consequently, I conclude that it has not been shown with any certainty that the proposed development would not cause unacceptable harm to protected species, specifically bats. This is contrary to Policy BDP21 of the BDP, which amongst other things, requires development to take steps to maintain the population of protected species.

### **Other Matters**

17. The main parties accept that the appeal property benefits from a Lawful Development Certificate (LDC)<sup>3</sup>, although a copy of the LDC decision has not been provided. The LDC relates to the 'siting of a caravan within the curtilage of the dwellinghouse for incidental residential use' (the LDC scheme).
18. The appellant suggests that the LDC scheme would have no less an impact on transport and sustainability than the proposal. However, the LDC scheme is for incidental residential accommodation, not a separate dwelling. Indeed, the submitted plans for the appeal scheme show the caravan located next to the main house, as you would expect for incidental accommodation.
19. A caravan occupied as incidental accommodation could generate a level of traffic, but it would be functionally related to the main house and some shared trips would be inevitable. In contrast, the appeal scheme would be located away from the main house with its own access and garden area fenced off. It would be a separate unit of accommodation with unrelated and unconnected occupants, which would not have shared trips as they would be two independently functioning dwellings. Consequently, the number of vehicle movements associated with the caravan would not be comparable to the appeal scheme. Indeed, the caravan would generate a lower level of traffic than the appeal proposal. As such the impacts would be less, causing less harm. Furthermore, there also remains the possibility that the LDC scheme could be undertaken in addition to the appeal scheme. For these reasons, the weight I give to the LDC scheme as a fallback position is therefore limited.

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<sup>2</sup> ODPM Circular 06/2005: Biodiversity and Geological Conservation - Statutory Obligations and their Impact within the Planning System

<sup>3</sup> Council reference: 24/00595/CPL

20. The appellant suggests that the Council have been inconsistent in considering fallback schemes and reference is made to a planning permission<sup>4</sup> at Broadmeadow Farm. Nonetheless, the Council have highlighted differences between that planning permission and the appeal scheme. As such I attach limited weight to that planning permission.
21. The main parties have highlighted that the appeal site is located on Green Belt land. Nonetheless, it is agreed that the re-use of the building, which is of a permanent and substantial construction, with limited works, would not constitute inappropriate development in the Green Belt. I see no reason to disagree. As such, there is no requirement to consider whether the site meets the definition of grey belt land.
22. I acknowledge the appellants comments with regard to the Council's handling of the planning application. Nevertheless, I confirm that I have considered the proposed development on its planning merits.

### **Planning Balance**

23. The Council accept that they cannot demonstrate a five year supply of housing land. The appellant has also highlighted the latest Housing Delivery Test results, which indicate that the Council's delivery of housing was below 75% of the housing requirement over the previous three years. Therefore, the presumption in favour of sustainable development, as set out at Paragraph 11(d) of the Framework applies. In these circumstances, Paragraph 11(d)(ii) of the Framework states that planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
24. The Framework makes it clear that weight should be afforded to policies of the development plan according to their degree of consistency with the Framework. In this regard, the Framework seeks to direct development towards locations with good access to services and facilities and ensure that sustainable transport modes are prioritised. The Framework also seeks to safeguard and enhance biodiversity. Therefore, the conflict between the proposal and Policies BDP1, BDP2 and BDP21 of the BDP should be given significant weight in this appeal.
25. The appellant has set out that the proposed development would provide smaller more affordable housing. However, I have no substantive evidence before me of the need or the level of shortfall for this type of accommodation in this location. Moreover, while the proposal would allow an opportunity for an older relative to live closer for support, thus reducing trips, this would be a private benefit that would not be secured in perpetuity for the public interest.
26. For the reasons given, I only attach limited weight to the fallback scheme, but I acknowledge that the creation of an additional smaller dwelling would contribute to boosting the supply of new housing, as referenced in the Framework. It would also provide the associated social, economic, and environmental benefits that a dwelling would contribute to. Even so, the benefit of one dwelling in boosting housing supply in the area would be limited. Therefore, even within the context of the Council's housing supply shortfall and delivery, I only attach limited weight to these benefits.

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<sup>4</sup> Council reference: 23/00905/FUL

27. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development does not apply.

### **Conclusion**

28. For the above reasons, I conclude that the proposed development would conflict with the development plan when considered as a whole and there are no material considerations, including the Framework, that indicate that the development should be determined otherwise than in accordance with it. For these reasons, the appeal should be dismissed.

*N Bromley*

INSPECTOR