



Appeal Decision

Site visit made on 27 May 2025

by **Rachel Hall BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 May 2025

Appeal Ref: APP/J3720/W/24/3357547

Elm Tree Farm, Perry Mill Lane, Ullenhall, Warwickshire B95 5RW

- 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 Ellen O'Grady of EJS Town Planning against the decision of Stratford-on-Avon District Council.
 - The application Ref is 24/01000/FUL.
 - The development proposed is retention of change of use of ancillary residential annex accommodation to separate dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The residential annex is said to have been granted on the basis that it was not inappropriate development in the Green Belt. The appeal scheme is for change of use from residential annex to an independent dwelling. In the absence of evidence to the contrary I am satisfied that this is also not inappropriate development in the Green Belt.
3. The appeal building is currently occupied as an independent dwelling and as such the appeal is treated as being retrospective.

Main Issues

4. The main issues are:
 - whether the appeal scheme is capable of achieving acceptable living conditions for its occupants, with particular regard to access to private outside space;
 - the effect of the appeal scheme on the living conditions of the occupants of Elm Tree Farm, with particular regard to privacy; and
 - whether the appeal site's location in open countryside is acceptable, having regard to the Council's development strategy.

Reasons

Private Outside Space

5. The appeal building is located within the spacious grounds of Elm Tree Farm. However, the appeal scheme does not make provision for any private outside space for its occupants. Without the ability to enjoy private outside space, the appeal scheme does not provide acceptable living conditions for its occupants.

However, given the ample space around the building, and in the event of the appeal being allowed, a condition could reasonably be imposed to enclose some land to provide sufficient private outside space for occupants of the appeal scheme. Given the extensive grounds of Elm Tree Farm, I am satisfied that this could be achieved without unduly compromising the quality or quantity of private outside space for the occupants of Elm Tree Farm.

6. Therefore, subject to the imposition of such a condition, the appeal scheme is capable of achieving acceptable living conditions for its occupants, with particular regard to access to private outside space. Thus, with respect to this main issue, the appeal scheme is capable of according with Policy CS.9 of the Stratford-on-Avon Core Strategy 2011-31 (July 2016) (Core Strategy). Amongst other matters, this requires that proposals provide a good standard of amenity for occupiers.

Privacy of the occupants of Elm Tree Farm

7. The front elevation of the appeal building is positioned relatively close to the rear elevation of Elm Tree Farm. Consequently, the ground floor window of the room identified on the annex site plan as the lounge provides views into the nearest groundfloor rear facing window on Elm Tree Farm. At a distance of circa 7 metres, I find that this intrudes on the privacy of the occupants of Elm Tree Farm when using that habitable room, to an unacceptable degree. Particularly as this relates to a rear facing, habitable room window where a high degree of privacy would usually be anticipated. When occupied by parties independent of Elm Tree Farm, this level of intrusion is harmful to their living conditions.
8. The Council did not retract from its view that loss of privacy was a reason for refusal. However in the event of the development being allowed at appeal, it suggested a condition requiring obscure glazing of windows on the appeal building. This could include its front facing lounge window. This would reduce the potential for overlooking from the lounge when its front facing windows were closed. However, it would not resolve the potential for overlooking at close range when those windows were open. Moreover, as that relates to a main window in the lounge of the appeal building, I consider that a requirement for it to be non-opening would harm the living conditions of occupants of the appeal scheme. Therefore, although the appellant is supportive of this condition, I find that the suggested condition would not satisfactorily resolve the harm from loss of privacy for current and future occupants of Elm Tree Farm.
9. Consequently, the appeal scheme unacceptably harms the living conditions of the occupants of Elm Tree Farm, with particular regard to privacy. Therefore, with respect to this main issue, it conflicts with Policy CS.9 of the Core Strategy. Amongst other matters this requires that proposals are designed to be sensitive to their setting and avoid unacceptable loss of privacy for neighbouring occupants.

Location of Development

10. Policy AS.10 of the Core Strategy sets out the types of development that can be supported in countryside locations. Policy AS.10 part (d) supports the conversion of a redundant or disused brick or stone building to residential use, where the building is listed or of local, historic, architectural or other merit. The appeal scheme is said to make use of a building that is no longer required as ancillary accommodation. As such, in the circumstances of this case it satisfies the requirement for being disused. However, whilst it is constructed of brick, it is not

listed and is not submitted as one that is of particular historic, architectural or other merit. As such, it does not satisfy this policy requirement.

11. Furthermore, part (d) also requires that such proposals should demonstrate that residential is the only viable use and its conversion would be appropriate to its character and setting. I note the challenges of marketing the building for business use while it has planning permission as a residential annex. Nonetheless, due to the harm arising from loss of privacy for the occupants of Elm Tree Farm, it fails to satisfy the part (d) requirement for such proposals to be undertaken in a manner that is appropriate to its setting. Accordingly, Policy AS.10 part (d) does not offer support for the appeal scheme. Moreover, I am not persuaded that any other parts of Policy AS.10 offer support for the appeal scheme here.
12. Policy AS.10 predates the publication of the Framework and does not address development of grey belt land. However, the Policy directs to Policy CS.10 for proposals in the Green Belt. For the purposes of this appeal, the Policy AS.10 approach to managing development in countryside locations is not at odds with the Framework as a whole. Therefore, the weight applied to Policy AS.10 in this appeal is not diminished by the recent publication of the Framework. Core Strategy Policy CS.15 also directs development to existing settlements unless it meets a need identified by the local community. Although the appellant's evidence refers to a general absence of rented housing in the locality, no robust evidence is provided to demonstrate that the appeal scheme meets a need identified by the local community.
13. Accordingly, the appeal site's location in open countryside is not acceptable, having regard to the Council's development strategy. It thus conflicts with Policies AS.10 and CS.15. Moreover, an absence of harm to the Green Belt does not mean that the appeal site's countryside location is acceptable. For the reasons given, the appeal scheme's location in open countryside is not supported by the development plan.

Other Matters

14. As an absence of harm to the Green Belt is not in dispute, it is not necessary to consider whether it should be regarded as inappropriate development in light of it satisfying paragraph 155 of the Framework on grey belt land. In any event, the Council considers that it can demonstrate a housing land supply well in excess of five years. As such, whether or not there is a lack of private rented accommodation in the locality, there is not a demonstrable unmet need for the type of development proposed under the terms of paragraph 155 b).
15. The appeal scheme adds a single dwelling to the Council's housing land supply. This constitutes a very modest benefit in circumstances where the Council has well in excess of a five year supply. Although housing land supply positions fluctuate, the appeal is determined in light of the current position. Compliance with matters such as drainage, flood risk and national space standards, and an absence of harm to the surrounding landscape, are neutral considerations. I note that some local facilities and public transport in Ullenhall are accessible from the appeal site. Nonetheless, given the site's countryside location, occupants are likely to be largely reliant on travel by private car for access to day to day services and facilities. In comparison to its occupation as a residential annex, there is likely to

be a small increase in transport related emissions associated with the appeal scheme.

16. Also, I have found that the location of the appeal scheme is contrary to the Council's development strategy. Such conflict amounts to harm where the location of the appeal scheme beyond the settlement undermines the Council's plan-led approach to the delivery of housing. Moreover, I have found that the appeal scheme unacceptably harms the living conditions of neighbouring occupants with respect to privacy. Accordingly, it does not represent good design and conflicts with the development plan as a whole.
17. Reference is made to a recent appeal decision that is said to be comparable (Appeal Ref APP/M3645/W/24/3347328). However, the main issues in that case related to whether it was inappropriate development in the Green Belt and its effect on protected species, neither of which are main issues in this appeal. Therefore, it is not comparable to the circumstances of this appeal and does not alter my reasoning.
18. Dismissing this appeal may put at risk the occupation of the appeal building by their current residents. This would represent an interference with their rights under Article 8 of the European Convention on Human Rights (right to respect for private and family life) as incorporated by the Human Rights Act 1998. However, these rights are not unfettered and can be interfered with by a public authority in accordance with law in a number of circumstances.
19. In this case, there is a legitimate and established planning policy aim to focus development on sustainable locations within existing settlements and achieve high quality design. No case has been made that the personal circumstances of the existing occupants require them to remain in the appeal building. As such, I attach greater weight to the public interest. Dismissal of the appeal is proportionate and so it would not result in a violation of the residents' human rights.

Conclusion

20. The appeal scheme is contrary to the development plan as a whole and there are no material considerations, including the provisions of the Framework, that outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

Rachel Hall

INSPECTOR