



Appeal Decision

Site visit made on 6 February 2018

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 20th February 2018

Appeal Ref: APP/Z1510/W/17/3189624

Land opposite Birds Farm, Puttock End, Belchamp Walter CO10 7BD

- 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 Mr Peter Moore against the decision of Braintree District Council.
 - The application Ref 17/01556/FUL, dated 18 August 2017, was refused by notice dated 19 October 2017.
 - The development proposed is described on the application form as “demolition of existing redundant barn and its replacement with a new purpose-built dwelling together with associated development and landscaping. (Re-submission of planning application ref: 16/01768/FUL refused on 9th December 2016 and following Braintree District Council’s approval of prior approval application ref: 17/01136/COUPA on 14th August 2017)”.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing redundant barn and its replacement with a new purpose-built dwelling together with associated development and landscaping at land opposite Birds Farm, Puttock End, Belchamp Walter CO10 7BD in accordance with the terms of the application, Ref 17/01566/FUL, dated 18 August 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 001, 002, PA.300, PA.301, PA.302, PA.303, PA.304, PA.305 and PA.307.
 - 3) The construction of the dwelling hereby permitted shall not be commenced until samples of the materials to be used on the external surfaces have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved samples.

Procedural Matter

2. Both main parties have been given the opportunity to comment on a recent High Court judgment¹ handed down on 15 November 2017 regarding paragraph 55 of the National Planning Policy Framework (NPPF) and new isolated homes in the countryside. I have had regard to the judgment and the comments of both main parties in my decision.

¹ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743 (Admin)

Main Issue

3. The main issue is whether the proposed development would provide a suitable location for housing, having regard to the accessibility of services and facilities and the character and appearance of the area.

Reasons

4. The appeal site is situated in Puttock End which comprises a small cluster of houses and agricultural buildings surrounded by open countryside with expansive views across fields. The site contains a steel framed and clad barn and forms part of Birds Farm which operates as a tree nursery. The site plan as existing indicates a row of cypress leylandii along the southern boundary and hedgerows along the remaining boundaries. However, at my site visit most of this boundary planting had gone and a low level post and rail timber fence was in the process of being installed. As such, the barn is conspicuous in views from the road especially to the north.
5. As noted by the Council and not disputed by the appellant, the appeal site is located within the countryside beyond any defined settlement boundaries. Policy RLP2 of the Braintree Local Plan Review (LPR) and Policy CS5 of the Braintree Core Strategy 2011 (the Core Strategy) restrict development outside of settlement boundaries to protect the character of the countryside as well as non-renewable and natural resources. Policy LPP1 of the Braintree District Publication Draft Local Plan (PDLP) contains a similar policy approach, although not yet adopted and so carries limited weight. Policy SP1 of the PDLP sets out a presumption in favour of sustainable development, although again is not adopted and so has limited weight for the purposes of this decision.
6. The appeal site has previously had three planning applications refused in 2016 for a replacement house due to issues relating to location and design. In 2017, two prior approval applications were made for a proposed change of use of the barn to a dwellinghouse under Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The second prior approval application (ref 17/01136/COUPA) was determined as not requiring planning permission, enabling the conversion to take place.
7. Although the prior approval process is separate to the planning application process, I concur with the appellant that there is a realistic prospect of the second prior approval scheme being implemented in the event that this appeal fails. This is evidenced by the existence of the prior approval decision and the appellant's stated intentions. This would result in a residential property on the site. Therefore, while it should not automatically guarantee planning permission for residential development, the fallback position is an important material consideration that carries significant weight for the purpose of my decision. In coming to this view, I have had regard to a recent Court of Appeal judgment² relating to fallback positions.
8. The proposed development would result in the provision of a new home in the countryside. However, in deciding whether it would be isolated, the aforementioned High Court judgment considers that "isolated" should be given its ordinary objective meaning of "far away from other places, buildings or

² Michael Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314

people; remote". The judgment found that remoteness from services and facilities did not define whether or not a new dwelling would be isolated. The proximity of the proposed development to existing buildings and dwellings in Puttock End, including on the opposite side of the road at Birds Farm, means that the new dwelling would not be isolated in terms of paragraph 55. Moreover, the conversion of the barn under Class Q would result in a residential property in the same location which is an important consideration. Therefore, there would be no conflict with paragraph 55 of the NPPF and no need for the development to demonstrate special circumstances for a new isolated dwelling.

9. I note that the Council has sought leave to appeal the High Court judgment, but it remains in force at the time of this decision and so carries important weight. Nevertheless, I concur that there is still a need to consider the effects of the proposed development on the character and appearance of the area and the accessibility of services and facilities.
10. Puttock End is approximately a mile via narrow country lanes to the west of the small village of Belchamp Water, which itself has little in the way of services and facilities. Other settlements are further away and accessed by similar roads. Thus, the occupants of the proposed development would be largely reliant on the private car to access most services and facilities, which would result in negative environmental effects in terms of the use of natural resources and negative social effects in terms of accessible local services. This would be contrary to Policies RLP2 and CS5 as well as Policy CS7 of the Core Strategy which seeks to provide future development in accessible locations to reduce the need to travel. However, these accessibility issues would apply equally to occupants of the converted barn and so would result in the same level of harm.
11. The proposed dwelling would be conspicuous on this side of the road, but would occupy a similar footprint and location to the existing barn. Its design and materials would reflect the local farmhouse vernacular of the area including the house at Birds Farm opposite and would be a positive addition in architectural terms. The Council has not objected to the specific design. Based on the plans provided, the barn conversion would have a simpler architectural form than the proposed development. However, its barn-like appearance and the use of new external materials including timber and brick would not look out of keeping for a rural area. Thus, the proposed development in terms of its effect on the character and appearance of the area would not be significantly better than the converted barn. At the same time, there would be no harm.
12. The Council accepts that it cannot demonstrate a 5 year housing land supply at present. According to both main parties, the supply currently stands at around 4.31 years. As a consequence, relevant policies for the supply of housing should not be considered up to date in line with paragraph 49 of the NPPF. However, the amount of weight to be attributed to Policies RLP2 and CS5 remain a matter for the decision-maker. I consider that these policies remain broadly consistent with the NPPF in terms of recognising the intrinsic value of the countryside and seeking to protect natural resources, and so carry reasonable weight.
13. Where relevant policies are out of date, paragraph 14 of the NPPF states that permission should be granted unless any adverse impacts of doing so would

significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or specific policies of the NPPF indicate development should be restricted.

14. In terms of economic and social effects, the proposed development would be similar to the barn conversion in providing an additional dwelling to help address the shortfall in housing land supply and providing investment in the construction and maintenance of the dwelling. Both schemes are small-scale and so would not be expected to result in the provision of additional infrastructure. The Council argues that Class Q supports farm diversification, but the permitted development right simply relates to conversion from agricultural to residential and does not guarantee that this would support farming enterprises. There is little in the evidence before me to indicate that the proposed development would diminish economic activity in terms of the loss of the barn based on submitted marketing information.
15. In terms of environmental effects, the proposed development would not be an isolated new dwelling. It would be similar to the barn conversion in terms of the accessibility of services and facilities and the reliance on the private car. While architecturally different, neither the proposed development nor the barn conversion would result in harm to the character and appearance of the area. The proposed development would result in the loss of an existing building and the site does not constitute previously developed land as defined by the NPPF due to its agricultural use. However, the barn is of rudimentary construction and there is evidently little interest in retaining its current use. As a consequence, there would be negligible environmental harm in terms of the loss of the building and the change of use of the land.
16. The Council has expressed concerns that the proposed development would set a precedent for further residential development that would be harmful to rural character. However, there would need to be a similar fallback position for this to apply and any development proposal would still need to be acceptable in overall planning terms. Therefore, concerns about a harmful precedent being set have not been proven and each case would be assessed on its own merits.
17. The proposed development would result in harm in terms of the accessibility of services and facilities and would not be in accordance with Policies RLP2, CS5 and CS7 in terms of its location in the countryside. However, given the existence of a realistic fallback position where the same accessibility issues apply, I give limited weight to this harm and the conflict with these policies. The proposed development would result in limited benefits in terms of housing supply and economic investment due to the small-scale nature of the proposal. Nevertheless, there would be no adverse impacts arising from the proposed development that would significantly and demonstrably outweigh the benefits.
18. In conclusion, while not fully in accordance with Policy RLP2 of the LPR and Policies CS5 and CS7 of the Core Strategy, applying the approach of paragraph 14 in the NPPF and the existence of a realistic fallback position as important material considerations indicate that the development would be acceptable in this instance. In addition, there would be no conflict with paragraph 55 of the NPPF. Therefore, the proposed development would provide a suitable location for housing having had regard to the accessibility of services and facilities and the character and appearance of the area.

Conditions

19. Conditions setting a time limit for the commencement of development and for it to be carried out in accordance with the approved plans are necessary for clarity and compliance. A condition relating to materials is necessary to ensure that the appearance of the development is satisfactory.
20. I have not imposed a condition removing permitted development rights for extensions and outbuildings. While the dwelling would be prominent in views across the countryside, it occupies a reasonable size plot and could be subject to improved vegetation screening. It has not been adequately demonstrated that any extension or outbuilding would result in unacceptable development of the site. On that basis, no exceptional circumstances have been shown to exist as required by the Planning Practice Guidance³ for the removal of permitted development rights. Thus, such a condition would not be necessary or reasonable.

Conclusion

21. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR

³ Reference ID: 21a-017-20140306