



Appeal Decision

Site visit made on 9 June 2023

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2023

Appeal Ref: APP/Y3940/W/23/3315001

Bullen Hill Farm, Ashton Common, Steeple Ashton, Wiltshire BA14 6DY

- 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 James Greening against the decision of Wiltshire Council.
 - The application Ref PL/2022/02409, dated 22 March 2022, was refused by notice dated 15 August 2022.
 - The development proposed is described as 'Conversion and extension of an existing residential building to form two dwellings and erection of Garage Building'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant provided updated drawings during the appeal that set out details of proposed on-site mitigation measures for bats. The mitigation measures on the updated drawings had already been broadly outlined within the appellant's Ecological Appraisal Report. I am therefore satisfied that the updated drawing seeks to clarify information that had already been submitted, as opposed to evolving the scheme. Having regard to the principles established in the Wheatcroft Judgement¹, I do not consider any party would be prejudiced by my acceptance of the updated drawing.

Main Issue

3. The main issue is whether the site is in a suitable location for housing development, with specific regard to the Council's spatial strategy and access to facilities and services, and if harm arises, whether this is outweighed by other considerations.

Reasons

4. The appeal scheme relates to an existing residential property located at Bullen Hill Farm. The appeal property is accessed via a long private driveway that connects to the public highway. The existing dwelling that the appeal relates to is set within a small cluster of buildings in residential and agricultural uses, and therefore does not appear isolated within its immediate environment. Nor is it isolated in the context of paragraph 80 of the National Planning Policy Framework (the Framework). Nevertheless, it is in a rural setting, a significant distance from the nearest settlement.

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37].

5. The appeal scheme would involve extending and reconfiguring the existing property, as well as providing new access arrangements and a separate garage building, in order to create an additional residential dwelling at the site.
6. The Council spatial strategy for development is set out under Core Policy CP1 of the Wiltshire Core Strategy (adopted 2015) (the Core Strategy). The policy identifies a hierarchy of settlements whereby sustainable development is expected to be delivered. This is supplemented by Core Strategy Policy CP2, which sets out the County-wide housing requirement. Policy CP2 also establishes that development will not be permitted outside the defined limits of development (or settlement boundary) as detailed on the policies map, except under certain circumstances. The approach of policies CP1 and CP2 to rural housing broadly aligns with that advocated in the Framework.
7. The appeal site is in a rural location, set a considerable distance from any identified settlement boundary within the development plan. The proposal has not been demonstrated to comply with any of the exceptions for the development of new dwellings in the countryside that are outlined under Policy CP2. The appeal scheme is therefore in conflict with the development plan's spatial strategy.
8. Furthermore, any future occupants of the proposed additional dwelling are likely to have travel requirements to access facilities and services. From the evidence before me and my observations on site, services and facilities that would sustain day-to-day living are located a significant distance from the appeal site. The site is also not well served by public transport options.
9. Nearby roads are generally unlit, with little footpath provision and limited surveillance. The distances involved, together with the context of the surrounding highway network and footpaths, are likely to deter many residents from walking or cycling to access facilities or services. Moreover, in periods of bad weather or darkness. Consequently, sustainable methods of travel are unlikely to be routinely used, with any future occupants highly likely to be reliant on the private car. This is the least sustainable means of transport and would further undermine the Council's spatial strategy.
10. I therefore find that the site would not provide a suitable location for housing having regard to the Council's spatial strategy and given its poor access to local facilities and services, including public transport. As such the proposal would conflict with Core Strategy Policies CP1 and CP2. It would also conflict with Core Strategy Policies CP60 and CP61, these policies together seek to reduce the need for travel by private car and encourage sustainable travel, including through promoting development in accessible locations.

Other Matters

11. The proximity of the site to the Bath and Bradford-on-Avon Special Area of Conservation (SAC) is such that development proposals have the potential to negatively impact upon the SAC. The internationally designated site is noted for supporting populations of bats (including Bechstein's, Greater Horseshoe and Lesser Horseshoe bats). Amongst other things, the appeal proposal would involve demolition of extensions/outbuildings, removal of vegetation and extensions to the existing property. Consequently, there is potential for significant effects on the SAC through harm to bat roosts, commuting and foraging opportunities.

12. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment where there are likely to be significant effects from the proposal either alone or in combination with other schemes. The Council contends that insufficient survey work has been undertaken to fully assess the proposal's impacts on protected species, while the appellant has not provided suitably detailed mitigation measures that could be appropriately secured.
13. I note the findings of the appellant's initial preliminary ecological assessment, as well as the subsequent survey work and plans showing on-site mitigation measures that may be secured by condition. It was also apparent at my site visit that trees that may have provided commuting opportunities for bats had largely been removed. I have also been made aware that the appellant has been working with the Council to renew and renovate historic hedges on surrounding farmland. However, given that I am dismissing for other reasons I have not pursued these matters further and do not need to consider the implications of the proposal on the SAC.
14. Even if I were to find that suitable mitigation is proposed and securable, such that the appeal scheme would avoid any adverse effects on the SAC, this is to be expected of new development proposals. It would therefore be a neutral matter in the overall planning balance.
15. I note the appellant's references to paragraph 80 of the Framework, which identifies specific instances whereby the development of isolated homes in the countryside may be appropriate, including the sub-division of existing residential buildings. However, the appellant acknowledges that the appeal site is not isolated in the context of paragraph 80. The proposal also does not involve the sub-division of the property, nor does it adhere to any of the other circumstances outlined under paragraph 80. Furthermore, although permitted development rights (PDR) may exist to enable the property to be extended, there is no robust evidence before me to demonstrate that PDR would enable the creation of a separate residential property/planning unit. Therefore, I give little weight to the appellant's suggested fallback position.

Planning Balance and Conclusion

16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (the Act) requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
17. The Council does not dispute the appellant's contention that it is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 73 of the Framework. Paragraph 11 of the Framework states that in these circumstances relevant policies for the supply of housing should not be considered up-to-date. Paragraph 11d) of the Framework also 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 Framework taken as a whole.
18. Harm would arise from the conflict with the strategy for residential development that is outlined in the Core Strategy policies. The Council's shortfall of housing land means that the strategies contained within policies CP1 and CP2 are out of date. However, this does not mean that they are afforded no weight. The need to carefully manage and limit the number of new

homes in locations with limited sustainability credentials remains valid in the context of the environmental objectives of national and local planning policy. Likewise, Policies CP60 and CP61 align with the aims of the Framework in respect of promoting sustainable travel. As such, I still afford the harm arising from the conflict with the local plan policies significant weight.

19. The provision of an extra dwelling at the site would provide only modest social benefits through assisting to meet the Council's housing needs. Related economic benefits would also be modest given the scale of the proposal.
20. Compliance with other planning policy issues (e.g. design, landscape, heritage, biodiversity) would amount to neutral matters in the planning balance.
21. Bringing the above together, when assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. It follows that the presumption in favour of sustainable development does not apply.
22. For the reasons outlined above and having regard to the development plan as a whole, and all other relevant material considerations including the provisions of the Framework, the appeal is dismissed.

Lewis Condé

INSPECTOR