
Appeal Decision

Site visit made on 31 January 2019

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 May 2019

Appeal Ref: APP/M2270/W/18/3213328

Farm buildings near Scriventon House, Stockland Green, Tunbridge Wells, Kent TN3 0TU

- 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 J and D Properties Ltd against the decision of Tunbridge Wells Borough Council.
 - The application Ref 17/02743/FULL, dated 14 August 2017, was refused by notice dated 12 June 2018.
 - The development proposed is described as '*Conversion of redundant farm buildings to 8 no. new residential units with associated parking and landscaping, and relocated access onto Barden Road.*'
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Decision

1. The appeal is dismissed.

Procedural Matter and Main Issues

2. Although the appeal site is located within the Metropolitan Green Belt the Council, in reaching its decision, did not consider that the proposal would amount to inappropriate development therein. Paragraph 146 of the National Planning Policy Framework (the Framework) says that the re-use of buildings within the Green Belt, provided that they are of permanent and substantial construction, would not be inappropriate development provided the Green Belt's openness is preserved.
 3. Given the proposed residential use of the existing buildings with the creation of individual curtilages, there would be some effect on its openness but, that said, the appellant comments that these would be relatively tight to the buildings and wholly within the surrounding yard areas. It is also clear that the Council's main concern is the resultant effect on the High Weald Area of Outstanding Natural Beauty (AONB), within which it is located. I share this view and, in the particular circumstances, the main issues in this appeal are:
 - i) the proposal's effect on the character and appearance of the surrounding area, with particular regard to the AONB location; and
 - ii) the effect on identified protected species in the locality.
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Reasons

Character and appearance

4. The site is located outside of the Council's designated 'Limits to Built Development' (LBD) and within the High Weald Area of Outstanding Natural Beauty (AONB) whose sense of place and character Core Policy 4 of the Council's Core Strategy seeks to preserve and enhance. Further, paragraph 172 of the Framework says that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection. The Landscape Character Assessment commissioned by the Council, published in 2017, refers to the high value of the landscapes within this AONB.
5. On this main issue I have paid particular regard to three local planning policies. These are policy CP4 of the Tunbridge Wells Borough Core Strategy (CS), which seeks to conserve and enhance the Borough's rural landscapes including those of the designated AONB. These relevant objectives are reflected in policy EN25 of the Tunbridge Wells Borough Local Plan (LP). Also, given the nature of the proposal, LP policy H13, which is concerned with the conversion of buildings in the countryside, is particularly relevant in requiring that, in instances of residential re-use, the creation of curtilages, access and car parking facilities can be achieved without harm to the character of the countryside.
6. The proposal would involve the conversion of five separate vacant agricultural buildings for residential purposes. The buildings are noticeably distanced from one another and the absence of any cogent physical relationship due to their varying sizes and what is a collective disparate arrangement is compounded by the marked drop in land levels from east to west. In illustration, Building A, the longest of the five, sits isolated from the central group of B, C and D and on lower land. Also, Building E sits markedly distanced to the north east of the site, significantly out on a limb from the main group of three.
7. The LVIA's findings indicate that the proposed development would involve only limited visual effects as the resultant changes would ensure that the landscape character remains in keeping with that of the immediate surroundings. It says that, from a distance, there will be minimal change to the existing views of the barns. Whilst I accept that the buildings would not be extended, their use for residential purposes would inevitably bring about new impacts such as associated paraphernalia, but more so from their particular physical relationship, which would be amplified by the separation distances involved and the topography of the land. This would adversely affect the cohesiveness of the scheme and, due to its extent, would encroach into the AONB, impacting upon its character.
8. The LVIA, in referring to the intended access arrangements, indicates that the entrance off Barden Road would be adjusted as requested by the local highway authority. However, little is mentioned of the accessway to the site itself, save for the submitted plans showing a 5m width access behind the junction with Barden Road and the 'existing concrete track' being made good and extended to 3m in width. On this particular point I am not convinced that the LVIA has addressed this aspect of the proposal, and has not provided a full and proper objective assessment as to its impact.

9. On balance, the proposal's extent goes significantly beyond what is a relatively close knit arrangement between Buildings B, C and D which has a more obvious relationship to the nearby dwelling's substantial outbuilding to the south, and which sit at roughly similar land levels. Accordingly, the span of the development intended and the associated creation of artificial boundaries to the north and west would markedly alter the largely open nature of the landscape.
10. I therefore disagree with the LVIA's suggestion that the development would give rise to only a 'low magnitude of change' to the landscape's character. I find that this assertion, as one of the study's overall conclusions, is somewhat sweeping. Further, when taking into account similar implications that could arise from the intended access arrangements, the said conclusion appears less than objective and it has not been comprehensively and convincingly demonstrated.
11. In the absence of compelling detail to the contrary, I conclude that the proposal would be harmful to the character and appearance of the AONB, and would materially conflict with the aims and requirements of CS policy CP4 and LP policies EN25, H13 and EN1, and also relevant advice within paragraph 172 of the Framework.

Protected species

12. The Framework, in paragraph 170 advises that planning decisions should contribute to and enhance the local environment by, amongst other things, minimising impacts on and providing net gains for biodiversity. Circular 06/2005, concerned with biodiversity conservation, says that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it '*...is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision*' (paragraph 99).
13. The Circular advises that surveys should be carried out before planning permission is granted. Consequently, it advises that surveys should only be required by condition in exceptional circumstances. Such circumstances could be where the applicant/appellant has undertaken recent surveys for protected species and is proposing to undertake final checks.
14. In this particular instance the original ecological survey carried out at the site in 2017, which identified a number of protected species present, has been subsequently augmented by a Reptile Survey report, undertaken in September 2018, following the Council's decision to refuse planning permission. The Council indicates that its concerns are now limited to a lack of mitigation measures for dormice and barn owls and the lack of a detailed scheme of ecological mitigation addressing all species and a resultant net gain for biodiversity.
15. In the circumstances, should I have been minded to allow the appeal and grant planning permission for the scheme, I am satisfied that, due to the extent of the survey work and assessments already carried out, a suitably worded condition could be imposed in this instance to address the matter. This would

have required that, prior to the commencement of any development, an ecological mitigation strategy, informed by up-to-date ecological surveys, would be carried out in accordance with relevant Best Practice Guidance, and would be submitted to the local planning authority for written approval. If considered acceptable, it would be implemented accordingly.

16. In the event of this I am satisfied that protected species at the site and in its immediate vicinity would be adequately protected, thereby meeting the relevant objectives of CS policy CP4, and those of the Framework and the government's planning practice guidance.

Other considerations

17. The Council accepts that it is currently unable to demonstrate a five year supply of deliverable housing sites, as is required under paragraph 73 of the Framework. Also, the most recent 2018 measurements show that the delivery of housing within the Borough was some 88% of the Council's housing requirement over the previous three years. As such, the Council's policies relating to the supply of housing can be considered out-of-date and, accordingly, point d (i and ii) of paragraph 11 of the Framework is engaged. This includes protecting areas of particular importance such as AONBs and assessing whether the adverse effects of allowing the appeal and granting planning permission for the current scheme would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
18. Paragraph 213 of the Framework says that existing policies should not be considered out-of-date simply because they were adopted prior to the Framework's publication. In this respect, whilst I accept that the proposal would bring about some benefits in terms of new housing, the environmental cost identified weighs heavily against these. Accordingly, I afford LP policies EN25, H13 and EN1 substantial weight in relation to the development as proposed.

Conclusion

19. Section 38(6) of the Planning and Compulsory Purchase Act, 2004 says that planning proposals must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, although I have concluded that the proposal need not be harmful to the habitat of protected species identified at the site, this is overridden by the clear material conflict with LP policies EN25 and H13, along with relevant advice in the Framework also counting against the proposal. I have had regard to the other material considerations put forward but these do not outweigh the policy objections nor suggest that the appeal should be determined otherwise than in accordance with the development plan.
20. For the above reasons, and having had regard to all matters raised, the appeal is dismissed.

Timothy C King

INSPECTOR