



Appeal Decision

Site visit made on 20 August 2014

by Victoria Lucas-Gosnold LLB MCD MRTPI

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

Decision date: 18 September 2014

Appeal Ref: APP/L3245/A/13/2210381

Rudge Hall, Rudge Road, Pattingham, Wolverhampton, WV6 7EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr Peter Baker against the decision of Shropshire Council.
 - The application Ref 13/01281/VAR, dated 3 April 2013, was refused by notice dated 17 July 2013.
 - The application sought planning permission for 'Conversion of disused barns to form 3 holiday let properties and one residential property; installation of septic tank drainage system' without complying with a condition attached to planning permission Ref 11/02442/FUL, dated 22 November 2011.
 - The condition in dispute is No. 10 which states that: 'The holiday let units shown on drawing number 11010-03A shall be used for holiday accommodation only and shall not be used as the sole, primary or permanent residence of any occupier'.
 - The reason given for the condition is: 'To define the permission for the avoidance of any doubt and to ensure that the approved holiday accommodation is not used for unauthorised permanent residential occupation, which would be contrary to Development Plan policy'.
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Decision

1. The appeal is allowed and the planning permission Ref 11/02442/FUL for the 'Conversion of disused barns to form 3 holiday let properties and one residential property; installation of septic tank drainage system' at Barns Opposite Lower Rudge Farm, Rudge Road, Lower Rudge, Pattingham, WV6 7EA granted on 22 November 2011 by Shropshire Council, is varied, by deleting condition No. 10 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following additional condition:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Main Issues

2. The appeal site is in the Green Belt and therefore the main issue is whether the condition in dispute is reasonable and necessary having regard to:
 - Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policy; and

- If the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other Green Belt harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Background

3. The property the subject of this appeal is part of a converted barn building which forms a quadrangle style development. The buildings form a 'u-shape' with the fourth side, adjacent to the highway, being open. The three parts of the building all face towards a central courtyard which provides access and a parking area. One part of the building is an existing dwelling and this is attached to the appeal property. The opposite side of the building is used for garaging, stabling and storage. It is physically separated from the appeal building by a small gap through which access to the rear of the appeal property is provided. The appeal property itself forms the central part of the 'u-shape' which directly faces the highway.
4. My attention has been drawn to the detailed planning history for the appeal site. Prior to 2004, a building on the site of the current structure, and of a similar form, had been used for the stabling of horses and the storage of equipment used in the maintenance of land in the vicinity of the appeal site. In 2004, part of the building which now contains the holiday lets was taken down whilst repairs were being carried out to the structure. I am advised that an enforcement investigation by the Council found that the building had ceased to exist and a new floor slab had been laid. Planning permission was subsequently given in 2004 for the reconstruction of the building on the grounds that it would be for agricultural/stabling uses and was therefore considered by the Council to be not inappropriate development in the Green Belt. Although the building was re-constructed, I understand that the former use did not recommence.
5. In November 2011, planning permission was given for the conversion of the reconstructed building to form three holiday lets. Part of the original building was still in situ and planning permission was given to convert this into one dwelling. The reason given for this was because the part of the building which has been converted to a dwelling was considered to be a 'heritage asset' and it therefore met with a policy exception set out in policy CS5 of the Council's Core Strategy (Adopted March 2011) (CS) which allows the conversion of existing buildings in the Green Belt considered to be heritage assets to open market housing.
6. The holiday lets scheme was also viewed by the Council as complying with the relevant development plan policies at that time. I understand that this was because the scheme proposed a tourism use and would therefore be a type of small scale economic development which is considered to be not inappropriate development in the Green Belt under the terms of policy CS5 of the CS.
7. The disputed condition was attached in light of policy CS5. The appeal proposal would see the removal of this condition and the amalgamation of two of the units into one three bedroom residential unit. The proposal would therefore see the creation of two additional dwellings.

Planning policy context

8. Policy CS5 of the Council's CS states that new development in the Green Belt will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt. The policy lists several exceptions to this approach and goes on to state that open market residential conversions will only be considered where, among other things, respect for the heritage asset and high standards of sustainability are achieved; and a financial contribution for the provision of affordable housing to be delivered off site is provided. The policy also requires development proposal to be consistent with the requirements of CS policies CS6 and CS17 which relate to sustainable design and development and environmental networks respectively.
9. The Shropshire Type and Affordability of Housing Supplementary Planning Document (2012) (SPD) sets out the Council's approach to the conversion of holiday lets into dwellings in more detail. In relation to the relevant policy CS5 exception, the SPD states that heritage assets would normally pre-date 1950; comprise traditional materials and building methods; are of permanent and substantial construction; and are of local significance and add value to the landscape (paragraphs 3.13). The SPD also goes on to state that if the buildings are of heritage value in terms of the character of the buildings and their contribution to the countryside and provided high standards of sustainability are achieved, then removal of the occupancy conditions may be acceptable subject to the payment of an affordable housing contribution.
10. Saved policy S3 of the Bridgnorth District Local Plan (Adopted July 2006) (LP) also states that within the Green Belt planning permission will not be given, except in very special circumstances, for the re-use of existing buildings unless this, among other things, does not reduce the openness of the area.
11. Paragraph 89 of the National Planning Policy Framework (the 'Framework') states that the construction of new buildings should be regarded as inappropriate in the Green Belt, with certain exceptions. Paragraph 90 goes on to state that certain forms of development are also not inappropriate development in the Green Belt, provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. These include the re-use of buildings provided that the buildings are of permanent and substantial construction.
12. The general thrust of the Council's approach in seeking to restrict new development in the Green Belt is therefore largely consistent with the Framework. However, the Framework does not restrict the re-use of buildings to heritage assets in the way that local policy does. The Council's approach, in so far as it relates to this appeal proposal, is therefore more restrictive than the Framework and there is a conflict in this regard. As the development plan does not fully reflect the Framework in this respect, it carries less weight in accordance with paragraph 215 of the Framework.

Whether inappropriate development: National Planning Policy Framework

13. The proposal relates to the conversion of an existing building, albeit one that was reconstructed as recently as 2004. There is agreement between the parties that the appeal building is of permanent and substantial construction. No external alterations to the appearance of the building or alterations in the scale are proposed. The building adjoins the existing dwelling on the site and

has an extant permission for holiday let use, although it has not been used as such. The appeal building is therefore already surrounded by various domestic paraphernalia including landscaping, hardstanding, parked cars, decorative gravel, potted plants and outdoor lights.

14. Therefore, having regard to the existing situation, although there may be a moderate intensification of residential usage at the site as a result of the proposal, this would not be significant. There would be no encroachment into the countryside as a result of the development proposed. There would also be no significant suburbanisation of the site having regard to the existing situation. Accordingly, the proposal would not have a materially greater impact on the openness of the Green Belt nor conflict with the purposes of including land within it. The appeal proposal would therefore not be inappropriate development in the Green Belt as described in paragraph 90 of the Framework. I shall now go on to consider the proposal in relation to the local policy context.

Whether inappropriate development: Development Plan policy

15. In order to meet the relevant policy CS5 exception, it is necessary for me to consider whether the appeal property can be considered to be a heritage asset, its sustainability characteristics and the issue of a financial contribution towards the provision of affordable housing.
16. There is agreement between the parties that the buildings which are the subject of this appeal are of permanent and substantial construction. There is also agreement that they comprise traditional materials and building methods and are of local significance and add value to the landscape. Based on the information before me and the observations I was able to make during the site visit, I see no reason to disagree. The appeal buildings therefore meet three out of the four criteria which the SPD uses to define 'heritage assets'. The remaining area of disagreement between the parties is whether or not the appeal property can be considered to be a heritage asset because it was reconstructed after 1950.
17. The conversion of one part of the building to a dwelling in 2011 was considered acceptable by the Council as it was deemed a heritage asset for the purposes of policy CS5 which is permissive of that type of development. This was because the Council considered that a suitable proportion of the original part of that building remained. It is the Council's position that the part of the building which is the subject of the appeal before me cannot be considered as a heritage asset as it was reconstructed as part of the 2004 permission. The appellant disputes this and has submitted a heritage statement in support of the application.
18. Evidence submitted by the appellant indicates that the original buildings at the appeal site were arranged around three sides of a rectangle, the fourth side being open and facing towards Rudge Road and Lower Rudge Farm opposite. I understand it was formerly a farmstead associated with that farmhouse. Following the removal of part of the original building, the appeal building was constructed as a replica. I acknowledge that the appeal building was reconstructed around 2004 and it cannot therefore be said to pre-date 1950 in this respect. However, I am advised that it is largely faithful to the character, form and siting, of the building that it replaced.

19. The appeal building is traditional in style, brick built and very similar to the external appearance of the existing dwelling on the appeal site. It therefore adds value to the existing dwelling, which the Council has acknowledged to be a 'heritage asset' for the purposes of local policy. The existing buildings on the appeal site are also seen together as a visually cohesive group. As such the appeal property does form an integral and essential part of the quadrangular pattern of development on the appeal site. For these reasons, I consider that the buildings as a whole do constitute a heritage asset due to their siting, form and proximity. This is the case even though the appeal property was reconstructed in around 2004. Additionally, whilst paragraph 3.13 states that 'heritage assets' should normally meet with the four criteria listed, it does not require that all of those criteria must be met in every instance.
20. For these reasons, given the particular context of the appeal site, I consider that the appeal buildings should be considered a heritage asset for the purposes of local policy.
21. The appeal site is within a rural location and the Council contends that it is remote from local services and therefore not a sustainable location for new build open market housing. However, the village of Pattingham has a range of local services and is approximately 1.4 miles away from the site. It is also close to the A454 which connects Shropshire to Wolverhampton. I acknowledge that future occupants of the proposed dwellings would be likely to be reliant on the private car. However, that would not be an unusual situation in rural areas. The proposal would also see the creation of two dwellings which would be a social benefit.
22. One of the core planning principles of the Framework does state that planning should encourage the re-use of existing resources, including the conversion of existing buildings (paragraph 17). In line with this, the proposal would also see the re-use of an existing building which would be an environmental benefit. The Framework is also clear that proposals for housing should be considered in the context of the presumption in favour of sustainable development (paragraph 49). For these reasons, I consider that the removal of the occupancy restriction in order to allow the appeal property to be used as permanent dwellings would represent sustainable development. It would therefore accord with the relevant local and national policies.
23. I acknowledge that the removal of the disputed condition would technically result in the loss of three holiday let units. However as that use has never been implemented, I consider that this would have an overall neutral effect.
24. Policy CS5 of the CS also requires a financial contribution for the provision of affordable housing to be delivered off site to be provided. The Council's requirements are also set out in Policy CS11 of the CS and the Council's SPD which explains how the affordable housing contribution is calculated. I have been provided with a completed Unilateral Undertaking made by the appellant under Section 106 of the Town and Country Planning Act 1990 as amended. This has been accepted by the Council. I consider that the financial contribution sought by the Council is necessary, directly related to the development; and fairly and reasonably related in scale and kind to the development. I have examined the undertaking in light of the tests in Regulation 122 of the Community Infrastructure Levy regulations and paragraph 204 of the Framework. I am satisfied that the undertaking is in line

with the tests and should therefore be taken into account. The proposal would therefore be consistent with local policies in this regard.

25. For the reasons given above, I conclude that the proposal would not be inappropriate development in the Green Belt for the purposes of policies CS5 of the CS, the SPD, policy S3 of the LP and paragraph 90 of the Framework. The disputed condition is not therefore reasonable or necessary having regard to local and national Green Belt policies.

Other Considerations

26. As the proposal would not be inappropriate development in the Green Belt, it is not necessary for me to consider this matter further.

Other Matters

27. The Council have raised concerns that, were the appeal to succeed, this may set a precedent for similar applications. Whilst I have considered the Council's argument, no directly comparable cases to which this might apply were put forward. Each application and appeal must be determined on its own individual merits. I have therefore determined this appeal in relation to the particular circumstances of this proposal.
28. The Council have also expressed concerns that, were the appeal to succeed, the chronology of the planning history of the appeal site would result in the appeal building having been reconstructed, converted into holiday lets and finally converted into open market housing within approximately 10 years. I appreciate the Council's concerns. However, for the reasons given above, I have concluded that the proposal would be consistent with the relevant development plan policies. It would also not be inappropriate development as described in the Framework (paragraph 90). Therefore, whilst I have had regard to the planning history, it does not outweigh my conclusion on the main issue above.
29. The Council have referred to a previous appeal¹ where the proposal sought the removal of a holiday let condition. In that appeal, the Inspector concluded that the removal of the condition would remove the rural economy justification for the grant of planning permission where the extent of reconstruction necessary would otherwise not have been accepted for residential conversions. However, the appeal proposal before me would not require any reconstruction work. The circumstances are therefore different and, in addition, the Framework was published after the previous decision was issued and there has therefore been a material change in policy.

Conclusion

30. The proposal would see the conversion of an existing building of substantial and permanent construction into two additional permanent dwellings with no external alterations proposed. The proposal would not have a materially greater impact on the openness of the Green Belt nor conflict with the purposes of including land within it. The proposal would also relate to the conversion of a building that forms part of a heritage asset and would represent a form of sustainable development. A mechanism is also before me to ensure that a financial contribution towards the off-site provision of affordable housing is

¹ APP/L3245/A/10/2120395 Decision date: 9 April 2010

provided. The proposal would therefore not be inappropriate development in the Green Belt. Accordingly, it is not necessary for me to consider whether the harm by reason of inappropriateness, and any other Green Belt harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it. The proposal would therefore be consistent with policies CS5, CS6, CS11 and CS17 of the CS, the SPD, policy S3 of the LP and paragraph 90 of the Framework.

31. For the reasons given above, I conclude that the appeal should succeed. I have therefore varied the planning permission by deleting the disputed condition.

Victoria Lucas-Gosnold

INSPECTOR