



Appeal Decision

Site visit made on 25 September 2019

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th November 2019

Appeal Ref: APP/X1925/W/19/3227185

Pirton Water Tower, Priors Hill, Pirton SG5 3QH

- 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 Luke Oliver against the decision of North Hertfordshire District Council.
 - The application Ref 18/03279/FP, dated 14 December 2018, was refused by notice dated 8 February 2019.
 - The development proposed is for the demolition of a redundant water tower and erection of a detached 'barn style' conversion dwellinghouse.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's Decision Notice does not refer to the Pirton Neighbourhood Plan 2011-2031 (NP) but the Council did find against it in their Officer Report. The Appellant has also referred to its policies. Hence, the main parties will not have been inconvenienced by my referral to its policies in the determination of this appeal.
3. The National Planning Policy Framework was revised on 19 February 2019 (the Framework). I have taken the Framework into account as part of the determination of this appeal and the revisions do not alter the policies upon which this appeal turns.
4. Similarly, the Chilterns AONB Management Plan 2014-2019 has been superseded by the latest plan (2019-2024), adopted in July 2019, which I have had regard to where referred to in the evidence before me.
5. A planning application¹ for the erection of a detached bungalow within the site was refused by the Council and subsequently unsuccessfully appealed in January 2000. Whilst the site and the substance of the appeal scheme before me are broadly the same to that previous appeal decision, it would be a material consideration of limited weight, as some local policies and all national policies relevant to the determination of that appeal have been replaced.

¹ Ref 99/00685/1

Main Issues

6. The main issues are: -

- Whether the site would be an appropriate location for housing, having regard to the development plan; and
- The effect of the proposed development on the openness of the countryside and the special character of the Chilterns Area of Outstanding Natural Beauty (AONB).

Reasons

Location of the development

7. The development plan comprises the saved policies of the North Hertfordshire District Local Plan No.2 with Alterations, first adopted in 1996 (NHDLP) and the NP. It is intended that the NHDLP will be replaced by the emerging North Hertfordshire Local Plan 2011-2031 (ELP), which is currently progressing through examination.
8. Policy SP8 of the ELP sets out the approach to the location of development in the District. The aim is to direct appropriate levels of growth to strategic sites and land within the boundaries of identified towns and villages in order to deliver at least 14000 net new homes for the District's own needs over the plan period and 1950 net new homes to cater for unmet needs arising from Luton.
9. For the purposes of planning policy, the appeal site is situated outside the development boundary for Pirton, within one of the *Rural Areas Beyond the Green Belt* identified by Policy 6 of the NHDLP and Policy CGB1 of the ELP. These policies require that development in such locations should be limited to rural workers' and affordable housing, rural economic development or diversification and community facilities or services. Policy CGB1 of the ELP also suggests that development in relation to existing rural buildings will be granted. Meanwhile, Policy PNP1 of the NP supports residential development within the development boundary of the village, subject to several criteria including the size and nature of housing. The appeal scheme is not for any of the types of development in the countryside beyond the Green Belt that are considered acceptable by development plan and ELP policies in such locations.
10. In light of the above, I conclude that the proposed development would be contrary to Policy 6 of the NHDLP, Policy PNP1 of the NP and Policy CGB1 of the ELP, as it would encompass housing outside a defined settlement boundary.

Openness of the countryside and the special character of the AONB

11. The appeal site is located to the southern side of Priors Hill at the fringe of the Chilterns Area of Outstanding Natural Beauty (AONB) and beyond the edge of the village of Pirton. It is occupied by a substantial water tower, which is now redundant. The water tower is utilitarian in its appearance, form and function but the tank atop the tower is supported by a slender metal lattice structure. The site and its surroundings are distinguishable from the fields beyond due to their enclosure by mature hedge and tree planting. The planting is visible through and around the water tower so provides a verdant backdrop in views towards the village from the northwest and a transition to the countryside

- edge. This makes a significantly positive contribution to the openness of the countryside and the special character of the AONB.
12. As alluded to in the appellant's Landscape Visual Impact Assessment, a significant part of the appeal scheme is the removal of the water tower and its ancillary structures. This would be a benefit to the landscape within the AONB. Furthermore, I acknowledge that the proposed dwelling would be individually designed to a high standard, in accordance with advice in the Chilterns Building Design Guide, to mimic the appearance of a converted barn.
 13. The view from Priors Hill through the gap in landscaping for the access to the site would be a fleeting one. However, clear views of the appeal site are available from Priors Hill as it passes to the northwest of the site further into the AONB. The site continues to be evident from some distance from the northwest across open fields, which would give a clear indication of the proposed development in relation to the mature vegetation in the backdrop to the site. Given that other dwellings to the southern side of Priors Hill nestle in behind established planting and the hedges to the site are relatively low, the development would be clearly perceptible and distinguishable from existing development.
 14. Moreover, although accommodation would be in the roof of the proposed dwelling so it would be a lower structure, it would still occupy a significant portion of the site. This would reduce the openness of the site and the surrounding area to an unacceptable degree. The domestic paraphernalia and noticeable presence that would be inevitable with permanent residential occupation within the site, including from lights within the dwelling, would also be visually intrusive.
 15. I appreciate that the proposal would include enhancement of the existing landscaping within the site, but this would be unlikely to have a meaningful effect for some time. Nonetheless, I do not subscribe to the notion that development that would cause harm to character would be acceptable if it is hidden. I am not persuaded therefore that my concerns could be addressed with planning conditions in relation to landscaping.
 16. My attention has been drawn to two appeal decisions locally and I have referred to these where they are relevant to the determination of this appeal. However, these appeals, in Pirton² and Knebworth³, are not relevant to this matter as they do not relate to development in the AONB. Similarly, I have been referred to a proposal for the retention and conversion of the water tower, which was refused permission by the Council in October 2018⁴. Given the differences between these schemes and the appeal before me, I have determined the appeal on its own individual merits.
 17. There is no policy presumption within either the Development Plan or the Framework against any development within the AONB. However, I have had regard to the appeal scheme before me and I conclude that the proposed development would have a significantly detrimental effect on the openness of the countryside and would neither conserve nor enhance the special character of the AONB. Hence, it would not accord with Policies 6 and 11 of the NHDLP

² Appeal Ref: APP/X1925/W/17/3184846 – Land of Holwell Road, Pirton, Hertfordshire SG5 3QU.

³ Appeal Ref: APP/X1925/W/18/3205685 – The Station Inn, Station Approach, Knebworth, Hertfordshire SG3 6AT.

⁴ Ref 18/01992/FP for a 4-bedroom dwelling.

and Policy NE3 of the ELP; Paragraphs 170 and 172 of the Framework; and the Chilterns AONB Management Plan 2019-2024 (adopted July 2019). Together these seek to ensure that development is carefully sited and of a high-quality design to conserve and where possible enhance, amongst other things, the natural beauty, special qualities and distinctive character of the AONB. It should also have regard to the statutory Chilterns AONB Management Plan. Paragraph 172 of the Framework establishes that great weight should be given to conserving and enhancing landscape and scenic beauty in the AONB, which have the highest status of protection in relation to these issues.

Other Matters

18. The NHDLP predates the Framework and the ELP is still at examination. However, Paragraph 213 of the Framework makes it clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them according to their consistency with the Framework.
19. In the context of Policy 6 of the NHDLP, Policy PNP 1 of the NP and Policy CGB1 of the ELP, a settlement boundary policy, in isolation of other considerations, would not be wholly aligned with the more flexible and balanced approach implicit in the objectives outlined in the Framework. However, these policies do not fundamentally undermine the continued relevance of this approach. Moreover, the approach in Policy 6 of the NHDLP to maintain the character of the countryside differs only slightly from the aim in the Framework to recognise the intrinsic character and beauty of the countryside. Accordingly, there is still a clear rationale for development boundaries in order to protect the countryside and the character of the area while focusing growth within designated settlements supported by local facilities and services. Accordingly, I afford the identified conflict with the Framework limited weight so the policies of the NHDLP, relevant to the consideration of this appeal, should be afforded moderate weight.
20. In the appeal in Pirton, referred to above, the Inspector referred to Policy CGB1 of the ELP and suggested that had the examining Inspector found any inconsistency in the Policies of the ELP with the Framework, modifications would have been required. Furthermore, the evidence before me suggests that there would not be any modifications to the approach to development in Pirton. Similarly, I find that the approach to Policy NE3 of the ELP would also align with the policy within the Framework in respect of the AONB as a protected landscape. I therefore have no reason to depart from the reasoning of my colleague that the policies of the ELP relevant to this decision should be afforded at least moderate weight in the determination of this appeal, particularly as they have undergone extensive scrutiny and consultation.
21. The Planning Practice Guidance refers to the relevance of management plans for AONBs for assessing planning applications. Whilst these do not form part of the development plan, they help to set out the strategic context for development and provide evidence of the value and special qualities of these areas⁵. In this context, the Chilterns AONB Management Plan 2019-2024 (adopted July 2019) is a significant material consideration, particularly as its objectives and policies align with the aims of the Framework. Moreover,

⁵ Planning Practice Guidance Paragraph: 040, Reference ID: 8-040-20190721, Revision date: 21 07 2019.

I afford the document full weight, as it specifically refers to the location and the effects of small scale development within the AONB, including from domestic paraphernalia and lighting.

22. I note the adequacy of the proposed access onto Pirton Hill; the absence of harm to the living conditions of neighbouring occupiers and to the trees within the site. Meanwhile, the absence of harm to the biodiversity of the area and possibility of biodiversity enhancements should not be considered to constitute benefits, particularly as many of the enhancements would not be unique to the development proposed and could be carried out without it. Furthermore, the potential effect on archaeological remains, the slab levels within the site and the provision of electric vehicle recharging points could be dealt with by planning condition. In addition, whilst the permanent residential occupation of the site could reduce the potential for tipping and vandalism within the site, there is nothing before me to suggest that other potential solutions to these matters would not be available. I therefore do not afford these matters any weight.
23. There is no firm evidence that the telecommunications antennae situated on the water tower currently serves the locality, that the loss of antennae would have a detrimental effect on residents or whether operators have planned for alternative provision to be made. The consideration of obligations of the appellant or telecommunication operators is therefore not a matter for my consideration. In so far as the potential reduction of telecommunication services may be offset by alternative provision is a material consideration, no firm details have been provided of such provision and, in any case, it would not offset the harm that I have identified above.

Planning Balance

24. Paragraph 47 of the Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise.
25. The main parties agree that the available supply in the District is significantly short of the five years required by the Framework (Paragraph 73) and the appellant has provided evidence that the Council continues to underperform in this respect. In light of this, the current development plan policies most important for determining the application are out-of-date, including for the supply of housing. In such circumstances the normal planning balance does not apply, and the 'tilted balance' is engaged. Permission should therefore be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (Paragraph 11(d)(i) of the Framework).
26. In this instance, I have found harm in the context of the effect of the proposed development on the AONB. This means that specific policies in the Framework which protect areas or assets of particular importance provide a clear reason for refusing the development (Paragraph 172). In light of this, in accordance with paragraph 11(d)(i), the 'tilted balance' is not engaged and the normal planning balance applies.
27. The appellant has referred to the appeal at Pirton referenced above as the Inspector discussed the relevance of the NP to the tilted balance. However, given that this would not apply, in the context of Paragraph 14 of the

Framework, it is irrelevant that the NP does not allocate specific sites. The conflict of the appeal scheme with this part of the development plan would therefore remain.

28. In the context of Paragraphs 59 and 68 of the Framework, I note the contribution that would be made to the supply of housing by this small site, particularly as it could be built-out relatively quickly. Whilst there is no threshold for the assignment of weight to the quantity of proposed dwellings within the planning balance, the appeal before me would deliver one larger dwelling, which would contribute to the overall housing mix in the District. However, as the contribution to the supply of housing would be minor in its extent it would only be afforded limited weight. Furthermore, I accept that the site would be previously developed land, but Paragraphs 117 and 122 of the Framework are clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character and the importance of securing well-designed, attractive and healthy places.
29. The site would not be isolated in the context of Paragraph 79 of the Framework or the recent Court of Appeal judgement⁶ and the proposed development would be accessible to the services and facilities available within the village. There would therefore be social and economic benefits through the proposed dwelling in the district that could support the rural economy through expenditure from occupants. Benefits would also arise from employment and procurement of materials during the construction period and the application of the New Homes Bonus. Nonetheless, the proposals would provide only one additional dwelling, such that these benefits would be limited in scale and kind, and consequently carry only limited weight.
30. The proposed development would not comply with development plan policy in respect of its location or the effect on the openness of the countryside and it would not conserve or enhance the special character of the AONB. I have afforded the conflict of development plan policies with the Framework limited weight. The conflict with the development plan would outweigh the benefits of the proposed development outlined above. Therefore, there are no material considerations that would indicate that the proposals should be determined other than in accordance with the development plan.

Conclusion

31. For the reasons given, the appeal does not succeed.

Paul Thompson

INSPECTOR

⁶ *Braintree DC v SSCLG Greyread Ltd. & Granville Developments Ltd.* [2018] EWCA Civ. 610