
Appeal Decision

Site visit made on 15 November 2016

by David Walker MA MRTPI

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

Decision date: 29th December 2016

Appeal Ref: APP/D0121/W/16/3153177

The Farm Cottage, Yew Tree Farm, Duck Lane, Langford, North Somerset BS40 5EY

- 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 and Mrs Chaplin against the decision of North Somerset Council.
 - The application Ref 16/P/0562/F, dated 10 February 2016, was refused by notice dated 10 June 2016.
 - The development proposed is described as a 'retrospective application for the refurbishment of Farm Cottage to form new self-contained residential unit'.
-

Decision

1. The appeal is allowed and planning permission is granted for the refurbishment of Farm Cottage to form new self-contained residential unit at The Farm Cottage, Yew Tree Farm, Duck Lane, Langford, North Somerset BS40 5EY in accordance with the terms of the application, Ref 16/P/0562/F, dated 10 February 2016, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Elevations - post conversion (scale 1:100); Roof plan - as converted (scale 1:50), First floor plan - as converted (scale 1:50), Ground floor plan - as converted (scale 1:50), Sections - as converted (scale 1:50), received by the Council on 25th February 2016; Revised site layout plan (scale 1:200) received by the Council on 19th April 2016; and, Revised site location plan and photos (scale 1:1250) received 27th April 2016.
 - 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any Order amending or revoking and re-enacting that Order, no building, structure or other enclosure shall be erected, constructed or placed within the application site, unless otherwise agreed in writing by the Local Planning Authority.

Preliminary Matter

2. The North Somerset Sites and Policies Plan Part 1: Development Management Policies (the SPP) was adopted by the Council on 19 July 2016. It supersedes the saved policies of the North Somerset Replacement Local Plan, including Policies H/8 and RD/2 referred to in the reasons for refusal. I have accordingly determined the appeal against the relevant policies of the newly adopted plan.
-

Main Issues

3. The main issues in the appeal are:

- i) Whether the proposal would be at a suitable location having regard to the development plan and national policies for rural housing; and
- ii) The effect of the proposal on the living conditions of future occupants in relation to its proximity to a working farm and having regard to odour and insects.

Reasons

Background

4. The appeal property already has the benefit of a planning permission (the original permission) granted in 2014¹ for conversion to holiday accommodation including the raising of the roof. The parties are in agreement that the approved scheme has been substantially completed.
5. However, the occupation of the property by the appellants' son and family is in breach of condition No 4 of the original permission that restricts the use of the property for only tourist and holiday accommodation. The application to the Council was not for a variation of the condition under s73 of the Planning Act, however, but instead for a full and retrospective planning permission. I have determined the appeal on this basis.
6. The appeal was also made with reference to the personal circumstances of the appellants' son and the events leading up to his family's occupation of the appeal property. I acknowledge the extensive submissions of both parties in this regard and the documentary evidence provided to me. In the first instance, however, I am required to assess the proposal against the policies of the development plan before considering whether there are any material considerations that weigh in support of it.

Whether the proposal would be at a suitable location

7. Policies CS14 and CS33 of the North Somerset Core Strategy 2012 (the CS) referred to in the reasons for refusal were remitted back to the Planning Inspectorate for re-examination following a High Court ruling. The examination into the soundness of the policies has been concluded and the Council anticipates their re-incorporation into the adopted CS early in 2017.
8. Langford is not included within the list of infill villages identified under Policy CS33 to deliver the spatial strategy envisaged at Policy CS14. With the appeal site falling outside of settlement boundaries new residential development is not therefore supported by the CS. However, the original permission related to the conversion of the former Farm Cottage and Policy DM45 of the recently adopted SPP continues to allow for the conversion of rural buildings subject to criteria.
9. Significantly, while the original permission limits the use of the appeal building to holiday accommodation, as applied for, Policy DM45 specifically facilitates the provision of *residential* conversions. It is consistent with the approach to sustainable rural development set out at paragraph 55 of the National Planning Policy Framework (the Framework).

¹ Planning application Ref: 14/P/0628/F

10. In relation to the criteria of Policy DM45 of the SPP, I have nothing before me to indicate that the development as completed does not accord with the design requirements of the policy. Only the suitability of the location of the appeal building is under contention; the sixth bullet point of the policy requiring that the development is not in an isolated location remote from a settlement with a range of services and facilities, or where access to those services and facilities would be poor.
11. With reference to the proximity appraisal submitted by the Council I acknowledge that few services are within easy walking distance of the appeal site. However, essential facilities including a convenience store are available within reach of a longer walk or by cycle and, for a rural community, within short travel distances generally. It is significant that the appellants' grandchildren attend at the local Churchill Primary School. The school can be accessed on foot over the public rights of way network or by a school coach that stops at the bottom of Duck Lane.
12. In this regard I am mindful of the advice at paragraph 50-001 of the Planning Practice Guidance (the PPG) that to tackle the particular issues facing rural areas and the broader sustainability of villages and smaller settlements a different approach to sustainable transport will be required. Therefore while there will undoubtedly be a reliance on the private car for some journeys these will be of short duration and there are alternative options available. With most facilities being accessible within a relatively short distance the appeal site is not isolated by rural standards.
13. In the absence of any evidence of conflict with the other criteria of Policy DM45 I am satisfied that the proposal is at a suitable location and would result in an appropriate conversion for residential use. The additional population provided by the proposal would, moreover, help to maintain the vitality of the community and support local services in the manner promoted by the Framework and PPG. Overall, therefore, I find that the proposal to accord with the development plan and national policies for rural housing.
14. I acknowledge that an unrestricted dwelling was not being sought under the special circumstances presented by the appellants. The Council has also provided suggested conditions to further limit the occupancy of the proposal. However, my findings in relation to the policies of the development plan and Framework above indicate that restrictions on occupancy are not justified in this case.

Living Conditions

15. I have nothing before me to refute the concerns of the EHO at the time of the application in connection with the proximity of the proposal to the working cattle farm raised. As a result I cannot be certain that the living conditions of future occupants would not be compromised by odours and insects associated with livestock. In these circumstances I am unable to find the proposal to be in accord with the requirements of Policy CS3 of the CS for environmental pollution or harm to amenity to be mitigated to an acceptable level.
16. However, the existence of the original permission is a consideration to which I afford significant weight. It imposes no restrictions on the duration of the use of the accommodation for holiday purposes and could conceivably be occupied on a year-round basis. It cannot be said therefore that the permanent

occupation of the appeal building would necessarily result in any greater harm than that which could arise from its permitted use.

17. On this issue I am satisfied that the proposal would not give rise to additional harm to the living conditions of future occupants in relation to its proximity to a working farm with regard to odour and insects.

Conditions

18. The appeal being allowed and the development having already been completed I have given consideration to the need for any new conditions. Although I have not been requested to attach a condition identifying the plans approved I consider this to be necessary in the interests of certainty. To the extent that a similar condition was attached to the original permission I am satisfied that this is unlikely to come as a surprise to the parties. In a similar light I consider that re-imposing the restrictions of the original permission on national permitted development rights for the erection of buildings, structures or other enclosures is justified. This is necessary to prevent the uncontrolled development of the appeal site at its countryside location.

Conclusion

19. For the reasons given above, and with regard to the development plan read as a whole, I conclude that the appeal should be allowed.

David Walker

INSPECTOR