
Appeal Decision

Site visit made on 13 March 2017

by Jacqueline Wilkinson B. Arch Dip Cons Studies (York) IHBC

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

Decision date: 07 April 2017

Appeal Ref: APP/P1133/W/16/3165481

Court Grange Offices, Court Grange Abbotskerswell TQ12 5NH

- 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 Carl Throgmorton against the decision of Teignbridge District Council.
 - The application Ref 16/01197/FUL, dated 24 April 2016 was refused by notice dated 28 June 2016.
 - The development proposed is conversion of a redundant stable building into a two-bedroom residential dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. Whilst the appeal site is within walking distance of services in the village of Abbotskerswell, the route would be down a steep unlit path, so would not be likely to be used on a daily basis. As the occupiers of the proposed dwelling would be likely to have to use the private motor car for most of their daily needs, the site cannot be said to be sustainable in term of its location. The proposed dwelling would therefore be an isolated dwelling in the countryside for the purposes of assessing this appeal.
3. Teignbridge Local Plan (May 2014)(Local Plan) policy S22 *Countryside* states that development of land in open countryside will be strictly managed and limited to uses which are necessary to meet the aims of providing attractive, accessible and biodiverse landscapes, sustainable settlements and a resilient rural economy. It states that residential uses will be limited to certain categories, reflecting those set out in the National Planning Policy Framework (the Framework), paragraph 55.
4. However, this policy does not fully accord with the Framework as it omits reference to the re-use of redundant or dis-used buildings and the Council has not put forward a separate policy specifically relating to such proposals. The Framework states in paragraph 55 that the re-use of redundant or disused buildings would qualify as exceptions to the strict control of new isolated homes. However this is caveated by the essential requirement that such a re-use would lead to an enhancement to the immediate setting.
5. Local Plan policy S1A *Presumption in favour of sustainable development* states that where there are no policies relevant to the application then the Council will

grant permission unless there are other material considerations. As I have stated above, no specific policy for the conversion of dis-used rural buildings has been put before me and the appellant states that there are none. However, S1A b) refers to taking into account "specific policies in the Framework that indicate that development should be restricted". It is on the basis of paragraph 55 that I have assessed this appeal.

6. The **main issues** are therefore i) whether the proposed conversion of the appeal building would lead to an enhancement of the immediate setting and ii) the effect on protected species.

Reasons

7. The approach to the appeal site is through a former service yard and its immediate setting has been affected by unnatural alterations to the land contours at some time in the past. The steel palisade fencing, security gates and old oil tanks are a remnant of the unsympathetic institutional use of the grounds. Unattractive non-biodiverse suburban evergreen hedging has been planted in close proximity to veteran trees of high amenity value on the north boundary. There is an unattractive garage on the appeal site, which is wholly out of character in this rural setting but which is proposed for retention and there is an excessive area of tarmac, well beyond what would be needed for one dwelling. Moreover, there is no proposal to remove the tarmac drive which would be made redundant and which passes the existing building and goes on through a further set of high security gates up to the tennis courts.
8. The Council takes the view that it would be an enhancement to pull the building down, but it is an existing building. Albeit somewhat robustly built for a stable, including cavity wall construction, its conversion would require little additional work to adapt the building and conditions could be used to prevent unsympathetic extensions or alterations to the simple functional form of the building, alterations to its roof and the erection of further outbuildings.
9. The appellant states that the proposal would lead to an improvement by providing a residential curtilage. Whilst boundary treatments could be a reserved matter in the usual way, this would not secure the level of landscape enhancement necessary in this case, and the potential suburbanisation and domestication of such a large plot would be at odds with the countryside and parkland character of the landscape around it. This would not be possible to control by a planning condition.
10. Appeal ref APP/D0840/W/16/3144301 (Bodmin, June 2016) has been put before me. However the assessment of this appeal was carried out in different policy circumstances, the authority being unable to demonstrate a 5 year supply of housing land, and the particular details of the building and its location would have been different. I have assessed this appeal in the light of the particular circumstances of the appeal site on its own merits.
11. I therefore conclude that it has not been clearly demonstrated that the proposal would lead to an enhancement of the immediate setting of the appeal site. The proposal would therefore fail the requirements of bullet point 3 of paragraph 55 of the Framework.

Protected species

12. The appellant has submitted a Bat and Nesting Birds Survey Report, amended 8 December 2016, with the appeal statement. I am satisfied that with respect to birds, there would be no harm to protected species from the proposed development. The Council has not commented on this report, but at the application stage its biodiversity officer drew attention to the fact that the site is within a South Hams SAC Strategic Flyway, used by Greater Horseshoe bats. The appellant's report states that no evidence of roosting bats was found after a daytime survey. However, no emergence survey was undertaken and the survey did not include the existing outbuilding, which although it would be retained, could be removed without the need for planning permission. Furthermore, the survey, through the use of an automated sound recorder over a period of 13 days, found that there was significant foraging and flight activity around the site, reflecting the area's "rich bat habitat".
13. The report suggests that light spillage from a domestic use would be minor, but the use of external lighting could not be effectively or reasonably controlled by condition. Fig 21 shows dark zones, but the retention of the dark zone to the north of the appeal building within the appeal site, could not be controlled by a condition. The appellant points out that there are external floodlights on the building, but these would be less frequently used if the building was used for its permitted use.
14. On the evidence before me I am not persuaded that the proposal would not harm the flight paths or foraging behaviour of protected species. I therefore conclude that the proposal would fail to protect protected species as required by policy EN8 *Biodiversity protection and enhancement*, policy EN9 *Important habitats and features*, policy EN10 *European wildlife sites* and policy EN11 *Legally protected and priority species*.

Discussion and conclusions

15. The appellant makes the case that the location of the appeal site is within a curtilage defined as "previously developed land", where the Government would encourage development. The Framework, Annex 2, defines previously developed land. However, the definition makes it clear that that it "should not be assumed that the whole of the curtilage should be developed". Court Grange, from the evidence before me, has local heritage significance. Notwithstanding a legacy of unsympathetic structures associated with the institutional uses, the open parkland landscape setting is still of environmental and historic value in its own right and it also contributes to the wider rural character of the area. The proposal, due to the size of the area which would be subject to domestication would be significantly at odds with this open parkland landscape character.
16. The proposal would not therefore represent sustainable development due to its isolated location, its harmful impact on the open parkland character of the area and its impact on protected species. Paragraph 55 of the Framework requires enhancement of the immediate setting in the conversion of an existing building and I have concluded that the proposal does not achieve this, nor could this matter, including mechanisms for the long term retention and management of enhancements, be left to a planning condition.

17. I therefore conclude that it has not been demonstrated that the residential use of the appeal building would qualify as a "special circumstance" as set out in paragraph 55 of the Framework.
18. I note a number of letters of support for the appellant on a personal basis, but the personal needs of the appellant are not a planning consideration.
19. For the reasons given above I conclude that the appeal should be dismissed.

Jacqueline Wilkinson

INSPECTOR