
Appeal Decision

Site visit made on 10 May 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 12 June 2017

Appeal Ref: APP/W1145/W/17/3169149

Land adjacent to the Union Inn, Road from Stibb Cross to Withacott, Stibb Cross, EX38 8LH

- 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 Nigel Harris against the decision of Torridge District Council.
 - The application Ref 1/0981/2016/FUL, dated 1 October 2016, was refused by notice dated 25 November 2016.
 - The development proposed is a 2 storey dwelling and detached garage.
-

Decision

1. The appeal is allowed and planning permission is granted for a 2 storey dwelling and detached garage at Land adjacent to the Union Inn, Road from Stibb Cross to Withacott, Stibb Cross, EX38 8LH in accordance with the terms of the application, Ref 1/0981/2016/FUL, dated 1 October 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: '139-16-1'; '139-16-2'; and '139-16-3'.

Preliminary Matters

2. The appeal site is on land that was previously part of the grounds of the Union Inn. The appellant has acknowledged that the site could more accurately be described as land adjacent to the Union Inn and I have therefore used that as the address for this decision.

Main Issues

3. The first main issue is the effect of the proposal upon the ongoing functioning and viability of the Union Inn (the pub). The second main issue is the effect of the proposal on the character and appearance of the area.

Reasons

Background

4. The appeal site is within the settlement of Stibb Cross. Amongst other things, Policy DVT2 of the Torridge District Local Plan, adopted September 2004 (LP) relates to development at rural settlements such as this. According to this
-

policy, development will be limited strictly to that which is essential for meeting identified local social or economic needs. However, the Council acknowledges that they cannot demonstrate a 5 year supply of deliverable housing sites. In reaching their decision, the Council also acknowledges that LP Policy DVT2 is a policy that relates to the supply and location of housing. As such, there is no dispute that the policy is not up to date in the terms of paragraph 48 of the National Planning Policy Framework (the Framework). In these circumstances I will, as the Council did, consider the proposal in the context of the presumption in favour of sustainable development as set out in paragraph 14 of the Framework and the 'planning balance' that it requires.

Functioning and viability of the pub

5. The appeal site is positioned alongside the road (A388) leading out of Stibb Cross between the car park for the pub and a row of modern, 2 storey dwellings. The appeal site was previously used as a part of the car park and occasionally for community uses such as the parking of a mobile library. However, it is no longer within the same ownership as the pub. At the time of my site visit, the appeal site was fenced off from the remaining car park with metal site fencing. Representations refer to this having been undertaken before the submission of the appeal.
6. The pub is at the centre of the settlement close to the main concentration of dwellings that radiate from the cross roads. Paragraph 3.38 of the LP makes it clear that the aim of the plan is to support local services and promote economic diversification in villages where that would help sustain rural communities. From the submitted representations it is clear that the pub is a significant and valued hub for the village. Although I have little information before me about the origin of customers who use the pub, it provides a potential destination for nearby residents who can potentially walk to it but also for people from further away within the rural surroundings who may well rely upon the use of private vehicles. Even residents who live nearby may rely upon the use of vehicles to reach the pub if they are not very mobile.
7. The remaining car park is large enough to park a number of vehicles. I have no survey information about how much it has been used historically or since the appeal site has not been available to park on. It is not clear either whether parking management and signage has been considered to ensure available spaces are prioritised for disabled people, for example. Some objectors have referred to on-street parking and this would be more likely to occur with the loss of part of the car park. However, from what I saw it is possible to park safely on the nearby roads, particularly the B3227 and less conveniently on the A388. The B3227 is wide enough to enable cars to park on the street. There is a long, straight section well related to the pub. The Council has not raised highway safety concerns about the on-street parking or why the displacement of parking in this way would be or has been harmful in other respects.
8. The Council has referred to the site being part of the same 'planning unit' with the remaining car park and the pub itself. I am not determining a Certificate of Lawfulness to decide on the lawful status of the appeal site. The Council has not suggested that they have the power to require the use of the appeal site for parking vehicles of customers using the pub if planning permission were withheld. The reality is that the appeal site has been severed in ownership from the car park. I have no evidence that it is likely that parking would

recommence even if this appeal were dismissed and give little weight to that possibility.

9. The operator of the pub states that since the appeal site has not been available for customer car parking, there has been a significant impact upon the viability of the pub. This is not clarified by any detailed trading figures to demonstrate this. Although the Council has accepted this I have no expert analysis submitted by any party to indicate that any loss of trade has been as a direct result of the loss of the parking area. There is alternative on-street parking available and whilst this may not be as attractive for some potential customers, I do not have sufficient evidence to suggest that the proposal would lead to a significant change in the number of customers using the pub.
10. In relation to the first main issue, the proposal would not have a significantly harmful effect upon the ongoing functioning and viability of the Union Inn. The additional dwelling may provide further support for the pub as a local service through the additional household in close proximity to it, thereby complying in part with LP Policy DVT2. This would also make a contribution towards maintaining the vitality of the rural community as required by the Framework.

Character and appearance

11. The area close to the appeal site includes a range of modern and more traditional buildings. The nearest dwelling on the same side of the A388 is a 2 storey dwelling within a modern estate of similar dwellings a number of which provide a strong building line set back from the road. The proposed dwelling would be of a similar scale to these dwellings. It would be positioned further towards the road than the nearest dwelling but there would be an area of garden at the front behind the proposed stone wall. The position of the proposed dwelling would not have a harmful impact when seen along the road alongside the existing modern dwellings.
12. There would be a substantial gap between the proposal and the nearest dwelling. The retained space due to the remaining car park would provide a spacious setting to the building. This would not be a cramped form of development.
13. In relation to the second main issue, the proposal would not have a harmful effect upon the character and appearance of the area. Due regard would be had to important aspects of detail and qualities nearby thereby complying with LP Policy DVT7. In these respects, the proposal would constitute a good design, as required by paragraph 56 of the Framework.

Other Matters including the 'planning balance'

14. In the context of the undersupply of housing within the Council's area, a new dwelling would help to meet a social need. I do not have information to indicate that this proposal would be essential to meeting that need as required by LP Policy DVT2. There is a conflict with LP Policy DVT2 in this regard but this policy cannot be considered as being up to date due to the housing supply position. I attribute very limited weight to this harm.
15. On the other hand, the additional dwelling would make a useful contribution towards meeting the shortfall of housing. I consider the benefit of helping to meet the housing needs of the area is a social benefit of moderate weight.

16. I have been made aware of a covenant on the land relating to reducing the width of access onto the A388. This in part also relates to the course of a right of way. It is not clear that these matters would directly affect the potential to implement the development. The Council's highway advisors have confirmed that the amount of traffic entering and leaving the site as a result of the proposal through the access onto the A388 is unlikely to change. Although the visibility to the right upon leaving the site is interrupted by the hedge at the rear of the adjoining dwellings, this proposal would not make highway conditions less safe. These matters are neutral factors.
17. The proposal would be noticeable from the nearest adjoining neighbours. Given the space that would remain around the building, this would not have an overbearing impact upon nearby residents. There would be no significant or harmful increase in overlooking of neighbouring properties. Again, these are neutral factors.
18. There would be very limited harm due to the conflict with LP Policy DVT2. I have identified no other harmful factors weighing against the proposal. Set against this, there would be some compliance with what that policy is trying to achieve in terms of the support an additional household would make to local services, and in particular the pub to which I give limited weight. There is an additional moderate degree of weight in favour of the proposal due to the contribution towards the housing shortfall. Overall, there are no adverse impacts to significantly and demonstrably outweigh these social benefits. Consequently, the proposal would represent sustainable development as defined by paragraph 14 of the Framework and material considerations indicate that planning permission should be granted for development that does conflict with the development plan.

Conditions

19. I have imposed a condition specifying the relevant drawings as this provides certainty that the development will be implemented as proposed. The Council has also suggested a condition removing permitted development rights for alterations and additions to the dwelling and development within its garden. The Planning Practice Guidance makes it clear that such restrictions should only be used in exceptional circumstances. It has not been demonstrated that there are exceptional circumstances in this case and I have not imposed such a condition.

Conclusion

20. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

A Harwood

INSPECTOR