
Appeal Decision

Site visit made on 16 August 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 06 September 2017

Appeal Ref: APP/U1105/W/17/3174595

5 East Devon Business Park, Kilmington, Devon EX14 9RL

- 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 John Dalloway against the decision of East Devon District Council.
 - The application Ref 16/3054/COU, dated 21 December 2016, was refused by notice dated 7 February 2017.
 - The development proposed is a "proposed change of use".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed change of use would involve the use of an existing building as a dwelling. The rear of the unit and first floor has already been converted to provide living accommodation and the proposal would incorporate the office currently at the front at ground floor level.

Main Issues

3. The first is the suitability of the site for residential development with particular regard to the accessibility of the location. The second is whether there are circumstances that would justify the dwelling in this location. The third is the effect of the proposal on the supply of commercial floor space.

Reasons

Accessibility

4. The appeal site is a unit within a row of modest commercial units on a business park which includes groups of other industrial sheds laid out around an internal driveway. The site is close to the A35 and in that way is accessible to the highway network. However it is within a very rural area and not within or close to a settlement. No day to day amenities or facilities nearby have been brought to my attention and I have not been given full details of where the nearest bus stops are, the regularity of those bus services or journey times to reasonably sized settlements. This is not an accessible location for residential development other with the use of a vehicle. The occupier of the dwelling would be working at the premises but although travel to work would not be required, travel would be required for other day to day needs.

5. Policy TC2 of the Local Plan¹ (LP) encourages development where it is accessible by pedestrians, cyclists and public transport in order to minimise the need to travel by car. This is consistent with paragraph 55 of the National Planning Policy Framework (the Framework) particularly in terms of the need to avoid new isolated homes in the countryside.
6. In relation to the first main issue, the site is unsuitable for residential development as the site is inaccessible other than by the use of vehicles. This would not comply with LP Policy TC2 or the Framework. The site is isolated for the purposes of paragraph 55 of the Framework and special circumstances are required before new residential development can be accepted.

Special circumstances

7. LP Policy H4 and the explanatory paragraphs within the LP make it clear that rural workers whose place of work is within the countryside will usually be expected to find housing within existing rural communities. However, exceptionally an essential need to live on site can sometimes be justified subject to the detailed criteria within LP Policy H4. Similarly, paragraph 55 of the Framework requires special circumstances before isolated homes in the countryside should be accepted. The essential need of a rural worker to live permanently at or near their place of work is an example of such special circumstances. The LP provides some explanation of the Council's interpretation in stating that this relates to essential needs rather than personal preferences. It can include specific management activities or combination of activities requiring the presence of a worker at most times which cannot be achieved by any other practical means.
8. The dwelling is proposed as a home for on-site security staff to reduce the incidents of thefts and vandalism on the business park. The Council has referred to the lack of crime reports or demonstration of how any losses or damage would be critical to the businesses. However, given the isolated position of the site, I can understand that there must be a need to properly secure the site. The appellant states that having somebody on site is the easiest, cheapest and most effective form of security. Closed Circuit Television systems are referred to as recording criminal activity rather than preventing it. That may be the case and off-site security companies or the Police may not be able to reach the site in time to react to security problems. However it is not clear what other measures have been tried and why they would be unviable. On site surveillance in my experience does not always mean that there is a need to live on site. There is a depot for a coach firm within the business park that requires access from 06:00 to 19:00 hours. The presented evidence does not adequately explain why these or other operational constraints should prohibit the use of a robust security gate.
9. In this case, it has not been adequately demonstrated that there is an essential rural business need for an occupier of the proposed dwelling to be housed permanently in this location for functional reasons. In relation to the main issue, the evidence presented does not provide exceptional or special circumstances that would justify the dwelling in this location. The proposal would not comply with LP Policy H4 or the Framework.

¹ East Devon Local Plan 2013 to 2031, Adopted 28 January 2016

Commercial floor space

10. The appellant states that the appeal site is not an existing employment unit because it has in part been converted for residential use. I have no evidence to indicate that the current residential use is the lawful use of the premises. The unit has the appearance of being part of a row of commercial units with an office in the reception area. It appears that this was not originally a dwelling and I will approach the consideration of this issue on that basis. The proposal would consequently lead to a loss of a small business unit.
11. LP Strategy 32 resists, amongst other things, the loss of employment uses which it defines as wide ranging commercial activities. The Framework places the emphasis on approving residential development from commercial buildings subject to there being an identified need for additional housing and provided there are not strong economic reasons why such development would be inappropriate. The business park looked busy and largely occupied at the time of my visit. I have no evidence before me about viability of the commercial use of the appeal site, the housing needs of the area or why the continuation of the original use of the premises is inappropriate in other ways.
12. Although these matters are finely balanced, I have to come to a conclusion based on the basis of the information before me. In relation to this main issue, the proposal would have a small but adverse effect on the supply of commercial floor space, not complying with LP Strategy 32 or the Framework.

Other Matters

13. I recognise that this proposal would provide an additional home for a person who is in housing need. However, planning permission runs with the land and I must consider this matter in terms of the general needs of the area. I have no evidence about a lack of alternative housing for the prospective occupant. I give these personal circumstances little weight.
14. The site is within an Area of Outstanding Natural Beauty but there would be no external impacts due to the proposal. The natural beauty of the area would therefore be preserved and as such there are no impacts upon the character and appearance of the area that would weigh against the proposal. This is a neutral matter neither weighing in favour nor against the proposal.
15. These other matters do not outweigh my conclusions on the main issues.

Conclusion

16. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be dismissed.

Andy Harwood

INSPECTOR