



Appeal Decision

Site visit made on 9 January 2018

by K Taylor BSc (Hons) PGDip MRTPI

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

Decision date: 15 January 2018

Appeal Ref: APP/P1133/W/17/3180162

Higher Wheatley Farm, Lane to Higher Wheatley Farm, Pocombe Bridge EX4 2HB

- 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 Crawford (Propello Services Management Ltd) against the decision of Teignbridge District Council.
 - The application Ref 17/01170/FUL, dated 5 May 2017, was refused by notice dated 6 July 2017.
 - The development proposed is described on the application form as a "change of use and extension of existing building for use as Class B1(a) office use restricted to occupation by applicant company".
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Decision

1. The appeal is allowed and planning permission is granted for a change of use and extension of existing building for use as Class B1(a) office use at Higher Wheatley Farm, Lane to Higher Wheatley Farm, Pocombe Bridge EX4 2HB in accordance with the terms of the application, Ref 17/01170/FUL, dated 5 May 2017, 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: 1845/12/600 B and 1845/15/601 C.
 - 3) The premises shall be used for office use and for no other purpose including any other purpose in Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
 - 4) The use hereby permitted shall only take place between the following hours: 09:00 – 17:00 Mondays – Fridays. The use shall not take place on Saturdays, Sundays or bank/public holidays.

Procedural matter

2. The description of the development on the application form includes the phrase "... restricted to occupation by applicant company". That is not an act of development and so it is not appropriate for it to form part of the description. I have therefore truncated the description of development in my formal decision.

Main issue

3. The main issue is the effect of the development on the living conditions of the occupiers of the adjoining 1 & 2 The Cottages.

Reasons

Living conditions

4. The appeal site is accessed from Tedburn Road and is located at the edge of a small cluster of buildings which contain both commercial and residential uses. On the site there is a single storey building which was partially constructed and it is intended to provide domestic garaging. The site is located within the curtilage of 2 The Cottages. It is located to the side of this property and, at the time of my site inspection, the boundary treatments in place were such that there was a degree of separation between the appeal site and the remainder of the garden areas for No.2.
5. No.1 and No.2, including the appeal site, are located at the edge of the cluster of buildings with only these properties and a field gate accessed from the section of road that runs to the front of the houses. This has resulted in a tranquil and secluded setting to these properties.
6. The appellant is specifically seeking the use of the building as an office and for no other purpose within Use Class B1. The activities that would be undertaken within the building would not be intrusive and could sit alongside residential properties without resulting in undue harm to the living conditions of the occupiers of these dwellings. Although the site is currently part of the curtilage for No.2 it sits to the side of the building and this property would retain garden areas of a reasonable size to the front and rear. The arrangement would be similar to many properties which sit alongside each other and it would not result in harm to the setting of this property.
7. The site is not particularly well related to services and facilities and so it is likely that the majority of employees and visitors would arrive by private vehicle. Inevitably this would create a degree of noise from vehicle movements and that associated with entering and exiting vehicles and the building. In view of the tranquil nature of the site this would result in a degree of increased disturbance for the adjoining occupiers.
8. The appellant has suggested that the operating hours of the business be limited to between 09:00-17:00 on weekdays and also that working on bank holidays be specifically excluded. With these hours the comings and goings associated with the use of the building would be limited to a specific period of time where noise is likely to be less intrusive. There would be respite from this for the residents in the evenings and at weekends. Taking the specific use sought and the limited operating hours together I consider that the development would not result in undue harm to the living conditions of the occupiers of 1 or 2 The Cottages.
9. Both the appellant and the Council have referred to a previous appeal decision at the site. In dismissing the appeal the Inspector raised concerns about the effect of the development on the living conditions of the neighbouring residents. However the scheme he was considering was for a broader use and there was nothing to suggest that the limited operating hours now proposed formed part of the proposal. I therefore consider that the appeal development is materially different to the previous proposal.
10. The appellant has suggested that the use of the building be limited to the appellant company. This is on the basis that 1 & 2 The Cottages are within the same ownership. This condition would not prevent the severance of ownership

in the future. As it appears that the neighbouring properties are occupied by persons not associated with the appellant company the common ownership of the buildings is of little relevance as it is the effect of the development on the occupiers of the properties that is the significant issue in this case. The condition would therefore serve no useful purpose. However, planning permission rests with the land and not an individual applicant. It is rarely reasonable or necessary to grant a personal planning permission. In this case I have found that the use, subject to restricted operating hours, would be acceptable. As such there would be no sound planning reason to impose such a condition.

11. I therefore conclude that the development would not result in unacceptable harm to the living conditions of the occupiers of 1 & 2 The Cottages. There would be no conflict with Policy S1 of the Teignbridge Local Plan which requires that development preforms well in respect of its impact on the residential amenity of existing dwellings. The Council has also cited conflict with Policies S1A and EC3. However, neither of these policies makes specific reference to the effect of development on the living conditions of neighbouring occupiers, which was the substantive reason the Council refused planning permission. I find no conflict with either of these Policies.

Other matters

12. On the appeal form, the appellant has incorrectly indicated that certificate A was signed. It has latterly been confirmed that this was an error as certificate B was signed. This being the case, I have no evidence to suggest that the information given on the planning application form was incorrect or that the proper procedure was not followed. There is a concern that the appellant company may be dormant. However, as the permission would not be specific to this company this has no bearing on the substantive planning merits of the development. The proposal indicates that adequate replacement parking for 1 and 2 The Cottages would be provided.

Conditions

13. I have imposed a condition specifying the relevant plans as this provides certainty. Limiting the use of the building to an office and restricting the hours of operation is necessary to safeguard the living conditions of neighbouring residents. I have amended the wording of the conditions suggested by the appellant for reasons of clarity and precision. The suggested operating hours condition only allowed for the use of the buildings on weekdays, it sought to specifically exclude this on Sundays and Bank holidays. No mention was made of Saturdays. The details on the planning application form and the other evidence show that the appellant was not seeking to use the building on a Saturday and so, in the interests of clarity, I have made specific reference to this in the condition.

Conclusion

14. The development would accord with the development plan when it is taken as a whole. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

K Taylor

INSPECTOR