The Planning Inspectorate

Appeal Decision

Site visit made on 17 January 2018

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2018

Appeal Ref: APP/P1133/W/17/3184656
The Stables, Tappers Barn, Little Bovey, Bovey Tracey TQ13 9PN

- 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 Rob Sokolowski against the decision of Teignbridge District Council.
- The application Ref 17/00403/FUL, dated 13 February 2017, was refused by notice dated 21 April 2017.
- The development proposed is a single storey dwelling with 2 bedrooms, 1 bathroom, kitchen and lounge, floor area 90.48m^2.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The building proposed had been partly constructed by the time of my visit, adjoining the eastern end of an existing large timber stable building. Some windows were in place but it was not weather-tight with doors missing and the inside was not fitted-out to enable occupation.

Main Issue

3. The first main issue is the suitability of the location for the proposed dwelling with regard to policies for managing residential development within the countryside. The second is the effect of the proposal upon biodiversity interests. The final main issue is the effect of the proposal upon surface water and flood risk.

Reasons

Location

4. The single storey, pitched roof building is at the northern end of a large field that had horses in it at the time of my visit. The building is to the north-east of the appellant's house and a large out-building which appears to be a garage. These along with the existing stables are within a small enclave of buildings including other dwellings within an attractive rural area.

5. There is no dispute by the appellant that the site is outside of a defined settlement for the purposes of the Local Plan[1] (LP) Policy S22, or that the LP is

[1] Teignbridge Local Plan 2013-2033, adopted 6 May 2014

out of date with respect to the policies of the National Planning Policy Framework (the Framework). The site is therefore within the open countryside for the purposes of the LP. Policy S22 requires the strict management of development within the open countryside. The limited uses allowed for in open countryside are set within sub-paragraphs a) to e) of the policy.

6. The appellant states that the dwelling is intended for his mother who is disabled and parts of structure have been designed to accommodate her specific access needs. I have limited information about these needs and no evidence regarding the suitability of her current accommodation. Furthermore, I have no mechanism before me to enable the occupation to be limited for such needs. From the information provided, the proposal would not conform to sub-paragraph a) or any of the other exceptions allowed for within LP Policy S22.

7. In relation to the first main issue, this is an unsuitable location for the dwelling as it would not comply with LP Policy S22.

Biodiversity

8. The appeal site is located within a 'sustenance zone' related to the South Hams Special Area of Conservation (SAC) which is designated due to a population of greater horseshoe bats. To the rear of the site and around the nearby field are hedges. The Council state that these hedges are a part of a network of hedges used by these bats to assist in their navigation. This species is very light-averse. I have no evidence to dispute these matters. The function of the hedges could therefore be affected by light-spill from the dwelling and if so, this would adversely affect the population of bats and therefore the biodiversity interests of the SAC.

9. A survey has been submitted that relates to the proposal to convert barns elsewhere on the site. This dates from 2007 and involved surveys of those other buildings in January when bats would, the report acknowledges, have been in winter roosts. This rather old report undertaken when bats are not generally active does not provide evidence of bat activity within the SAC sustenance zone. I have taken a precautionary approach in my consideration of this matter where I have not been given up to date information to rebut the Council's evidence.

10. It is not apparent whether or not these matters could be suitably controlled through the imposition of planning conditions restricting lighting in the long term in order to safeguard the sustenance zone. In relation to this main issue, from available evidence I consider that the development would not protect or enhance the biodiversity interests of the SAC, which is an internationally important site. The proposal would not comply with LP Policy EN9, EN10 and EN11 or paragraph 118 of the Framework.

Surface water

11. The Council refers to the field near to the site partly lying within a high risk flood zone 3 and this is not disputed by the appellant although I have no details of the position of the flood zone. Although the land and adjoining public right of way did have surface water pooled on the surface when I visited the site, this was in January at a wet time of the year. The Council refers to the land being waterlogged when the officer visited. This is insufficient evidence to indicate to me that the site has a critical drainage problem or that surface

water from the development, including additional treated water discharged from the bio-digester, would not be suitably dealt with.

12. In relation to this main issue, I do not consider that the proposal would lead to unacceptable risks from surface water flooding. LP Policy EN4 relates to the sequential approach to the positioning of development and also water pollution. I do not consider from the information provided, that the proposal would fail to comply with this policy. This is a neutral matter neither weighing in favour or against the proposal in the overall planning balance.

Other Matters

13. I have not reached a view regarding the suitability of the building as an annex as suggested by the appellant. That is not what was applied for. To limit the development in that way, perhaps by planning condition, would deprive those who should have been consulted on that significant change in what is proposed, the opportunity of providing their views.

14. I can give some limited weight to the personal circumstances of the appellant's mother which I have referred to above. However the harm that I have identified in relation to the first 2 main issues would be permanent and personal circumstances can change. In reaching a conclusion in this case I have had due regard to my duties under the Equality Act 2010 and the Public Sector Equality Duty. From the evidence provided I do not consider that the limited weight I can give the personal circumstances outweighs the harm that I have identified in relation to the first 2 main issues.

Conclusion

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

Andy Harwood

INSPECTOR