



Appeal Decision

Site visit made on 4 December 2018

by Matthew Jones BA(hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th January 2019

Appeal Ref: APP/X1118/W/18/3210901

Land east of Hartspiece Farm, South Hill, Shirwell, Barnstaple EX31 4LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C Baker against the decision of North Devon District Council.
 - The application Ref 65008, dated 24 May 2018, was refused by notice dated 23 August 2018.
 - The development proposed is redevelopment of former garage and workshop premises to provide single dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was in outline with all matters reserved except access. The application was submitted with site and location plans and drawings 104/2018/001 and 104/2018/002, the latter two labelled as indicative. I have made my assessment on this basis.
3. In October 2018, after the Council determined this application, it adopted the North Devon and Torridge Local Plan 2011-2031 (NDTLP). As a consequence the policies of the North Devon Local Plan cited in the Council's decision notice have been superseded. They are therefore not relevant to my consideration of the appeal which must be determined in accordance with the current development plan unless material considerations indicate otherwise. The Council has clarified the policies which it now relies upon, and the appellant has had the opportunity to comment through the appeal process.

Main Issues

4. The main issues are:
 - whether the proposed development would provide a suitable location for housing, having regard to local and national planning policy; and
 - the effect on the character and appearance of the area.

Reasons

The location of the development

5. The site is within a rural location to the east of Hartspiece Farm, which is now a collection of holiday lets. It is served by a vehicular access from South Hill, which connects to the B3023 to the south west. A certificate of lawfulness, issued in 2006, certifies a B2 land use. The previous tenancy ceased in August

- 2018 and the site is vacant. It lies outside any defined settlement and for the purposes of planning policy is in the countryside.
6. Policy ST07 requires residential development in the countryside to meet local social and economic needs. Policy DM28 supports new residential development where it is meeting an identified need for a rural worker. As no evidence that the proposal would meet either of these needs is supplied, the proposal is in direct conflict with these policies.
 7. The site is remote from services and, to a lesser degree, to the nearest bus stop. In my view, the combination of the distance, the changing relief of the land and the near total absence of street lighting and footpaths means that walking would not be a routinely taken option for travel and that the proposed development would be almost wholly reliant on the motorcar. I am not persuaded by the comparison of the site to national averages for housing in rural areas, as many existing homes are themselves in inaccessible locations.
 8. Paragraph 77 of the National Planning Policy Framework (the Framework) maintains that decisions should be responsive to local circumstances and support housing developments that reflect local needs. Paragraph 78 states that in rural areas housing should be located where it will enhance or maintain the vitality of rural communities. In this case, the small scale of the proposal and its relative isolation from settlements leads me to conclude that this proposal would not fulfil these aims. None of the circumstances presented in paragraph 79 of the Framework are met by the proposal. My attention has been drawn specifically to 79(d), but this is not an existing residential site and therefore it is not applicable in this case.
 9. Consequently, I conclude that the appeal site would not be a suitable location for a new dwelling and the proposed development would conflict with Policies ST07 and DM28 of the North Devon and Torridge Local Plan 2011-2031 and paragraphs 77, 78 and 79 of the Framework.

Character and appearance

10. I viewed the site from its immediate environs and from the surrounding road network. It is highly visible from the south, including from the A39. The site reads as a typical, utilitarian set of modern buildings within a working rural landscape, which are closely associated with the existing grouping at Hartspiece Farm. As such, the existing buildings do not harm the character and appearance of the area.
11. Noting the site's location within a sidehill cutting and subsequent need for south facing windows within the dwelling, there is significant potential that the prominent south elevation would be unduly dominated by glass. This is suggested by the submitted elevations which, although indicative, show a building with a degree of glazing which would be harmful to landscape character, particularly when illuminated at night. It is also likely that the domestic garden and associated paraphernalia would be visible in wide ranging views. Further, residential use of the site would logically lead to pressure to open up the vista through felling the trees along the south boundary, which presently provide a degree of screening.
12. Overall, the evidence before me indicates that a dwelling would be harmful to the character and appearance of the landscape and that the proposal would

conflict with Policies ST14 and DM08A of the North Devon and Torridge Local Plan 2011-2031, which, amongst other things, seek to protect and respect the character and appearance of the landscape.

Other Considerations

Commercial viability

13. The evidence submitted to support the 2006 certificate identified that the site had been in use for car repair and servicing for four decades. The tenant vacated the site because the landowner identified a conflict between the use and the adjacent C3 holiday lets. The appellant has now provided two reports from letting agents which conclude that no viable commercial use can be retained, whether through reuse or redevelopment of the site.
14. The reports make a number of compelling criticisms of the site. However, the professional opinions provided have not been verified by a substantive marketing exercise. I am mindful that the previous business did not leave due to a lack of viability or because of the condition of the site or the buildings. Contrary to the reports, other evidence identifies that the car repair and servicing enterprise had decades of success, and was most recently growing, resulting in alleged conflict with the adjacent use of the holiday lets.
15. I note that the previous tenant was using the site to complement a larger business base elsewhere, and this is not an option which is explicitly addressed within the reports. The main building is comparatively substantial and formed of concrete block and I am not persuaded that, with modest attention, the site could not be modified and secured to enable some form of commercial use. In the absence of the market being properly tested, there is no substantive evidence before me to suggest that the site could not be used for commercial purposes. As such, the greater weight attaches to the real and long term evidence of commercial activity at the site.

Previously developed land

16. The Framework places importance on securing the optimal use of previously developed land (PDL), encouraging environmental gains and multiple benefits for urban and rural areas. Such benefits are not restricted only to housing provision, and in this case the site provides an employment use within the rural area. It is not a derelict or despoiled site in need of remediation, and the evidence indicates that there would be environmental harm to the landscape through the introduction of a residential use.

The existing use as a 'bad neighbour'

17. Typically, C3 and B2 land uses are unsuited to working within close proximity to one another. This is implicit within the Town and Country Planning (Use Classes) Order 1987, which seeks to separate industrial uses between the B1 and B2 classes on the basis of the severity of the use and subsequent impact on residential areas. However, this scheme does not seek to introduce a B2 use into a residential area and the Use Classes Order does not infer that all existing B2 uses near to dwellings should be removed.
18. It is unsurprising, given the nature of holiday letting, that occupants have not made statutory nuisance complaints to the Council. That being said, there are other ways for incompatibility between the uses to be apparent. However,

there was no evidence of written complaints or poor reviews of the holiday accommodation arising from noise or disturbance from the site's use as car servicing and repair centre. Neither was there any suggestion that the take up of the holiday lets was limited or that the viability of the holiday let enterprise was being undermined as a consequence of the adjoining use. No assessment has been provided to show that harmful noise or odour pollution emanated from the garage site.

19. I appreciate that the proximity of the two land uses has led to a situation which is not entirely harmonious. However, in the absence of substantive corroborative evidence to the contrary, I am not satisfied that there is a significant incompatibility between these two existing uses which would justify the loss of the B2 use and the associated introduction of a new residential use.

The highways implications

20. The immediate highway is constrained. There is a very tight bend with a severe change in levels directly below the site, and the access on to the main road has limited visibility. I had to reverse on to the site, as I would predict do the majority of visiting vehicles. However, this is a well-established situation, and one which would continue in the event that activity recommenced at the site.
21. In any event, vehicular movements from the existing site must be compared with that from a single dwelling. The appellant has estimated that there were 250 weekly trips to or from the previous tenant's business and I have no doubt that a single residential unit would represent a marked reduction of traffic movements within this environment. This net reduction would be an environmental benefit which weighs in favour of the proposal.

Overall Planning Balance

22. The Framework seeks to increase the supply of housing. However, the scheme would introduce a dwelling with no locally identified need into an isolated rural location. Any associated social benefit would therefore be minimal. The small and time limited economic benefits during the demolition and construction phase would not outweigh the permanent loss of the site for commercial purposes/employment use. There would be a small environmental gain arising from a reduction in traffic to and from the site as a result of the substitution of the B2 use with a single dwelling.
23. Drawing my assessment together I have found that the proposal to provide a dwelling on the appeal site would conflict with the development plan. There would be negligible economic benefits arising from the scheme. The minimal social and environmental benefits associated with the provision of an additional house and a reduction in traffic movements in this rural area do not amount to material considerations that outweigh the conflict with the development plan.

Conclusion

24. For these reasons, I conclude that the appeal should be dismissed.

Matthew Jones

Inspector