
Appeal Decision

Site visit made on 9 July 2019

by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th July 2019.

Appeal Ref: APP/W1145/W/19/3228221

Chapel at grid reference 237222 104209, road from Upcott Cross to Anvil Corner, Holsworthy, Devon EX22 6NR

- 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 Peter Frost against the decision of Torridge District Council.
 - The application Ref 1/1335/2018/FUL, dated 19 December 2018, was refused by notice dated 27 March 2019.
 - The development proposed is described as 'change of use to residential'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The former chapel is Grade II listed and separate listed building consent has been granted by the Council for the internal and external works to facilitate its conversion. I noted on my site visit that internal works were underway, with internal partitions and a bathroom having been installed. Although consent has been granted for those works by the Council, this does not necessarily mean that the use as a dwelling can be implemented.

Main Issue

3. The main issue is whether the proposed development would provide satisfactory living conditions for future residents of the proposed development in respect of noise, disturbance and privacy.

Reasons

4. The appeal site is a detached former chapel and schoolroom dating from 1854, with large, single glazed arched windows in both sections of the building. It is proposed to change the use to a dwelling with a bedroom and bathroom at first floor and kitchen, dining and living space on the ground floor. The building is located alongside the A3072 and the outside space to the front and side is separated from the road by a low wall and railings. The A3072 is a busy route and at the time of my site visit passing traffic was frequent and travelling at speed. Behind the appeal site is a working farm, with the farmhouse directly behind the former chapel and a yard and farm buildings beyond. The farmhouse garden wraps around the rear and side of the appeal site.

5. At the time of my site visit, the noise from passing traffic on the A3072 was very apparent when stood in the outdoor space. Vehicles were close and intrusive even when standing at the furthest point from the road. The small size and configuration of the outdoor space would not enable any respite from road noise. As it would all be visible from the road this area would also not be a private space. Consequently, the outdoor space would not be a pleasant area to relax or spend time in. The significant noise and disturbance from the A3072 mean that the scheme would not provide satisfactory outdoor space for future residents.
6. Furthermore, from within the building traffic noise was clearly heard and likely to be intrusive to anyone living in the property. The layout proposed means that habitable rooms would only have windows facing the A3072 and would offer future residents no respite from vehicle noise and disturbance. As a result, the internal living accommodation would not provide satisfactory living conditions for future residents.
7. The appellant has provided some information about the operation of the neighbouring farm and the size and nature of the existing cattle herd. The outdoor space would be exposed to noise and disturbance from activities at the farm such as vehicle movements and general day to day operations. This would further contribute to making the outdoor space unattractive and unsuitable for use.
8. There is also potential for the outdoor space to be affected by odour and flies associated with the cattle. The appellant contends that prevailing winds in winter and the fact that the cattle are out to pasture in the summer would reduce fly depredation risk. At my site visit however, I observed a small number of cattle present in the livestock building in July.
9. The appellant sets out that the farm is efficiently and hygienically run on a professional basis. However, even though cattle may not be present in the farm buildings all year round there would still be potential for odour and flies at some times of the year. In the absence of substantive evidence to the contrary, occupiers are unlikely to have a pleasant outdoor environment in which to relax.
10. All proposed habitable room windows face away from the farm and as such farming activities would not have a significant impact on the internal living conditions, however this would not overcome the harm I have identified.
11. There are a small number of other dwellings close to the A3072 in the area, however their gardens are generally well screened from the road and are not comparable with the appeal proposal. Even if they were to experience undesirable levels of noise, the presence of other dwellings in that situation does not justify allowing a new dwelling that does not provide satisfactory living conditions for future residents.
12. The proposal would not provide satisfactory living conditions for future residents of the proposed development in respect of noise, disturbance and privacy. It would not accord with policy DM01 of the North Devon and Torridge Local Plan 2011-2031 (adopted 2018) (the LP) which seeks to safeguard intended occupants from harm from existing uses. Nor would it provide safe, attractive private spaces as required, amongst other criteria, by policy DM04 of the LP. Furthermore, it would not accord with the policies of the National

Planning Policy Framework (the Framework) which seek to ensure a high standard of amenity for existing and future users and to avoid noise giving rise to significant adverse impacts on health and the quality of life.

13. The potential for noise, odour and flies from the farm could lead to future complaints about the activities of the farm, which could require its activities to be constrained. This would conflict with the supporting text to policy DM01 of the LP, which sets out in paragraph 13.4 that, 'It is particularly important to ensure that existing industries or businesses are not faced with additional costs in order to overcome any environmental health problems following the location of a new development such as housing.'
14. The supporting text to policy DM01 of the LP sets out in paragraph 13.3(c) that noise and vibration problems may be resolved by careful attention to site layout, sound insulation measures and barriers. No such measures have been suggested by the appellant and I have no details of what they might look like for this site, their effectiveness or their impact on other factors including the significance of the listed building. I am not satisfied therefore, that such matters could reasonably be dealt with by way of a condition.

Other Matters

15. I have a statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural and historic interest which it possesses. The appellant contends that the benefits of the preservation and enhancement of the listed building outweigh concerns about future occupants' amenity. The proposed conversion of the building involves only minor alterations and I have not been presented with any evidence to demonstrate that the proposal would enhance its significance. I consider that the development would have a neutral effect and would preserve the special interest and significance of the listed building.
16. The Framework requires that decisions take account of the desirability of putting heritage assets to viable uses consistent with their conservation; it also recognises the public benefit of securing the optimum viable use. The proposal would bring a redundant listed building back into use and I give that weight as a public benefit of the scheme.
17. While it is clearly desirable to find a use for the building consistent with its long-term conservation, no information has been submitted to indicate that the adverse effects on future occupiers' living conditions could be overcome or reduced. Nor has it been demonstrated that re-use of the building cannot be achieved other than by use as a dwelling. I accept that alternative uses would have to be viable and preserve the special interest of the building, however no information has been presented demonstrating that this would be the only or optimum viable use.
18. Furthermore, I have no evidence that the building is at risk should it not be used as a dwelling. Indeed, the evidence demonstrates that the building has been subject to refurbishment and repair works by both the previous and current owners and that the appellant continues to undertake improvements.

19. Although the appellant has referred me to paragraph 202 of the Framework, the proposal does not include any enabling development, therefore those provisions do not apply.
20. Having regard to the statutory duty and policies within the Framework, I give great weight to the desirability of conserving the heritage asset. That objective would be achieved through the scheme before me, which would preserve the significance of the listed building. I also give weight to the public benefits of bringing the building back into use. I consider however that these benefits do not outweigh the significant adverse impacts on the living conditions of future residents if it were used as a dwelling.
21. I appreciate that the appellant would be happy to live next to the farm and that the accommodation would suit his needs and personal situation. However, I must consider the impact on all future residents, and these personal circumstances do not lead me to consider that the development would be acceptable.

Conclusion

22. The proposal would not provide satisfactory living conditions for future residents of the proposed development in respect of noise, disturbance and privacy. While the re-use of the listed building would be a public benefit which carries weight, it would be outweighed by the harm that I have identified. For the reasons given above, the appeal is dismissed.

L McKay

INSPECTOR