



Appeal Decision

Site visit made on 20 August 2019

by S Shapland BSc (Hons) MSc CMILT

an Inspector appointed by the Secretary of State

Decision date: 21 January 2020

Appeal Ref: APP/K1128/W/19/3229714

Langworthys Barn, West Alvington, Kingsbridge, Devon TQ7 3GZ

- 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 and Mrs M Hill against the decision of South Hams District Council.
 - The application Ref 2211/18/FUL, dated 3 July 2018, was refused by notice dated 29 January 2019.
 - The development proposed was originally described as "Re-submission for conversion of traditional building within B8 use for building yard to residential dwelling (class C3 use)".
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Decision

1. The appeal is dismissed insofar as it relates to conversion of a traditional building for building yard to a dwelling. The appeal is allowed insofar as it relates to extension to store and planning permission is granted for extension to store at Langworthys Barn, West Alvington, Kingsbridge, Devon TQ7 3GZ in accordance with the terms of the application, Ref 2211/18/FUL, dated 3 July 2018, so far as relevant to that part of the development hereby permitted and 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: 765.16.09 Location Plan, NDA 716 Rev 0 dated 02 August 2016, 765.16.04 revision A Existing Store & Stable Elevations dated June 2017, 765.16.05 B Existing Store/Stable Floor Plan, 765.16.06 revision B Proposed Extensions to existing store/stable Elevations dated June 2017, 765.16.07 B Proposed Extension to existing store/stables Floor Plan.
 - 3) The materials to be used in the external surfaces of the development hereby permitted shall match those used in the existing building.

Procedural Matters

2. The Council has altered the description of the development on the decision notice to read "conversion of traditional building for building yard to dwelling and extension to store (resubmission of 2408/17/FUL)". This is a more precise description of the development as it includes reference to the proposed

extension to the store which is missing from the original description. I have considered the appeal on this basis.

3. Since the Council refused planning permission the Plymouth and South West Devon Joint Local Plan 2014-2034 (JLP) has been adopted. The JLP replaces the South Hams Core Strategy (CS), adopted 2006 and the South Hams Development Policies Development Plan Document (DPD), adopted 2010. Policies DP6, DP14, DP15 and DP16 of the DPD and policies CS1 and CS9 of the CS have therefore been superseded by policies within the JLP. The decision notice included a number of emerging JLP policies, and I note that a number of adopted policy names and numbers have changed since the publication of the adopted JLP. Both parties have referred to this change of policy in their appeal documents, and I have determined the appeal on the basis of the policies within the adopted JLP.
4. For the reasons that follow, I find that the proposed extension to the existing store is acceptable and clearly severable both physically and functionally from the proposed conversion of the existing building to a dwelling. Therefore, I intend to issue a split decision in this case and grant planning permission for the extension to the store.

Main Issues

5. The main issues are:

- the effect of the proposal on the character and appearance of Langworthys Barn, a non-designated heritage asset;
- whether the proposal is an appropriate location for a new dwelling; and
- the impact of the loss of employment land.

Reasons

6. The appeal proposal encompasses two distinct elements: firstly, the change of use from B8 to C3 through the conversion of Langworthys Barn to a single residential dwelling. Secondly, an extension to the existing store.
7. The proposed extension to the existing store is a modest extension to an existing building and would match the design of the existing stores. The scale of this extension means it would integrate well with the existing development and would not appear as an incongruous addition. As such I find no harm in respect of this element of the proposal. I note that the Council has raised no objection in this regard either, and I have no evidence before me to lead me to conclude otherwise. As such the remainder of this appeal decision will deal principally with the matter of dispute, namely the conversion of traditional building within B8 use for building yard to residential dwelling.

Character and Appearance

8. Langworthys Barn is a non-designated heritage asset comprising of two stone barns. The western elevations of the barns are a prominent feature, and given their location off the main road between Kingsbridge and Salcombe is highly visible to the public. In addition to the stone barns, there are additional single storey buildings attached to the barns formed around a courtyard. These newer additions are not viewable from any public viewpoints. The proposed conversion to a residential dwelling includes an extension to the existing

- building, as well as infilling of the existing courtyard. The new build elements of the proposal would be clad in dark cedar which would complement the existing stone of the barns. The proposal includes a number of skylights within the roof of the existing barns.
9. JLP policy DEV21 requires that development proposals need to sustain the local character and distinctness of the area by conserving and where appropriate enhancing its historic environment. This includes both designated and non-designated heritage assets. Development that harms the significance of locally important non-designated heritage assets, or their contribution to the character of a place will only be permitted where it can be justified on the basis of a balanced judgement, having regard to the scale of any harm or loss and the significance of the heritage asset.
 10. Paragraph 197 of the National Planning Policy Framework (the Framework) states that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
 11. In this instance, the proposed conversion involves considerable new development, both with extensions to the barns and infilling of the existing courtyard. Whilst the materials proposed would complement the existing materials of the barns, they would still appear as new modern additions which do not complement the agricultural historic nature of the existing barns. The proposal would require additional building mass, which by virtue of its scale and form is not in keeping with the existing barns. Furthermore, the proposed skylights in the roof of the barns would be noticeable from the main road between Salcombe and Kingsbridge, and introduce an incongruous modern addition to the non-designated heritage asset.
 12. The appellants state that policy TTV26 of the JLP allows for the re-use of traditional buildings that are structurally sound enough for renovation without significant enhancement or alteration. Whilst there is no dispute regarding the structural integrity of the barns for conversion, the proposal before me involves considerable alterations to the barns and therefore does not fully accord with both of the requirements of policy TTV26 of the JLP.
 13. Section 85 of the Countryside and Rights of Way Act 2000 requires that I have regard to the purpose of conserving and enhancing the natural beauty of AONB's. Furthermore, Paragraph 172 of the Framework specifies that great weight must be given to conserving and enhancing landscape and scenic beauty of these areas. In this instance whilst I have identified harm to the non-designated heritage asset this harm would be localised within the appeal site, and therefore does not fail to conserve or enhance the AONB.
 14. Consequently, the proposed conversion does not respect the character and appearance of the non-designated heritage asset. Therefore, I find conflict with JLP policies DEV20, DEV21 and TTV26. I find further conflict with paragraph 197 of the Framework. Together these policies seek, amongst other things, that new development is of a high-quality design which protects the historic environment.

Location of Development

15. The appeal site is within the countryside, and policy TTV26 of the JLP provides the policy framework for guiding development within the countryside. The policy seeks to protect the special characteristics and the role of the countryside. As such, the policy requires that development in the countryside will only be permitted in exceptional circumstances, and includes a list of such circumstances. This includes the re-use of redundant or disused buildings and brownfield sites for an appropriate use.
16. The Council contends that the site cannot be considered a brownfield site, as it currently has an operational business use. The Framework defines brownfield land as previously developed land "which is, or was occupied by a permanent structure, including the curtilage of the development land and any associated fixed surface infrastructure". Based on the evidence before me and my observations during my site visit, I am content that the appeal site can be considered previously developed land as defined by the Framework.
17. Turning to whether the proposal would be considered appropriate use in relation to Policy TTV26; the policy is not explicit in what is considered an appropriate use. The Council has raised concerns that introducing a residential dwelling within close proximity to an existing B8 builders' yard would be introducing two incompatible uses, and would therefore not represent an appropriate use for the existing building.
18. The proposed residential dwelling would share an access with the remaining employment use on site and there would be a common parking arrangement between the two uses. The concerns of the Council appear to be in relation to the potential impact on the living conditions of future occupiers. The Council's Environmental Health (EH) Officer advised that B8 employment use can have a negative effect on the amenity of residential uses. I am of the view that locating a residential use here is likely to impact the amenity of future occupiers given the nature of the employment use and its proximity to the proposed dwelling. The EH officer goes on to state that a condition restricting the occupants to the dwelling to staff who work on site could overcome this concern. The appellants have indicated that they would accept such a restricting condition.
19. Planning Policy Guidance (PPG) provides guidance on whether it is appropriate to use planning conditions to limit the benefits of planning permission to a particular person or group of people¹. This states that planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. Such examples include conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers. This may be justified on the grounds that an applicant has demonstrated an exceptional need.
20. The appellants have submitted evidence of the benefit of living in close proximity to their business, which includes improving the efficiency of their business and increasing the security of the site by having a continued staff presence there. Whilst I appreciate there would be benefits of living in close proximity to their business, I have been provided with no evidence to

¹ Paragraph 015 Reference ID: 21a-015-20140306 Revision date 06 03 2014

demonstrate that there is an exceptional need for them to live on site. As such I do not consider that a planning condition restricting the occupants of the residential dwelling to those that work on site meets the test of necessity as stated in paragraph 55 of the Framework. Therefore, I find that the conversion of the existing B8 barns to residential does not represent an appropriate use and therefore does not meet any of the exceptional circumstances stated in policy TTV26, and is therefore not located in a suitable location.

21. Therefore, I find that the conversion of the existing building to a dwelling is not located in a suitable location for a residential dwelling. Consequently, there is conflict with JLP policies SPT1 and TTV26. Together these policies seek, amongst things, that development is located in an appropriate location. I find further conflict with paragraph 79 of the Framework which seeks, amongst other things that the development of isolate homes in the countryside is avoided.

Loss of employment land

22. JLP policy DEV14 seeks to ensure that a flexible supply of employment land and premises will be maintained. Employment sites will be protected from inappropriate neighbouring development that will adversely affect the employment operations taking place on the site. Furthermore, policy TTV26 states that development proposals should be complementary to and not prejudice any viable agricultural operations on a farm and other existing viable uses. Paragraph 182 of the Framework also states that planning decisions should ensure that new development can be integrated effectively with existing businesses.
23. As discussed above, I consider that introducing a residential use adjacent to this B8 employment site introduces two incompatible uses. Whilst this primarily relates to the amenity of future occupiers of the proposed residential unit, the introduction of two incompatible uses could lead to the prejudice of the existing business operation on the site and subsequent loss of employment land. This would be contrary to policies TTV26 and DEV14 of the JLP.
24. Consequently, I find that the proposal would prejudice the existing employment use on site and lead to the loss of employment land. As such there would be conflict with policy TTV26, DEV14 and DEV15 of the JLP. Together these policies seek, amongst other things, that adequate employment land is maintained which supports a prosperous rural economy. There would also be conflict with Paragraph 182 of the Framework which seeks to ensure that new development can effectively integrate with existing businesses.

Other matters

25. The appellants have indicated that the proposed development would facilitate the operation and long-term sustainability of the established rural business and secure the future of an under-used traditional building. However, I have been provided with no cogent evidence to demonstrate this claim and I can therefore only afford it limited weight in my consideration of the proposal. Furthermore, the appellant has indicated that by living on site there would be benefits to site security and health and safety compliance. Be this as it may it does not outweigh the harm that I have identified above.

26. I note that there have been several positive letters of support for the application from interested parties; these do not outweigh the harm which I have identified above.
27. The appellants have raised concerns that the Council determined the planning application on obsolete policies, given the status of the emerging JLP at the time the application was determined. Paragraph 47 of the Framework states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. At the time the application was determined, the policies contained within the South Hams Development Policies DPD and South Hams Core Strategy formed part of the approved development plan. Notwithstanding this, I am required to consider the appeal on the basis of the development plan which is in place at the time of making my decision, which is what I have done.

Conditions

28. The Council has suggested a number of conditions in the event that the appeal is allowed. Several of these conditions relate specifically to the proposed conversion of the barns to a dwelling. As this element of the proposal is being dismissed, these suggestions would not overcome the harm I have found. In relation to the proposed extension to the store, it is necessary to impose the standard time limit condition for implementation and a condition which sets out the set of approved plans to provide certainty. A condition relating to materials is also justified to ensure that the appearance of the proposed extension to the store would be satisfactory.

Conclusions

29. For the reasons given above, I conclude that the appeal should succeed in relation to the proposed extension to the store and planning permission be granted, subject to conditions.
30. However, in relation to the conversion of the existing barns to residential dwelling, I have identified harm in respect of the character and appearance of the non-designated heritage asset. I have also found harm in relation to the location and the resultant loss of employment land. Therefore, the appeal for the conversion of the existing barn to residential dwelling should be dismissed.

S Shapland

INSPECTOR