
Appeal Decision

Site visit made on 11 February 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2020

Appeal Ref: APP/Z3825/W/19/3242354

Bos Barn, Marthas Barn Warehouse, Wheatsheaf Road, Henfield, West Sussex BN5 9AX

- 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 L Pennant against the decision of Horsham District Council.
 - The application Ref DC/19/0898, dated 25 April 2019, was refused by notice dated 8 August 2019.
 - The development proposed is the conversion of first floor of existing building to a 2 bedroom flat to create a live-work unit.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form, decision notice and appeal form all used a different address. Clarification was sought from both main parties in respect of this matter and both have confirmed that the address used above is correct.
3. The description of development used in the heading above is an amended description that has been taken from the Council's decision notice and the appeal form. This reflects amendments that were made to the proposal following the submission of the application and I have determined the appeal on that basis.
4. In an attempt to address the Council's objections and in support of the appeal, the appellant has submitted a Unilateral Undertaking (UU) pursuant to Section 106 of the Town and Country Planning Act 1990. I have addressed this below.

Main Issues

5. The main issues are:
 - Whether the site represents a suitable location for housing having particular regard to the provisions of local and national policy.
 - The effect of the development on the supply of employment floorspace.

Reasons

Location of the Development

6. The appeal site is in a rural location that is remote from all settlements and their services and facilities. The surrounding area features sporadic built form including dwellings and the cluster of buildings that includes the appeal site and the adjacent workshop building that is shown to be within the appellant's control. The building

at the appeal site features floorspace over 2 floors and is used for the display and storage of furniture.

7. The proposal would see the alteration of the existing building to enable the creation of residential accommodation at first floor, which would be occupied as a live-work unit in conjunction with the ground floor of the building. Associated external alterations to the building would include the introduction of new materials to the roof and the elevations and the installation of larger windows at the front and rear of the building.
8. Policy 26 of the Horsham District Planning Framework (HDPF), adopted 2015, states that outside of built up areas, the rural character of the countryside will be protected against inappropriate development. That policy also creates a requirement that any proposal must be essential to its countryside location and meet one of 4 specified criteria, one of which being the enabling of sustainable development in rural areas. Whilst convenient for any future occupiers, it has not been demonstrated that the presence of residential accommodation at the site is essential to the operation of the existing business. Similarly, as it has not been demonstrated that there is a functional need for rural worker accommodation to be provided at this site, the proposal does not draw support from policy 20 of the HDPF which allows for such accommodation.
9. Policy 10 of the HDPF allows for the conversion of rural buildings but contains a preference for them to be used for commercial rather than residential purposes. In this context, the existing use would be preferable to the proposed use and as such the proposal does not accord with Policy 10.
10. In addition to the above, Paragraph 79 of the National Planning Policy Framework (The Framework) states that isolated homes in the countryside should be avoided. One of the exceptions to this is where a development involves the re-use of a redundant or disused building which this brings about the enhancement of its immediate setting. Although the submissions indicate that the first-floor accommodation at the site could become available, they do not demonstrate that the building is, in whole or in part, redundant or disused. Furthermore, as the appearance of the existing building enables it to sit comfortably within its rural setting, the alterations to the building that are proposed would have no more than a neutral effect on the setting of the building. Accordingly, the proposal does not comply with the abovementioned exception and no other exception would be applicable to this proposal.
11. As a result of the site being within the countryside and not complying with the abovementioned policies, the proposal represents a form of development that is contrary to the strategic approach to development that is contained within the development plan. As such, the partial use of the site for residential purposes is not appropriate in a rural context and would erode the rural character of the site and the locality.
12. The proposal would enable a future occupier to live close to their place of work and therefore reduce the requirement to commute, but employment is not the only reason for travel. Therefore, future occupiers are likely to be reliant on private forms of transport to access all other services and facilities that are required for day-to-day living. As such, whilst it is likely that there would be some reduction of travel, the benefit would not be so substantial that it would outweigh the content of the development plan. In any event, neither policy 2 of the HDPF or The Framework indicate that reducing the need to travel is the sole reason for residential development to be concentrated within built up areas and, therefore, is not the only factor relevant to achieving sustainable development.

13. For these reasons, the site does not represent a suitable location for residential development having particular regard to the provisions of local and national policy. The proposal would, therefore, be contrary to policies 2, 3, 10 and 26 of the HDPF which combine to set out the strategic approach towards locating development within the Horsham District, seek to prevent inappropriate development in order to maintain and protect the district's rural character and encourage rural buildings to be used for commercial or business purposes rather than residential uses.

Employment Floorspace

14. Policy 9 of the HDPF states that proposals for the redevelopment of employment premises must demonstrate that the premises is no longer needed and/or viable for employment use. As set out above, it has not been demonstrated that any part of the building is disused or redundant. Therefore, whilst the proposal would not cause the total loss of employment floorspace at the site, it would cause a net reduction of floorspace at the appeal site that is contrary to the abovementioned policy. The provision of replacement floorspace within a separate building that is within the appellant's control is considered below.
15. Policy 10 of the HDPF states that proposals for the conversion of rural buildings to business and commercial uses will be considered favourable to residential uses in the first instance. As the building at the appeal site is already in commercial use, the policy indicates that it should be preferable for the existing floorspace to remain in commercial use.
16. The proposal would, therefore, have an unacceptable effect on the supply of employment floorspace. As such, the development would be contrary to policies 9 and 10 of the HDPF which, in addition to the requirements that have been referred to above, aim to encourage sustainable rural economic development in order to generate local employment opportunities.

Planning Obligations

17. An obligation within the appellant's UU would restrict the occupation of the proposed residential accommodation to be only by the proprietor of the business operating at the site and their dependants. The UU would also require the land that is within the appellant's control, including land that is outside the appeal site, to remain in the same ownership. These obligations are consistent with the manner which the proposal has been assessed above, ensuring that the residential accommodation is only occupied in conjunction with the use of the overall site and preventing the residential accommodation being separated from the employment floorspace. As these obligations provide restrictions that are necessary to ensure that the development would be occupied as proposed, I find that they would meet the tests set out at paragraph 56 of The Framework and within the CIL Regulations¹.
18. The UU would also secure the provision of compensatory employment floorspace in the form of a mezzanine within a building that is within the appellant's control but outside the appeal site. The compensatory floorspace would be used for purposes falling within Classes B1(c) or B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and has been proposed to address the objection raised on the grounds of the loss of employment floorspace. However, no details of the proposed mezzanine have been provided and, as such, the terms of the unilateral undertaking are not sufficiently precise to demonstrate that the replacement floorspace would be as usable as the floorspace that currently exists. Moreover,

¹ Regulation 122 of The Community Infrastructure Levy Regulations 2010 (As Amended)

although it has been suggested that the mezzanine could be installed without the need to obtain planning permission, insufficient details of the planning history of that building have been provided to demonstrate that this is the case.

19. Therefore, although the planning obligation would enable the provision of compensatory employment floorspace in a manner that would accord with the tests set out at Paragraph 56 of The Framework and within the CIL Regulations, it has not been demonstrated that the planning obligation would be sufficient to mitigate the harm that has been identified above.

Other Matters

20. It has been highlighted by the appellant that the building at the site could have been converted to residential use under the terms of permitted development rights had they not been converted to their current use. It has also been highlighted that such changes of use have occurred at other nearby properties. However, the appellant's submissions also acknowledge that such a change of use is not possible at the appeal site and does not therefore represent a fallback position. Accordingly, I give no weight to this factor.

Conclusion

21. For the reasons given above, the development would conflict with the development plan and the planning obligations set out within the UU would not mitigate that conflict. Therefore, I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR