

Appeal Decision

Site visit made on 9 March 2020

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st March 2020.

Appeal Ref: APP/P1133/W/19/3238138

The Barn at The Buntings, Higher Woodway Road, Teignmouth, Devon TQ14 9NR

- 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 Mrs Maria Bown against the decision of Teignbridge District Council.
 - The application Ref 18/01743/FUL, dated 21 August 2018, was refused by notice dated 30 May 2019.
 - The development proposed is retrospective application for change of use and conversion of agricultural building to dwelling (use class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal site lies within 10km of the internationally designated Exe Estuary Special Protection Area and Ramsar site and the Dawlish Warren Special Area of Conservation ('the protected areas'). Whilst not a reason for refusal, as the competent authority in this case, I am required to consider the potential effects on the protected areas. I therefore address this matter later in my decision.
3. The Council has raised an issue with the accuracy of some of the submitted plans. Whilst there may be some discrepancies, I have determined them as submitted and do not consider that my views would be different had they been entirely consistent with the works undertaken in context with the wider site and land in the appellant's ownership.

Main Issues

4. The main issues are:
 - whether the location of the development accords with local and national planning policies in respect of accessibility to local services and minimising the need to travel by private vehicle;
 - the effect of the proposal on the character and appearance of the area, including on the locally designated Undeveloped Coast; and
 - the effect of the proposal on the living conditions of future occupants, with particular regard to daylight and outlook.

Reasons

Location of development

5. The town of Teignmouth has been identified as a town suitable to accommodate approximately 5% of the total housing growth projected for the plan area of the Teignbridge Local Plan 2013 – 2033 (LP) (adopted 2014) over its lifetime (Policy S4). Policy S18 which is specific to Teignmouth identifies that at least 340 dwellings will be allocated in the town. Policy S21A indicates that the Policies Map includes a defined settlement limit for a range of locations, including Teignmouth, and indicates that within the settlement limit, development may be permitted where it is consistent with the provisions and policies of the LP.
6. The Policies Map for Teignmouth shows the appeal site as falling outside of the settlement limits. Consequently, LP Policies S4, S18 and S21A are not applicable and the appeal site is classed as falling within the countryside in policy terms.
7. LP Policy S22 seeks to strictly manage development in the countryside to ensure settlements are sustainable, the environment is attractive and accessible and the rural economy resilient. LP Policy S22 goes on to state that development in the countryside will be strictly managed and limited to uses that are necessary to achieve the overall aim to the following forms of residential development: affordable housing for local needs, replacement dwellings, travelling show people plots, Gypsy and Traveller pitches, and dwellings for agricultural, forestry and other necessary rural workers. Other agricultural, business and tourism developments are potentially also supportable under LP Policy S22, but these are not relevant to the current proposal which involves a residential unit.
8. In the absence of any planning obligation to secure the dwelling as an affordable dwelling to meet a local need, it does not fulfil this criterion. There is no suggestion that the dwelling is intended to meet a particular need for travelling show people, Gypsies or Travellers. Nor is the proposal a replacement dwelling given that what existed before was a stable used for housing livestock.
9. There is a suggestion from the appellant that the dwelling should be restricted by planning condition to limit its occupation to a rural worker's dwelling. However, there is limited evidence to suggest that the appellant, any residing family member, or the holding on which they live and work would justify a dwelling with such an occupancy restriction. Whilst it is clear that the appellants undertake agricultural activities on the holding, the functional requirements of that enterprise and profitability thereof, amongst other things, would need to be assessed as is typical for such a proposal. In the absence of suitable evidence in this regard, the proposal is not capable of being considered as a rural or agricultural worker's dwelling.
10. The proposal would therefore also conflict with Policy S22 of the LP.
11. National Policy set out in the National Planning Policy Framework ('the Framework') (2019) sets out that decisions should avoid the development of isolated homes in the countryside other than when one of the listed circumstances applies, including:

- *"Where there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside; or*
 - *the development would re-use a redundant or disused building and enhance its immediate setting;"*
12. As already indicated, there is insufficient evidence to justify a rural worker's dwelling at the appeal site and the first listed criterion does not apply. In respect of the enhancement, or otherwise, of the immediate setting of the building, I return to this aspect further below.
13. In this case, whilst the distance from the appeal site to the closest point of the defined settlement limit is relatively modest, the nature of the separation is pronounced due to the elevation of the site relative thereto and the connecting roads which are narrow, without footways and unlit. The appellant highlights that the bus stops are approximately 0.7km and 1km away to Teignmouth town centre with options to walk to both the school and train station. Having travelled these routes which have sections of particularly challenging topography with sections that lack footways and lighting, I do not consider that they offer realistic options for walking or cycling on a regular basis, particularly in inclement weather and during the winter given the limited daylight hours. The proposal is therefore remote and disconnected from the settlement and does not accord with LP Policies S1, S2 or S9, or the NPPF in this regard.
14. In terms of the isolation of the site, having identified that the site is not significantly distant from other dwellings or from the developed parts of Teignmouth, I agree with the appellant's assertion that the appeal site is not Braintree isolated¹. However, this does not mean that it is in a location where new residential development is supportable under the terms of the current LP policies or the Framework.
15. In view of this main issue, the proposal does not accord with, in particular, LP Policies S1, S1A, S2, S9 or S22 in respect of its location within the open countryside. For similar reasons it also conflicts with the Framework.

Character and appearance

16. The appeal site is situated in an elevated and prominent position which forms part of the rolling hilly landscape that encloses the coastal setting of Teignmouth. The area is also designated as Undeveloped Coast to which LP Policy EN2 relates. The Policy includes a presumption against development that would have a detrimental effect on the character of the undeveloped coast. Only minor agricultural and forestry proposals and other developments compatible with the Shoreline Management Plan may be acceptable within areas of Undeveloped Coast.
17. The conversion of the former stable building has introduced a degree of domesticity with associated domestic paraphernalia into the Undeveloped Coast, albeit on land within the blue line and strictly outside of the appeal site. Whilst the building already existed prior to the conversion, it would not have had the domestic character it now has and would not be surrounded by ancillary structures and stored items, including the WC outhouse, dog kennels, touring caravans, planters and other items of outdoor furniture. The collective

¹ Braintree District Council v SSCLG & Ors [2017] EWHC 2743 (Admin)

appearance of the now domesticated building with the associated structures and paraphernalia is harmful to the character and appearance of the area and the wider Undeveloped Coast.

18. Whilst the appellant indicates that the development has been undertaken in a way that integrates with the landscape, I do not find this to be the case. The character of the building has not improved, despite that it may not have been extended, nor have the immediate surroundings been enhanced through their associated change of use. Given the elevated position of the site, its adjacency with the highway and close proximity to a public right of way (PROW), these detrimental effects are also highly visible and are incapable of being adequately mitigated.
19. I note the comments made that many of the items associated with the use of the adjoining land are agricultural, rather than domestic, and that this use will continue beyond any potential cessation of the residential use. Whilst that may be so, the cessation of the residential use will still likely lead to a reduction in the degree of domestic paraphernalia sited on, near or surrounding the building with associated landscape enhancements.
20. For the above reasons, the proposal is harmful to the character and appearance of the area and the Undeveloped Coast, contrary to LP Policies S1, S1A, S2 and EN2.

Living conditions of occupiers

21. The dwelling has been converted from an old stable block. Due to its siting in close proximity to a hedgerow, outlook to the rear is particularly limited. The main outlook is to the north across to the opposite slope of the valley and beyond. Windows in either ends of the building would have also been achievable, although these are generally lacking.
22. It is possible that a conversion scheme could have been designed to achieve a good quality outlook and light levels for the benefit of the living conditions of occupiers. However, the way in which the conversion has been undertaken with principal habitable rooms to the inside and bedrooms on the outside, has severely limited the quality of outlook and ability for natural light to permeate the main living spaces. With the exception of a number of small sections of near-transparent roof sheeting and a small window close to the southern hedgerow, the main communal living spaces were devoid of windows. Small windows were available in the secondary bedrooms, utility spaces and shower rooms. Whilst the outlook from some of these rooms was pleasant, this does not make up for the general lack of natural light or outlook from the majority of the internal space within the house.
23. The appellant indicates that she would be happy to insert any number of windows to achieve the required standard of living environment. However, such a proposal would inevitably involve a substantial reorganisation of the accommodation and the insertion of more and larger window openings. No such plans are before me and devising a scheme that may be acceptable in this regard is not a matter for this stage of the planning process.
24. For the above reasons, the proposal does not provide adequate living conditions for its occupants with particular regard to daylight and outlook. The proposal therefore conflicts with LP Policies S1 and S2, which seek to secure

high quality design and developments that promote, amongst other things, health and well-being of users of the proposed development.

Other Matters

25. Due to the proximity of the appeal site to the protected areas, there is potential for increased pressure upon them from disturbance associated with activities such as recreation and dog walking. Such effects would potentially harm their integrity. The parties do not dispute that any potential effects can be mitigated through a contribution which has already been paid to the Council. However, as the circumstances that could have led to the granting of planning permission are not present, it is not necessary for me to ascertain the sufficiency of the contribution or the method of its payment within an Appropriate Assessment. Accordingly, I have not taken this matter further.
26. Though a residential development of 35 dwellings has been permitted on land at Little Leigh, Holcombe, that particular proposal was on a site which was subject of an allocation under the LP. The connectivity of that site to the settlement would have been one of the considerations for the soundness of the allocation in its examination process. For this reason and for the evident contrast in the scale and public benefits when compared to the current scheme, this does not add any weight in favour of the proposal.
27. I have given full regard to the supportive comments submitted by many and understand that the appellant and her family are valued members of the community to those respective correspondents, many of whom also buy produce grown on site. I am particularly mindful that one particular representation is from a resident member of the family who expresses a desire to stay at the site. I have ascribed weight to these comments accordingly.
28. I accept that if the appellant has to reside away from the site then it would reintroduce vehicle movements associated with the care of livestock. This is a common occurrence where agricultural land is used for the keeping of livestock and does not in itself justify a proliferation of residential development in the countryside where such uses most commonly occur.
29. The appellant's suggestion that she was misled about the ease with which planning permission would be obtained is not a matter for this appeal. I am not bound by any pre-application advice, provided verbally or in writing, and nor does any alleged lack of proactivity on the part of the Council have any bearing on the merits of the case before me.
30. That the proposal reuses a building in the countryside and would prevent it from falling into disrepair is not a sufficiently compelling reason to justify allowing the appeal proposal. The development that has occurred along with the overspill of domestic paraphernalia is more harmful than a dilapidated building which maintains its simple rural character.
31. The appellant alleges that the development is beneficial to users of the PROW, which technically lies outside of the site. Whilst I understand that the style has been removed and it has been widened, I do not consider that this in itself has increased the amount of recreational or more purposeful journeys made on foot. The uneven surfacing of the PROW would still prohibit its use by less mobile users and I have limited evidence that it is capable of use as a bridleway. As such, I attribute these factors limited weight.

32. I am mindful that the materials used in the conversion of the building and its internal fittings and furniture are largely reclaimed and that the appellant has attempted to make the building as energy and water efficient as possible, using measures such as grey water recycling. These factors are capable of attracting a small degree of weight in the planning balance.
33. There is no impact on the amenities of neighbouring occupiers in terms of loss of privacy. This is a neutral factor in the planning balance.
34. The appellant highlights that the development supports biodiversity although limited evidence has been submitted in this regard. From the evident disturbance of the building and surrounding landscape and lack of specific provision for biodiversity apparent from my own observations, I cannot ascribe weight to this claim.
35. The appellant's alterations to the site access has resulted in the provision of an area for passing, parking and marginally improved visibility for vehicles emerging from the site. Whilst these measures have resulted in a modest degree of improvement to highway safety, the need for such measures arises to an extent from the increased use of the site for residential purposes. As such, I attribute the wider public benefits of the passing and parking place limited weight.
36. Whilst I accept that the appellant may undertake work from home and that effort is expended on the wider holding, whether that be as part of a hobby farming or agricultural enterprise, this does not constitute a true 'mixed use' development that would more typically refer to a combination of retail, office, leisure and/or residential development.
37. I accept that the appellant and members of her family may have existing health conditions that may better suit the environment provided by the dwelling and its surroundings. Whilst supporting and improving the health and wellbeing of the population underlies much of what the planning system seeks to achieve, in this case, achieving such benefits would be at the expense of other key planning objectives, such as locating the need to reduce travel by private vehicles, maintaining an area's local distinctiveness and designing homes suitable for both current and future occupiers.
38. The removal of agricultural occupancy restrictions from some specified properties in the surrounding area does not sufficiently compare to the circumstances in this case for a new dwelling in the countryside, which whilst premised on an agricultural and/or local housing need, is lacking in evidence of eligibility for such a property.
39. The appellant will have expended considerable sums in undertaking the conversion of the building and I am mindful of the likely losses in the event that the appeal is dismissed. The potential loss of employment of the farm worker would also be regrettable, although this may need not occur if the agricultural use of the holding continues as it is indicated will do so.
40. The appellant cites a number of Local Plan policies with which she considers the proposal complies. Having considered the arguments advanced, neither these or any of the above considerations are of sufficient materiality to outweigh the identified harm or conflict with the Development Plan. In weighing up the merits of this case, my consideration has been given to the appellant's and her

family members' rights under Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998.

41. However, having regard to the legitimate and well-established planning policy position, greater weight should be attached to the public interest and dismissal of the appeal is therefore proportionate and necessary.
42. Finally, I have considered the conditions suggested by the appellant relating to, amongst other things, a structural assessment of the building and any remedial works. Whilst many of them would be necessary to accord with the Framework and Planning Practice Guidance, they could not make an otherwise unacceptable development acceptable

Planning balance and conclusion

43. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. None of the LP Policies relevant to this case are considered to be out of date and the Development Plan is therefore considered to carry full weight. As such, the decision does not hinge on the effects of Framework paragraph 11 d), in terms of whether any adverse impacts would significantly and demonstrably outweigh the benefits.
44. The proposal harms and consequently conflicts with the Development Plan in respect of its location, its effects on the character and appearance of the area and living conditions of future occupiers. None of the stated benefits or other material considerations, taken individually or in combination, outweigh the identified harm.
45. For the reasons set out above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR