



Appeal Decision

Site visit made on 13 May 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 June 2020

Appeal Ref: APP/P1133/W/20/3245469

Unit 1 Rebecca Springs, Nadderwater, Whitestone EX4 2JH

- 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 Hopkins against the decision of Teignbridge District Council.
 - The application Ref 19/01925/FUL, dated 2 October 2019, was refused by notice dated 29 November 2019.
 - The development proposed is conversion of existing commercial building into two houses
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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 (the SPA). Whilst not a reason for refusal, as the competent authority in this case, I am required to consider the potential effects on the SPA later in my decision.

Main Issue

3. The main issue is whether the location of the development accords with local and national policies in respect of accessibility to services and minimising the need to travel.

Reasons

4. The appeal building is a concrete block building with accommodation over two floors. Its rear elevation backs onto the rural road and its principal elevation faces into a hardsurfaced courtyard which serves a number of other buildings in a mix of agricultural, commercial and residential uses. The building has a number of extensions projecting into the courtyard from its principal elevation.
5. The location of the site is removed from any defined settlement. The edge of the nearest settlement, Exeter, is over a kilometre away, separated by rural roads, which are steep in places and absent of footways and streetlighting. The appeal site is therefore in the open countryside in physical and policy terms.
6. The Teignbridge Local Plan 2013 – 2033 (adopted 2014) (Local Plan) includes Policy S22 concerning development in the countryside. The Policy seeks to strictly manage development in the countryside to maintain attractive, accessible and biodiverse landscapes, sustainable settlements and a resilient rural economy. To this end, the only forms of residential development permissible in the countryside include: "*a) affordable housing for local needs,*

replacement dwellings, travelling show people plots, Gypsy and Traveller pitches, and dwellings for agricultural, forestry and necessary rural workers".

7. The development has not been put forward on the basis that it is for a rural worker, for affordable housing or for any other specific housing need that may fall within the scope of Local Plan Policy S22.
8. Local Plan Policy S1A echoes the general approach in the National Planning Policy Framework (2019) (the Framework) and sets out that "*where there are no policies relevant to the application ...then the Council will grant permission unless material considerations indicate otherwise – taking into account whether: a) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or b) specific policies in the Framework indicate that development should be restricted*".
9. In terms of the silence of the Development Plan on the matter of conversions of buildings in the countryside, I have previously indicated¹ that the current Local Plan has been formulated and examined in the context of the Framework (or at least an earlier version very similar thereto) and that the omission of such a policy for the conversion of buildings to unrestricted dwellings was deliberate.
10. Clearly, material considerations *can*, in some instances, dictate that a decision should be made other than in accordance with the Development Plan, as indeed set out in the Planning and Compulsory Purchase Act (2006), Section 38(6). The Framework can constitute one such material consideration.
11. Turning to the Framework (paragraph 79(c)), its specific wording sets out that "*decisions should avoid the development of isolated homes in the countryside unless*" ... "*the development would re-use redundant or disused buildings and enhance its immediate setting*".
12. In this case, the building benefits from a lawful mixed B1 and B8 use. Although presently unoccupied, the appellant indicates that the uses may be reinstated at any time, with the suggestion that this would harm the amenities of neighbouring occupiers. As the evidence in this regard is limited and conflicting, it is not possible to conclude that the appeal building is *disused* or *redundant* to accord with the requirements of the Framework (my emphasis).
13. The appellant alleges that the enhancement of the setting of the building adds weight in favour of the proposal. Whilst I note that there would be a subtle domestication of the building through insertion of additional openings and the removal of its unexceptional extensions, the uplift to the immediate setting would be very limited. The minor alterations to the lean-to workshop, along with the compromised parking and garden relationships and retained utilitarian roofing material, would alter the building and its setting, but the totality of the works would still fall short of a genuine enhancement.
14. I note the appellant's reference to another countryside conversion scheme approved by the Council in 2017² which relied on Local Plan Policy S1A and the Framework as justification. From the limited information available, in contrast to the current scheme, it appears that there was a substantiated fallback position and greater visual enhancements from that particular scheme.

¹ APP/P1133/W/18/3204813

² 17/02102/FUL

15. I also note the appellants' comments that the building is within a residential context and is within an easy travel distance of Exeter and the separate village of Whitestone. Notwithstanding the moderate distances involved, as indicated above, I consider the building to be sufficiently isolated from the settlements to be considered in the context of Local Plan Policy S22 and paragraph 79 of the Framework. The majority of the surrounding residential uses (current and permitted) have been established through prior approvals. However, this does not indicate that the area is considered more sustainable for the purposes of new, unrestricted residential development under the current development plan.
16. In terms of the resumption of the commercial activities within the appeal building and the potential harm to neighbouring occupiers, I note that the conversion approvals have been granted with the lawful use of the building as a known consideration. Under Class Q of the Town & Country Planning (General Permitted Development) Order (2015), where impractical or undesirable activities within nearby buildings would harm future occupiers, prior approval can be withheld. I note that this was not the case for the building opposite. In any event, I have limited evidence that there has been harm to any existing neighbouring occupiers over the duration of the previous use of the building.
17. Drawing together this main issue, I consider that the location and nature of the development does not accord with local and national policies in terms of the accessibility of the site and minimising the need to travel. The proposal therefore conflicts with Policy S22 of the Local Plan and the Framework.

Other Matters

18. The appeal site is within the zone of influence of the SPA. It cannot be ruled out that residential development in this location, both individually and cumulatively with other schemes, would have significant effects on the features of interest of the SPA through increased recreational use and other domestic activity. The parties do not dispute that this can be mitigated through a contribution, which the appellant has previously paid.
19. 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 appropriateness of the mitigation within an Appropriate Assessment. Consequently, as I am dismissing the appeal for other reasons, I have not taken this matter further.

Planning balance and conclusion

20. The proposal would generate economic and social benefits through the provision of two dwellings to the local housing stock. However, the economic benefits would be tempered by the permanent loss of the building's commercial use.
21. Taking all the above factors into account, I conclude that the proposal conflicts with the Development Plan and the other matters put forward to not amount to considerations of sufficient materiality to outweigh this conflict.
22. Accordingly, the appeal is dismissed.

Hollie Nicholls

INSPECTOR