
Appeal Decision

Site visit made on 11 August 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 24 August 2020

Appeal Ref: APP/U1105/W/20/3249380

Garage at Land West of 1 Lower Dean, Branscombe, Seaton EX12 3BB

- 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 & Mrs Cresse against the decision of East Devon District Council.
 - The application Ref 19/2681/FUL, dated 6 December 2019, was refused by notice dated 4 February 2020.
 - The development proposed is an application to convert an existing garage into a two bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In light of the information provided in relation to the address of the appeal site, and in the interests of accuracy and consistency, I have used the address as provided on the Council's Decision Notice in the banner heading above.

Main Issues

3. The Council have advised that they have withdrawn the third reason for refusal as provided on the decision notice dated 6 December 2019, in respect of the effect of the proposed development on protected species. I therefore do not address this matter in the reasoning below.
4. The main issues are:
 - Whether the proposed development would be in a suitable location, having regard to local and national planning policies; and,
 - The effect of the proposed development on the East Devon Area of Outstanding Natural Beauty (the AONB) and its effect on the setting of nearby listed buildings.

Reasons

Location of Development

5. As noted in the appeal decision which concerned a development proposal on garden land which is associated with the appeal site¹ (the Recent Appeal), the

¹ Appeal Reference: APP/U1105/W/19/3229191

site is located outside of the Built-up Area Boundary (the BUAB) within the context of the East Devon Local Plan 2013 – 2031 (the Local Plan).

6. Strategy 7 of the Local Plan provides that parts of the plan area outside the BUAB and site-specific allocations shown on the Proposals Map are considered to be in the countryside. This Policy seeks to restrict development outside of the BUAB unless it accords with a specific Local or Neighbourhood Plan policy which explicitly permits it and where there would be no harm caused to the amenity and environmental qualities of the distinctive landscape in which it is located.
7. The appeal site is located outside of the BUAB and, therefore, is considered to be located within the countryside in local planning policy terms. There is no evidence before me which confirms that the appeal site is located within an area for which a Neighbourhood Plan has been made. However, the Appellants have put it to me that the proposal accords with Policy D8 of the Local Plan which explicitly permits development proposals outside of the BUAB.
8. Policy D8 of the Local Plan concerns the re-use of rural buildings outside of settlements subject to a number of criteria, with specific requirements relating to residential proposals. Amongst other matters, to accord with the requirements of Policy D8 of the Local Plan, the proposed re-use must enhance its setting and development must be located close to a range of accessible services and facilities to meet the everyday needs of residents and must be in a location that will not substantively add to the need to travel by car. Furthermore, the requirements of this policy also include that the existing building is structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction and any alterations protect or enhance the character of the building and its setting.
9. In relation to criterion 1 of Policy D8 of the Local Plan and the location of the site with regards to access to services and facilities, the position would reflect that as given in the Recent Appeal where it was determined that that development was not in a location which would have suitable access to services and facilities.
10. However, the Appellants have put it to me that the Council, having indicated that proposed housing development² (the Nearby Proposed Housing) for which there are resolutions to grant planning permission on a site which would be further away from the services and facilities contained within Branscombe than the appeal site, demonstrates that the appeal scheme would be suitably located with regards to services and facilities.
11. In this respect, based on the evidence and information before me, it appears that the Nearby Proposed Housing would provide significant benefits in terms of affordable housing provision and was, in the most recent case, assessed against Strategy 35 of the Local Plan. Subject to certain criteria, Strategy 35 of the Local Plan provides exceptions for proposals outside of the BUAB and which include affordable housing provision. Amongst other things, criterion 2 of this policy confirms that such proposals must be located close to a range of community services and facilities in order to be permitted.

² Local Planning Authority References: 10/0921/MFUL and 15/1291/MOUT

12. Whilst I acknowledge that the Nearby Proposed Housing intends to provide affordable housing and that the balance of considerations are somewhat different than those in respect of the appeal scheme, by reason of the specific wording used in Strategy 35 of the Local Plan, it is clear that the Nearby Proposed Housing must have been considered to be “close to a range of community services and facilities” in the context of the Local Plan, in order for the resolution to grant planning permission to be given by the Council.
13. Given that the appeal site is located at an equivalent distance to such community services and facilities, and despite my conclusions in relation to the Recent Appeal, I give significant weight to the Council’s findings with regards to the location of the Nearby Proposed Housing in respect of whether the appeal site is located close to a range of services, and therefore conclude that, within the context of the East Devon Local Plan, the appeal site is suitably located with regards to these requirements. These circumstances are specific to the location of this appeal site and therefore would not set a precedent for additional housing.
14. Consequently, given that the appeal scheme would be in a location that will not substantively add to the need to travel by car, the appeal scheme would accord with criterion 1 of Policy D8. Furthermore, and for the same reasons, the appeal proposal would comply with the aims and objectives of Policy T2 and Strategy 5B of the Local Plan and would accord with paragraphs 102 and 103 of the National Planning Policy Framework (the Framework) which, amongst other things, recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
15. However, in order to accord with Policy D8 of the Local Plan, and thereby provide an exception to development outside the BUAB, criterion 2 of this policy requires that the existing building would not require “substantial extension, alteration or reconstruction”. In this regard, the proposal seeks to replace an existing single storey garage with a much more substantial dwelling. Consequently, the appeal scheme would conflict with criterion 2 of this policy and would, therefore, conflict with Policy D8 of the Local Plan when taken as a whole. Given that this policy would not therefore provide for an exception to residential development outside of the BUAB, and in the absence of any other policies which would provide an exception, the appeal scheme would conflict with Strategy 7 of the Local Plan.
16. Whilst I note the references to paragraph 79 of the Framework, given the appeal site’s location adjacent to a number of dwellings and the Fountain Head public house, the proposal would not be located far away from other places, people or buildings and, therefore, would not be considered to be isolated in terms of the Framework. Accordingly, the provisions of paragraph 79 of the Framework do not apply in this instance.

AONB and Heritage Assets

17. The appeal site is located within the AONB and in close proximity to a group of listed buildings which form the historic core of this part of Street. The significance of these listed buildings is mainly derived from their age, traditional appearance including thatched roofs, architectural features and their value as a functional and visual group of buildings within the wider landscape.

18. The existing building at the appeal site is of a very modest scale and height, appearing as an ancillary building that once served the nearby cottages. Given its physical dimensions, the building represents an insignificant element within this sensitive area. The appeal scheme would be significantly larger in terms of scale and height than the existing building and would be predominately finished in a mixture of render, stonework, thatch and slate, reflecting the materials used in the construction of the nearby historic buildings.
19. Under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have a duty to have special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest. Policy EN9 of the Local Plan seeks to protect designated heritage assets in line with the provisions of the Framework.
20. I acknowledge that, in respect of the frontage of the proposed dwelling, the materials, height and scale of the proposal would reflect and respect the historic character and appearance of this part of Street and would not undermine, or be detrimental to, the significance of the nearby listed buildings.
21. However, in my view the height and design of the proposed protruding element at the rear of the appeal scheme would not respect the form and appearance of the nearby listed buildings, with the incorporation of a high degree of glazing at an elevated level being detrimental to the contribution made by the nearby historic buildings to the surrounding area. The proposed design to include a high degree of glazing to the rear would increase the prominence of the proposed building within the context of the nearby buildings and, in combination with its height, would thereby draw the eye away from the historic and attractive qualities of those listed buildings which are located adjacent to the appeal site. Consequently, the design of the appeal proposal, when considered as a whole, would detract from and diminish the significance of these listed buildings.
22. In terms of paragraph 193 of the Framework, the harm to the listed buildings would be less than substantial', affecting only its immediate surroundings. As such the Framework sets out the need to address 'less than substantial harm' in a balanced manner against benefits associated with such schemes. In this respect, the benefit of utilising developed land for the provision of an additional unit towards housing land supply, the benefits associated with future spend of occupants within local businesses and employment opportunities during the construction phase, would not, in my view, outweigh the harm to the significance of the listed buildings.
23. Strategy 46 of the Local Plan concerns landscape conservation and enhancement and the AONB and, amongst other matters, sets out that development will only be permitted where it conserves and enhances the landscape character of the area and where it would not undermine landscape quality. Paragraph 172 of the Framework makes clear that AONBs have the highest status of protection in relation to landscape and scenic beauty, and that great weight should be given to conserving these qualities.
24. With regards to the impact of the proposal on the AONB, by reason of the height of the rear protruding element of the proposed dwelling and due to the significant level of glazing within its design which would increase its prominence, the semi-rural character at this edge of village location would be somewhat eroded, not only visually but also in terms of effects such as light

spill at night from the large areas of glazing proposed on the rear elevation of the appeal scheme. By reason of the sloping nature of the surrounding land, the site would be highly visible from within the wider area and would, for the above reasons, result in harm to the landscape and scenic qualities of the AONB.

25. In summary of the above in relation to this main issue, I conclude that the proposal would be harmful to the significance of the nearby listed buildings. The proposal would therefore conflict with Policy EN9 and Strategy 7 of the Local Plan. Furthermore, the scheme would not accord with the requirements of Policy D8 of the Local Plan with regards to the re-use of buildings enhancing the setting and would conflict with Section 16 of the Framework which concerns conserving and enhancing the historic environment.
26. In addition to the above and for the reasons identified, the proposal would be harmful to the landscape and scenic beauty of the AONB. The appeal scheme would therefore conflict with Strategy 46 of the Local Plan.

Other Matters

27. I acknowledge that the Appellants have longstanding connections to the local community. However, having regard to the legitimate and well established planning policy aims to protect the countryside and the historic environment, a refusal of permission would be proportionate and necessary. In my experience granting planning permission on grounds of personal circumstances will rarely be justified in the case of permission for the erection of a permanent building. It is likely that, if the appeal were allowed, the development would be significantly longer lasting than the personal circumstances used to justify it.
28. In the determination of this appeal, I have also considered the details submitted by interested parties. In this instance, however, I have found the proposed scheme is in conflict with the development plan and the Framework when taken as a whole, and there is no further information put forward by interested parties which outweighs the harm that would be caused by the development.

Conclusions

29. For the reasons given above, I conclude that the appeal scheme conflicts with the development plan and the National Planning Policy Framework when taken as a whole. There are no material considerations that would lead me to reach a determination other than in accordance with the development plan. As such, the appeal should be dismissed.

A Spencer-Peet

INSPECTOR