The Planning Inspectorate

Appeal Decision

Site visit made on 8 September 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2020

Appeal Ref: APP/W1145/W/20/3249831
High Bullen Garage, High Bullen, St. Giles, Torrington, Devon EX38 7JA

- 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 David Summers against the decision of Torridge District Council.
- The application Ref 1/0767/2019/FUL, dated 9 August 2019, was refused by notice dated 7 November 2019.
- The development proposed is extension to garage workshop and conversion of former workshop to form live and work unit with garage.

Decision

1. The appeal is allowed and planning permission is granted for extension to garage workshop and conversion of former workshop to form live and work unit with garage at High Bullen Garage, High Bullen, St. Giles, Torrington, Devon EX38 7JA in accordance with the terms of the application, Ref 1/0767/2019/FUL, dated 9 August 2019, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are whether the development is in an appropriate location in respect of local and national planning policies; and the effect of the proposal on the living conditions of future occupiers of the site.

Reasons

Location

3. Policy ST07 of the North Devon and Torridge Local Plan 2011-2031 (LP) sets out a spatial development strategy for northern Devon's rural area. It indicates that in the countryside, outside certain listed settlements that are either defined in the LP or have a prescribed service or community facility, development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a countryside location.

4. LP Policy DM27 sets out specific criteria relating to the re-use of rural buildings. These include that the proposal would not harm any intrinsic qualities and historic interest of the building and that development can be achieved without significant external alteration, extension or substantive rebuilding. The extent of new building work that would be required in this case is not clear. Moreover, the opening line of the Policy indicates that it gives support to 'redundant' and 'disused' rural buildings.

5. When the Council's officer visited the site in connection with the application, the part of the building proposed for conversion contained a significant amount of stored items. When I visited, the area was empty. Both visits, however, were a snapshot in time and are inconclusive as to overall activity within the building. I acknowledge the appellant's evidence that disused items were collected from the site shortly after the visit, but this does not demonstrate that all the items that the Council's officer saw were collected at that time, or that, at other times the area is not required by the business for similar storage activities. The evidence is, therefore, inconclusive as to whether the building is redundant.

6. Overall, I find the submitted evidence insufficient to demonstrate compliance with Policy DM27. As this sets guiding principles for rural building re-use, I find a consequential conflict with Policy ST07, as it is not otherwise a proposal that would be supported in this location.

7. Against this, Paragraphs 78 and 79 of the National Planning Policy Framework (the Framework) also relate to rural housing development. The site is surrounded by other development and, whilst the works would not preserve the historic garage appearance of the building, they would not harm the character and appearance of the countryside and cannot be considered isolated within the meaning of Paragraph 79. Therefore, the exceptions listed in Paragraph 79 do not fall to be considered.

8. Paragraph 78 indicates that planning policies should identify opportunities for villages to grow and thrive and that, where there are groups of smaller settlements, development in one village may support services in a village nearby. Thus, despite the lack of services in High Bullen itself, I find no conflict with this part of the Framework. I shall return to this balance of considerations later in my decision.

Living conditions

9. The proposed dwelling would be physically attached to the working garage business. There is no substantive evidence that transmission of noise could be avoided. However, the development is proposed as a live/work unit and the appellant proposes an occupancy condition such that the dwelling could only be occupied by the owner of the garage.

10. I understand that there is no demonstrable need for the garage business to have a dwelling attached and that occupancy conditions are usually used when such needs arise. However, there is no clear reason before me that occupancy conditions could not also be used for other purposes, such as protecting living conditions.

11. In this case, restricting occupation along the lines proposed by the appellant would give the occupier full control over any noisy activities and so prevent harm to living conditions. There would, therefore, be no conflict with LP Policy DM1, or those parts of the Framework, that seek to prevent harm to future occupiers from existing uses. In the absence of harm there is no demonstrable likelihood of restrictions being placed upon the existing business as a consequence of the development.

Other matters

12. The garage is served by two vehicular entrances. From my own observations, there would be adequate space to park and turn on the forecourt area for both uses, whether or not there was any formal subdivision. Therefore, there would be no harm to highway safety and no conflict with LP Policy DM05 which seeks to ensure that all development has safe and well-designed vehicular access, egress and parking.

13. The Council's officer report indicates that the proposal would cause no harm to the setting of nearby listed buildings. Given that the changes of appearance would be within the envelope of the existing building and not alter sight lines across the site frontage, I see no reason to disagree.

Planning balance

14. The Council has indicated that it cannot demonstrate a 5 year supply of deliverable housing land and that paragraph 11(d) of the Framework is engaged. This indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

15. I have found no conflict with the policies of the Framework. With appropriate occupancy conditions, any harm to would not outweigh the benefits associated with the provision of additional housing, well related to an existing group of dwellings. Therefore, the proposal benefits from the presumption in favour of sustainable development outlined at paragraph 11 of the Framework. As Government policy, this is a material consideration of substantial weight.

16. I am not satisfied that this proposal complies with the detailed criteria of LP Policy DM27. However, LP paragraph 13.144 explains that a fundamental principle underpinning the policy is protection of the rural character. As the site's context means there would be no harm in this regard there would be no conflict with those policy aims. Nevertheless, there is a consequential conflict with Policy ST07 and, therefore, with the development plan taken as a whole.

17. Given the shortfall in housing land supply, I attach only limited weight to the conflict with those aims of the development plan that seek to control the location of development. This extends to those aspects of Policy DM27 that seek to prevent significant rebuilding, helping to control newly built development in the countryside. Material considerations, therefore, indicate a decision otherwise than in accordance with the development plan.

Conditions

18. A plans condition is required in the interests of certainty. An occupancy condition is necessary to protect the living conditions of future occupiers, which I have based upon the example in an alternative permission provided to me by the appellant. However, I have removed reference to a widow or widower as that could allow the garage business to continue operating whilst causing harm to living conditions of residents unconnected with it. Given the history of previous uses, a condition is necessary to investigate and remediate any contamination.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed.

M Bale

INSPECTOR

Schedule

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: Existing Block Plan (Sheet 1 of 9) Issue 2; Proposed Block Plan (Sheet 1b of 9) Issue 2; Proposed Ground Floor Plan (Residential Portion) (Sheet 2 of 9) Issue 1; Existing Ground Floor Plan (Sheet 2b of 9) Issue 1; Proposed First Floor Plan (Residential Portion) (Sheet 3 of 9) Issue 1; Proposed Extension to Workshop (Sheet 4 of 9) Issue 1; Existing and Proposed Front Elevation (Sheet 5 of 9) Issue 1; Existing and Proposed Rear Elevation (Sheet 6 of 9) Issue 1; Existing and Proposed LH Side (East) Elevation (Sheet 7 of 9) Issue 1; Existing and Proposed RH Side Elevation (Sheet 8 of 9); Specification (Sheet 9 of 9); Site Identification Map.

3) For as long as a business is operational in the adjoining garage building, the occupation of the dwelling shall be limited to a person solely or mainly working in that adjoining garage building, a spouse or civil partner of that person, and to any resident dependants.

4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the Local Planning Authority.

   If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the Local Planning Authority.

   If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the Local Planning Authority within 7 days of the report being completed and approved in writing by the Local Planning Authority.