



Appeal Decision

Site Visit made on 4 January 2021

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 February 2021

Appeal Ref: APP/X1118/W/20/3259170

Storage building on the north side of Hudley Mill Hill, Charles, Nr Brayford, Devon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Damian Pope, Valandea Ltd against the decision of North Devon District Council.
 - The application Ref 71022, dated 15 January 2020, was refused by notice dated 11 March 2020.
 - The development proposed is demolition of existing storage building and the erection of no more than two new dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has referred to alleged unreasonable behaviour on the part of the Council that is said to have resulted in unnecessary expense in the appeal process, but no formal costs application has been made. While I am able to initiate an award of costs, I have not felt it appropriate to do so on this occasion.
3. The application is in outline with all matters reserved. The description of development set out on the application form indicates that the final number of dwellings could be agreed at reserved matters stage, so I have considered the appeal as a proposal for one or two dwellings.

Main Issues

4. The main issues are:
 - (i) Whether the site is in an appropriate location for the development, with regard to development plan policies;
 - (ii) the effect of the development on biodiversity; and
 - (iii) whether there are any other material considerations that might indicate a decision, otherwise than in accordance with the development plan.

Reasons

Location

5. The site is located in the countryside, beyond various Local Centres, Villages and Rural Settlements listed under Policy ST07 of the North Devon and

Torridge Local Plan 2011-2031 (LP). In such locations, the Policy sets out that 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. The proposal is not within these restrictions and is, therefore, contrary to Policy ST07.

6. Alongside this, LP Policies ST04 and DM04 seek to ensure that development responds to the characteristics and qualities of the site and surrounding area, including through the building design and finishes, its contribution to local distinctiveness, and integration into the landscape.
7. Final details of the proposal are not known, but there is no reason that dwellings based upon the local vernacular could not be secured. The proposal could also lead to the provision of native hedging typical of the area.
8. However, the area is distinctly rural and outside any obvious settlement. This landscape is generally free from residential development and its attendant paraphernalia, such as parked cars and garden furniture. There is an existing building at the site which is not typical of the vernacular, but despite its elevation above the road at the site's lower end, it sits on the roadside, served by unpaved accesses, with a functional, agricultural style and appearance. In the absence of evidence to the contrary, one or two dwellings would introduce paraphernalia and a domestic formality at odds with the characteristics of the adjacent lane, and wider rural area.
9. I, therefore, find that the proposal would not reinforce the key characteristics and special qualities of the area in which the development is proposed, contrary to LP Policies ST04 and DM04.

Biodiversity

10. An ecological appraisal has been provided for the site, setting out various biodiversity mitigation and enhancement opportunities. On this basis, I have no reason to conclude that planning conditions could not be used to prevent harm to existing habitats and species at the site and secure an overall enhancement in biodiversity, as required by LP Policies DM08 and ST14.

Other material considerations

11. Prior approval has been given for the change of use of the existing building to residential under permitted development rights. However, even if works to make the building suitable for residential use could be carried out without any further permission, the appellant has indicated in evidence that such a proposal would not be viable. Indeed, it is suggested that if permission is not granted for this appeal proposal, an industrial use would follow. I, therefore, attribute very little weight to this fallback position.
12. In any case, the permitted development is for the change of use of the building only. Accordingly, even if the accesses were formalised and some domestication of the curtilage occurred, the agricultural character and functional appearance of the roadside building would remain. While there would be comparable planning policy harm in terms of the siting of dwellings outside identified settlements, the permitted development would not result in the same harm to the character and appearance of the area. I, therefore, conclude that this fallback position does not indicate that permission should be granted.

13. As an alternative, the site could remain in B8 use. If I were to accept the appellant's position that the building could be significantly extended under permitted development rights, then a far bulkier and incongruous building could result that did not secure biodiversity mitigation or enhancement. However, the ecological appraisal found generally low potential for use of the building by protected species, so significant harm to biodiversity would not result.
14. However, even if such a development did more overall harm to the character and appearance of the area than that now proposed, it would not cause the harm that would result from the provision of residential development away from defined settlements. Given that there are limited views towards the site, the harm that would result from the provision of one or two dwellings in an inappropriate location would outweigh the harm to character and appearance that could occur as a consequence of permitted development. Therefore, this fallback position does not indicate that permission should be granted either.

Conclusion

15. While there would be no conflict with Policies DM08 and ST14 and some benefit to biodiversity could be secured, the proposal would not be appropriately located. Such results in a conflict with the development plan read as a whole. For the reasons given, material considerations do not indicate otherwise that permission should be granted.
16. Therefore, the appeal is dismissed.

M Bale

INSPECTOR