

Appeal Decision

Site visit made on 23 February 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2021

Appeal Ref: APP/U1105/W/20/3262604

Hookmills, Chardstock, Axminster EX13 7DD

- 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 S James against the decision of East Devon District Council.
 - The application Ref 20/0507/FUL, dated 4 March 2020, was refused by notice dated 30 June 2020.
 - The development proposed is change of use to existing bungalow and store building to residential and extension of residential curtilage.
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Decision

1. The appeal is allowed and planning permission is granted for change of use to existing bungalow and store building to residential and extension of residential curtilage at Hookmills, Chardstock, Axminster, EX13 7DD, in accordance with the terms of the application, Ref 20/0507/FUL, dated 4 March 2020, subject to the conditions in the attached schedule.

Main Issues

2. The effects of the proposal on the availability of employment opportunities and economic contribution of the site to the rural area.

Reasons

3. The site lies in a rural position to the north of Chardstock. Under the East Devon Local Plan (2016) (Local Plan), Chardstock does not have a 'Built-Up Area Boundary' (BUAB) and the site therefore falls within the countryside in policy terms.
4. Strategy 7 of the Local Plan relates to development in the countryside and generally seeks to restrict most forms of development. Under the Policy, development will only be permitted where it accords with a specific Local or Neighbourhood Plan policy, and provided that there would be no landscape, amenity or other environmental harms.
5. Policy D8 of the Local Plan relates to the conversion of rural buildings so is applicable to the appeal proposal. In my view, the proposal does not conflict with any of the applicable criteria and the Council's evidence outlines a similar stance in this regard.
6. Local Plan Strategy 32 seeks, amongst other things, to resist the loss or harm to business and employment opportunities unless the continued use would significantly harm the quality of the locality, whether through traffic or other associated problem; or, options for retention of the premises for its current or

similar use have been fully explored without success for at least 12 months and there is a clear demonstration of a surplus supply.

7. The evidence suggests that the site was previously used as an abattoir and 'knackers yard' but that all industrial processes involving animal remains ceased around the late 1990s and attempts to resume the activities were not successful. The Council's evidence corroborates some details about the uses and the approximate dates that they ceased. It also appears that in 2010, after a period of inactivity, a certificate of lawful use for the same under Section 191 of the Act was refused. Despite the refusal of the certificate, the Council allege that the site has a commercial 'sui generis' use, without evidence of such having been abandoned. It is therefore advanced that its sui generis commercial use is protected by Strategy 32.
8. The appellant purchased the site around four years ago. No evidence has been provided of any marketing efforts to fulfil the requirements of Strategy 32, though the appellant cites that he was one of only two prospective purchasers at the time of his acquisition. Whilst I have not seen the sales particulars, I consider that after almost a twenty year period of inactivity, the sale of the site was unlikely to result in the resumption of any former, supposedly lawful, uses of the site.
9. I accept that the aim of Strategy 32 is to protect employment and community uses where they contribute to the economic and social wellbeing of a place. However, the uses of phrases like 'continued use', 'current use' or 'allocated use' are not applicable to the appeal site. The absence of a confirmed lawful commercial use and lapse of time between any active use and the appellant's acquisition suggests that the site has not actively contributed economically to the community or more widely within a relevant time frame so as to warrant the full protection of the Policy.
10. Two further points are relevant in this regard. A high number of comments indicate that the road network is unsuited to the traffic that a commercial use would generate and I accept that there are some limitations in this regard. Secondly, I also note the recent submission of an application for the change of use of one of the other buildings owned by the appellant to a B8 use. This application¹ is as yet undetermined.
11. Whilst the approval of the proposal would reduce the amount of floorspace and range of buildings available for a commercial, given the existence of other buildings on site, the introduction of an alternative commercial use would still be possible. The scale, utilitarian form and nature of the remains of other buildings on site lends more to a commercial use but it is not for me to determine whether such a use would be compatible with the area. Similarly, whether such a proposal should holistically address the remainder of the site rather than one building in isolation is a matter for the Council.
12. In view of my findings above, the proposal does not raise direct conflict with Local Plan Strategy 32 or the policies of the Chardstock Neighbourhood Plan (2017).

¹ Application ref: 21/0334/FUL

Other Matters

13. I note concerns in connection with previous tree removals and biodiversity loss from the wider site in the appellant's ownership. As these matters do not arise specifically in relation to the appeal proposal, they are not for me to consider. Similarly, the refurbishment and use of the other buildings outside of the site, or any enforcement proceedings relating to their condition, are not matters as part of the current appeal.
14. I also note the concerns about the compatibility of a residential use adjacent to a commercial use and the means by which the two could share a single point of access. Though not strictly for my consideration, I do not consider that the residential use of the site would directly prejudice any commercial use of the adjoining land. As both parts of the site are in the same ownership, any future commercial use could be controlled by the appellant to avoid any harm to living conditions and there appears to be sufficient room to facilitate alterations to the point of access, if needed.
15. The concerns that the red and blue site areas extend beyond land owned by the appellant. The parties affected by this potential discrepancy do not appear to have been prejudiced by lack of direct notice of the appeal and the grant of planning permission does not entitle the appellant to rights to any land beyond his control.

Conditions

16. As the development has already commenced, there is no need to impose the statutory time limit condition. It is, however, necessary to stipulate the approved plans in the interests of certainty.
17. It is necessary to stipulate that the garage/workshop shall be used only for such purposes incidental to the host dwellinghouse.
18. In the interests of environmental protection and given the absence of specific details in relation thereto, it is also necessary to seek details of the means of foul drainage serving the property. As the development has already started, the form of this condition is specifically worded to provide time periods for submission of details and the triggers for action in the event of non-compliance therewith.

Conclusion

19. The proposal complies with the development plan, when read as a whole. For the above reasons and taking into account all other matters raised, the appeal is allowed.

Hollie Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following plans:
 - Floor plan, Ref SJCOUP1, dated 25 March 2020
 - Workshop/garage floor plan, Ref SJCOUP2, dated 25 March 2020
 - Floor plan and photographs, Ref SJCOUP3, dated 25 March 2020
 - Block/roof and location plan, Ref SJCOUP4, dated 25 March 2020.
- 2) The garage/workshop hereby permitted shall not be used at any time other than for purposes ancillary to the residential use of the host dwelling.
- 3) Unless within 2 months of the date of this decision a scheme for the foul drainage is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the building for residential purposes shall cease until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the building for residential purposes shall cease until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, it shall thereafter be permanently retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.