



Appeal Decision

Site visit made on 1 December 2021

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2021

Appeal Ref: APP/W1145/W/21/3269922

Henford Farm, Road From Mount Lane Cross To Ashwater Village Cross, Ashwater EX21 5DA

- 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 Tom Dyson against the decision of Torridge District Council.
 - The application Ref 1/0235/2020/FUL, dated 24 February 2020, was refused by notice dated 28 August 2020.
 - The development proposed is demolition of existing stables and erection of ancillary accommodation with associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposal was amended during the course of the application. I have therefore used the one given on the appeal form.

Main Issues

3. The main issues are:
 - a) Whether the site is suitable for the accommodation, bearing in mind development plan policies relating to the settlement hierarchy and residential annexes; and,
 - b) Whether suitable foul drainage could be provided to serve the development.

Reasons

Development plan policies

4. Henford Farm is a house that forms part of a loose cluster of residential and agricultural buildings that lie approximately 1½ kilometres to the south west of the village of Ashwater. The house fronts the road serving this enclave of buildings, but it has an extensive and irregularly shaped curtilage to the rear, which extends in a north easterly direction, and adjoins an area of agricultural land in the same ownership. The appeal relates to a two-storey structure of block/corrugated tin construction that lies within this curtilage, approximately 45 metres from the main dwelling. Access to the building is via a driveway that passes close to the side and rear of the house.

5. It is proposed to demolish this building and construct a replacement, which would be similar in form and location, but of reduced dimensions. Despite the decrease in size, the proposed building would still be of a significant scale, being partly two-storey and incorporating three en-suite bedrooms and a kitchen/sitting/dining room. It would contain all the facilities necessary for day-to-day living, so would be capable of supporting an independent residential use. It is contended that the layout of the site would preclude its future separation from the host dwelling. However, I saw no fundamental reason why that should be the case, as it would be physically and visually detached from the main house, with a discrete area of land around it, which could provide a private outdoor amenity area. Other than a shared driveway, the two buildings could be occupied entirely independently of each other. The proposal would, therefore, be tantamount to the erection of a new dwelling.
6. Although there is a cluster of buildings at Henford, it has none of the prescribed services listed at paragraph 4.15 of the North Devon and Torridge Local Plan 2011-2031 (the Local Plan). Consequently, it is not a Rural Settlement as defined by Policy ST07. Ashwater is classified as a Schedule B Village, but the site lies well outside the limits of this settlement. Consequently, for the purposes of Policy ST07, the site lies in the countryside, where 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 would not involve the re-use of the building, therefore a new dwelling in this location would be contrary to the spatial strategy for the rural area set out at Policy ST07, unless it met a local need, or special circumstances warranted a countryside location.
7. Notwithstanding that the building could be used as a separate residential dwelling, the proposed development is described as ancillary accommodation. Policy DM25 of the Local Plan addresses residential extensions and ancillary development. The Policy is generally supportive, subject to the design respecting its surroundings, adequate outdoor amenity space and car-parking being retained, and there being no significant harm to the living conditions of the occupants of neighbouring properties. These matters are not contested by the Council, and I see no reason to come to a different view.
8. The Policy also provides support for residential annexes, provided they are physically attached to the main house, and the scale of the development is commensurate with the needs of the intended occupants. In this case the annexe would not be attached to the house, it would be detached by about 45 metres. Furthermore, the footprint of the proposed building would be similar to, or greater than, that of the host dwelling. The appellant has set out the circumstances that give rise to the level of accommodation proposed, and I shall return to this later, but in normal circumstances an annexe of this scale, with self-contained accommodation, including three en-suite bedrooms could not be considered to be commensurate with the needs of the existing dwelling on the site.
9. I am mindful that there is limited scope to extend the existing house, particularly to provide the level of accommodation proposed. I have also taken into account that the proposed annexe would be smaller than the existing stable building that it replaces. However, neither of these considerations alters the requirements of the relevant Local Plan policies.

10. In summary, I conclude that the proposed building, by reason of its scale, self-contained accommodation, and detachment from the host dwelling, would lend itself to a separate residential use, which would be contrary to the spatial strategy of the Local Plan set out at Policy ST07. The proposal would also conflict with Policy DM25, which sets out the requirements for residential annexe accommodation.

Foul drainage

11. The site lies in a rural location, and the evidence indicates that the nearest mains foul water drains are approximately 1 kilometre away. A non-mains foul drainage solution would therefore be necessary. The submitted foul drainage assessment form (FDA) indicates that a package treatment plant, with soakaway drainage, would be used. The appellant owns a large area of agricultural land to the north east of the appeal site, and the location of the proposed closed loop soakaway is shown on the submitted plans.
12. The FDA indicates that the drainage field would be designed and constructed in accordance with the relevant British Standard, and that no part of the system would be on land subject to flooding, or on artificially raised ground. Furthermore, satisfactory responses are provided to all the questions in the FDA relating to the location of the plant and drainage fields in relation to watercourses, water supplies, buildings, and other soakaways. It is also confirmed that there will be vehicular access for emptying/maintenance within 30 metres. Consequently, whilst percolation tests have not been provided, there is no evidence to suggest that a suitable means of disposal could not be achieved within the extensive area of land available.
13. The appellant has indicated that a pre-commencement condition relating to foul drainage details would be acceptable. In view of the extent of the land within the appellant's control, and the range of technical solutions available for dealing with foul drainage, I have no reason to doubt that this matter could be adequately addressed in this way. Therefore, had I been minded to allow the appeal, it would have been reasonable to impose an appropriately worded planning condition, to ensure that a suitable system of foul drainage was in place, prior to occupation of the accommodation. This would have ensured that the development met the requirements of Policy DM02 of the Local Plan regarding environmental protection.

Other Considerations

14. The proposal would be contrary to Policies ST07 and DM25 of the Local Plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal should be determined in accordance with the development plan unless material considerations indicate otherwise.
15. The appellant offers a foster service for young people aged 10-21, and contends that the rural location at Henford provides a suitable environment for nurturing them towards a positive future. He fostered for 10 years at Henford and built strong relationships with the children in his care. Evidence has been provided to show that once children reach the age of 18, and fall outside the statutory care system, the move to independent living can prove a difficult time. The lack of a safe base and guidance and support can be harmful to the health and well-being of these young people.

16. The accommodation was proposed as a solution to this problem, allowing young adults to return to Henford Farm for care and support as they gain independence. The detached accommodation would allow a degree of independent living, whilst support would be provided in the main dwelling, such as shared meals and laundry. The separation of the accommodation for older occupants would also allow the appellants to continue to foster younger children in the main house. The accommodation would be managed by the appellant who is registered with Devon County Council as a foster care provider.
17. Devon County Council's Fostering Service has confirmed that the demand for foster placements exceeds the number of beds that their carers have available. This results in young people often having to be placed with independent sector provisions, and outside of Devon where the young people are not close to, or able to access, their family and support networks. The Service also identifies that there is an increasing need for young people aged 16-21 to remain with their carers due to their complex needs and inability to live independently. Lack of provision for 18-21 year olds can result in homelessness for young people who have been in the care system. The Service provides evidence that other carers have accommodation outside the main house for 18-21 year olds, which have resulted in successful outcomes for young people who have been supported to access work, further training, and moving on to living independently.
18. The scale of the proposed building, its self-contained nature, and detachment from the main house are, therefore, a consequence of the particular circumstances for which the accommodation was sought. The benefits that the proposal would provide to the wellbeing of the young people within the appellant's care are a significant material consideration to set against the conflict with development plan policies, particularly the requirement for an annexe to be attached to the main house.
19. However, the realisation of these benefits would be reliant on the continued involvement of the appellant in the implementation of the proposal and its ongoing operation. The evidence indicates that the appellant no longer owns or lives at Henford Farm. Furthermore, there is no evidence to indicate that the current owners/occupants have the same personal experience, qualifications, and commitment as the appellant to provide foster care for young people. Therefore, there is considerable doubt that, if I were to allow the appeal, the resultant building would be put to the purposes for which permission was originally sought. Consequently, I can only ascribe limited weight to the benefits of the proposal.

Planning Balance

20. The Council cannot currently demonstrate a five-year supply of deliverable housing sites. However, this only results in the application of Paragraph 11 d) of the Framework in proposals involving the provision of housing. In this case, the proposal is for ancillary accommodation (albeit that I have found it would lend itself to a separate residential use). The tilted balance does not therefore apply.
21. The Local Plan dates from 2018, but Paragraph 219 of the Framework makes it clear that existing policies should not be considered out of date simply because they were adopted prior to the publication of the Framework. Due weight

should be given to them according to their degree of consistency with the Framework. Policies ST07 and DM25 of the Local Plan are consistent with the aims of paragraph 79 of the Framework to ensure that housing is located where it will enhance or maintain the vitality of rural communities. The conflict with these policies should, therefore, carry substantial weight in the determination of this appeal.

22. Paragraph 12 of the Framework makes it clear that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted. I have found that the proposal would conflict with Policies ST07 and DM25 of the Local Plan. As I can only afford limited weight to the benefits of the proposal, they do not outweigh this conflict.

Conclusion

23. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR