
Appeal Decision

Site visit made on 27 September 2021

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2022

Appeal Ref: APP/F9498/W/21/3276840

Thorne Farm, Thorne Lane, Cutcombe, Wheddon Cross, Somerset TA24 7EZ

- 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 and Mrs Sanders (MA & SS Sanders) against the decision of Exmoor National Park Authority.
 - The application Ref 6/8/20/115, dated 18 November 2020, was refused by notice dated 14 January 2021.
 - The development proposed is the conversion of traditional buildings to two principal residence dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are (1) the effect of the development on the delivery of housing need within Exmoor given its location within the countryside and type of housing proposed, and (2) whether the proposal includes a suitable foul drainage system.

Reasons

Housing Matters

3. The proposal would form two dwellings as part of the conversion of a 19th Century traditional stone agricultural building. The site is part of a farm and is in the open countryside. Policy HC-D7 considers proposals for conversions to dwellings in the open countryside and so is particularly relevant to this appeal. However, the proposal does not meet with the restrictive criteria for the types of dwellings that would be permissible under this policy. The dwellings would be 'principal residence dwellings', which could not be used as 'second homes', but they would not be a form of local need affordable housing, extended family dwellings, or rural worker dwellings/succession farm dwellings. Therefore, the proposal does not comply with Policy HC-D7 of the Exmoor Local Plan.
4. Policy HC-S4 of the Local Plan relates to principal residence housing, but the policy states this should only be permitted through the change of use of non-residential buildings to housing in settlements, and/or where it is required to enable the delivery of affordable housing to meet local needs. The site is not within a settlement and it does not form an enabling development for affordable housing. As such, the proposal does not comply with this policy.
5. The thrust of the Exmoor housing policies is clear that its focus is to provide for affordable housing with local occupancy ties, with some exceptions such as

- principal residence housing subject to criteria (policy HC-S1). The proposal does not meet with these criteria.
6. It could be that the proposed dwellings would provide housing for local people if developed. However, there would be no restriction on whether they would be occupied by local people as there would be no local occupancy ties. The dwellings would be relatively modest in size, but there is no substantive evidence to demonstrate that they would be 'relatively affordable' for local people, even if there was some condition or legal agreement tying them to the ownership of the farm and for them to be rented accommodation, for example.
 7. Policy GP1 of the Local Plan sets out the aim for sustainable development within Exmoor National Park. This includes a requirement to provide for housing to address local affordable needs and help create a balanced community. It is my view that the two principal residence housing units would not address local affordable housing needs, as they would not necessarily accommodate local people or be affordable. As such, in this regard, the development would not contribute towards sustainable development in Exmoor.
 8. The proposals would therefore be contrary to policies GP1, HC-S1, HC-S2, HC-S3, HC-S4 and HC-D7 of the Exmoor National Park Local Plan 2011 – 2031. These policies set out the housing strategy and primary purposes of housing development within Exmoor through the Local Plan period, amongst other things.
 9. The emphasis on providing affordable local needs housing also reflects the National Planning Policy Framework (the Framework) which states that in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs (Paragraph 78). The Local Plan makes clear that the need is for affordable housing with local occupancy ties. As principal residence housing they would not be fully unrestricted, but they would not meet with the housing needs of Exmoor where the demand is primarily for local affordable need housing.
 10. Furthermore, although each case should be assessed on its own merits, there are likely to be many other similar examples of old traditional agricultural buildings of some heritage value across Exmoor which could use a similar case to depart from housing policy. This could cumulatively undermine the strategic objective of the Local Plan to address local housing needs, which is also an important aim of the Framework.

Drainage

11. The proposal was to incorporate the use of a septic tank for foul drainage, with there being no possible sewer connection. However, policy CC-D5 (which considers sewerage disposal) has a set criteria (1c) which requires that proposals for non-mains sewerage should first consider a combined sewage treatment system. Only if this is not feasible should there be a consideration of septic tanks.
12. The appellant has set out some reasons why a septic tank would be beneficial, such as for maintenance purposes and to avoid nitrates/phosphates entering the watercourse nearby. However, the use of a sewer treatment plan is sequentially preferable and I am not convinced from the evidence that a treatment plant cannot be used without pollution risks.

13. Policy CC-D5 is part of an adopted Local Plan and foul drainage is a material consideration. There is no substantive reason before me why the sequentially preferable sewer treatment system could not be used. However, the appellant has stated that they are willing to reconsider this and suggested a condition to resolve the issue. A condition could be drafted to ensure that the development was effectively in accordance with policy CC-D5 with regards to drainage and so this issue is not a reason for dismissal of the appeal.

Other Considerations

14. There is no dispute between the parties that the existing buildings are locally listed on the Historic Environment Register (HER). This conveys that these buildings have a degree of heritage value, even if not to the extent of a listed building for example. Indeed, I understand that the former agricultural buildings are from the 19th Century and from my observations appear to be traditional farm buildings that are characteristic of their time and location. I would therefore agree that the buildings subject to this appeal are non-designated heritage assets.
15. Paragraph 203 of the Framework sets out that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. Also, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Furthermore, Paragraph 197 of the Framework requires that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be taken into account.
16. The appellant has also included in their statement the relevance of Paragraph 80(b), which relates to isolated homes in the countryside, which should be avoided unless the development would represent the optimal viable use of a heritage asset or would be appropriate as enabling development to secure the future of heritage assets. There is no enabling development as part of this proposal, but it would bring the currently unused buildings back to a viable use.
17. Furthermore, the development generally accords with heritage policies such as CE-S4 and CE-D3, which seek to conserve and enhance the historic environment, such as these former agricultural buildings which are a non-designated heritage asset. These policies also encourage the re-use of redundant heritage buildings to bring them back to viable use.
18. Whilst not a listed building, these buildings have clearly been vacant for some time and their preservation could be of benefit to the historic environment of this area of Exmoor.
19. The appellant also states that the buildings are not now agricultural and that their last use was equestrian. There is no planning permission for this that I have seen, but some evidence to this effect has been submitted. If this were the case, then the site would be considered as previously developed land. The efficient use and development of previously developed land is supported generally in the Framework and also with Local Plan policy GP4, which allows for the re-use of existing buildings within farmsteads. Furthermore, within Framework Paragraph 80 under Criterion (C) the policy allows for the re-use of redundant or disused buildings which also enhance their immediate setting.

The development would re-use a currently disused building in this isolated location.

20. These are the primary considerations (among others) that weigh in favour for the development. These matters will now be considered with a planning balance.

Planning Balance

21. As set out in the 'housing' section above, the proposal is not in accordance with the housing policies of the adopted Local Plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that if a proposal is contrary to the development plan it should be dismissed unless material considerations indicate otherwise. I have set out the main other material considerations above.
22. Whilst the proposal would provide two additional dwellings to the local housing stock, the appellant has acknowledged a conflict with housing policies. However, the appellant has set out that the development would not be viable if the proposed dwellings were a form of affordable housing and so it would be likely that they would be undeliverable. Furthermore, the development would result in the restoration of much of these former agricultural buildings, which is stated to be a non-designated heritage asset and so would benefit from a viable use, thereby helping to preserve the cultural landscape of the Exmoor National Park.
23. However, these are buildings which did not appear on site as in particularly poor condition. Indeed, the submitted Structural Survey suggests a structurally sound building. Furthermore, although viability information has demonstrated that the buildings could not be reasonably converted to affordable housing there is no substantive evidence to demonstrate that there could not be any other form of policy compliant use that could be undertaken from these buildings to aid their long term maintenance. Nonetheless, it is possible that they would deteriorate over time and could remain largely vacant if this appeal was not allowed.
24. There is also the provision of two additional dwellings which would not be for 'second homes', which could have social and economic benefits for the local community. They would be relatively small dwellings to add to the housing mix. These proposed dwellings, if they were to be kept as rental properties, would help support the farm business.
25. The efficient and viable use of these buildings, particularly as they are non-designated heritage assets and stated to be previously developed land, therefore weighs in favour of the development to some degree.
26. I acknowledge that the proposal is not, in my opinion, contrary to Paragraph 80 of the Framework as the proposals generally accord with some of the circumstances where it states that such development in the countryside may be permissible. However, not being in conflict with this policy does not in itself weigh significantly in favour of the proposed development.
27. The appellant has drawn my attention to other cases, including appeal decisions, where similar considerations have been part of a decision. However, all these other cases have clear differences from the appeal case before me

and also most are not subject to Exmoor National Parks Development Plan policies. As such, I give these other example cases minimal weight.

28. Overall, there is a balance where the proposal conflicts with the housing policies of the Development Plan, though is also supported by other policies, particularly related to the use of previously developed land and viable uses of heritage assets. It is my conclusion when weighing up all considerations that this conflict with the housing policies of the Local Plan and the harm to the housing strategy results in substantial weight against the proposals, as the proposed dwellings would not satisfactorily meet or reflect the identified housing needs of present and future generations. I consider that the benefits such as providing a viable use for the former agricultural/equestrian buildings, even as a non-designated heritage asset, do not outweigh this harm identified. The proposed restriction for the dwellings to be used as principal residence dwellings is not sufficient to overcome this conflict with the housing policies or to meet housing needs satisfactorily, with the principal community identified need being for affordable housing with local occupancy ties.
29. As such, there is conflict with the housing policies of the Development Plan, with the other material considerations not of sufficient weight to indicate a decision other than in accordance with the Development Plan.

Conclusion

30. For the reasons given above I conclude that the appeal should be dismissed.

Mr S Rennie

INSPECTOR