



Appeal Decision

Site visit made on 1 February 2022

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2022

Appeal Ref: APP/W1145/W/21/3282364

Barn at Higher Horslett, Clawton, EX22 6PZ

- 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 Terra Amet Ltd against the decision of Torridge District Council.
 - The application Ref 1/0307/2021/FUL, dated 16 March 2021, was refused by notice dated 11 May 2021.
 - The development proposed is the change of use of barn to a dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of barn to a dwelling at Barn at Higher Horslett, Clawton EX22 6PZ in accordance with the terms of the application, Ref 1/0307/2021/FUL, dated 16 March 2021, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is whether the building is suitable for reuse as a dwelling.

Reasons

3. Policy DM27 of the North Devon and Torridge Local Plan 2018 (LP) gives support to the conversion of redundant and disused buildings, subject to 5 criteria, including that development can be achieved without significant external alteration, extension or substantive rebuilding.
4. The appeal building is open on one side and no longer has a roof. Permission has previously been granted for the building to be converted to a garage as part of a scheme to convert a larger adjoining barn. The associated works would have involved the complete replacement of the roof of the appeal building which had, at the time, partially collapsed.
5. The officer report to this earlier application suggests that its retention as part of the existing group was deemed preferable to replacement with a new-build garage type structure. That is not indication that it would have complied with the (then) relevant development plan policy for building conversion to a dwelling.
6. In addition to the roof works, this proposal requires the construction of a new wall in the open side. This would be a significant external alteration. Taken together, I find that the wall and roof works mean that the conversion cannot be done without significant external alteration and substantive rebuilding. The proposal would, therefore, conflict with LP policy DM27 and the development plan, read as a whole.

7. The Council indicates, however, that it cannot currently demonstrate a 5 year supply of deliverable housing land. Paragraph 11(d) of the National Planning Policy Framework (the Framework), therefore, falls to be considered. 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 of the Framework taken as a whole.
8. Framework Paragraph 80 also supports the re-use of redundant or disused buildings that enhance their immediate setting. There are no further criteria about the extent of works and there is no indication that the development of the, somewhat unkempt, building would not enhance its setting. Indeed, the Council acknowledge that the retention of the building would benefit the group as a whole. As permission has already been granted for the repair of the building and its reuse for domestic purposes, albeit as a garage, there would be no material difference in the overall extent of residential development across the site.
9. The dwelling would be smaller than the Nationally Described Space Standard (NDSS) for a 2 person dwelling. The Framework indicates that planning policies should make use of the NDSS where the need for an internal space standard can be justified. There is no substantive justification for use of the NDSS in this case, so no demonstrable harm would arise from this in respect of the Framework's policies. Nor would there be any conflict with the aims of LP Policy DM01 that requires development to provide appropriate living conditions.
10. There are benefits associated with the supply of housing. While only one dwelling, the weight to be attributed to these benefits is amplified by the present lack of supply. Taken as a whole, the policies of the Framework do not indicate adverse impacts that would significantly and demonstrably outweigh these benefits. Therefore, the proposal receives the presumption in favour of sustainable development, set out at Framework paragraph 11.
11. There is conflict with the development plan in respect of this main issue. However, that conflict is based upon a judgement over the extent of new building required to re-use the building as a dwelling, using criteria not evident in the Framework. The building can be retained and repaired, albeit as a garage, under the extant permission for the site and no other harm has been demonstrated. Accordingly, I attribute only moderate weight to the policy conflict.
12. As Government Policy, I give substantial weight to the presumption in favour of sustainable development, set out in the Framework. In this case, I find that it indicates that a decision should be taken, otherwise than in accordance with the development plan.

Conditions

13. A plans condition is required in the interests of certainty. To protect the character and appearance of the area, a condition is needed to confirm details of facing materials, and permitted development rights for extensions and alterations should be withdrawn. Construction hours should be controlled to protect the living conditions of nearby residents.
14. A condition is required to investigate and, if needed, remediate any contaminated land at the site. The building has previously been identified as

being of historic interest and the previous permission required building recording to be carried out. There is no evidence that the situation has changed in any way, so I find such a condition is still necessary.

15. While not listed in the Council's suggested conditions, the officer report is clear that a condition is required to secure the recommendations of the appellant's ecological report. I have, therefore, imposed this condition too.
16. I have made some revisions to the Council's suggested conditions in the interests of clarity and to ensure compliance with Planning Practice Guidance. I have removed generic lists, references to specific pieces of legislation and guidance such that the parties can agree appropriate standards for this particular development, based upon the best available evidence at the time of any approval.

Conclusion

17. For the reasons given, 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: Location Plan (PW1a); Block Plan (PW2); 2019.83.P12 C.
- 3) No development to which this permission relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
- 4) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions a) to d) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination until condition d) has been complied with in relation to that contamination.

a) Site Characterisation

An investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site, that shall first have been submitted to and approved in writing by the Local Planning Authority. The subsequent findings shall then be submitted to and approved in writing by the Local Planning Authority. The report of the findings must include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks; and (iii) an appraisal of remedial options, with a proposal of the preferred option(s).

b) Submission of Remediation Scheme

If required as a consequence of a), a detailed remediation scheme to bring the site to a condition suitable for the intended shall be prepared, submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land in relation to the intended use of the land after remediation.

c) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be produced and approved in writing by the Local Planning Authority.

d) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the development that was not previously identified it shall be reported in writing immediately to the Local Planning Authority. Investigation, risk assessment, and remediation must be undertaken in accordance with the requirements of conditions a), b) and c).

e) Long Term Monitoring and Maintenance

Where an approved remediation scheme includes a requirement for a monitoring and maintenance scheme to ensure the long-term effectiveness of the proposed remediation over time, a report setting out monitoring and maintenance requirements shall be submitted to and approved in writing by the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out shall be produced, submitted to, and approved in writing by the Local Planning Authority.

- 5) Notwithstanding the details shown in the application, prior to their installation, details (and/or representative samples) of the facing and roofing materials to be used in the construction of the proposed development shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be implemented before the development hereby permitted is brought into use and shall thereafter be retained as such.
- 6) Construction works shall not take place other than between 0730 and 1800 on Mondays to Fridays, between 0900 and 1700hrs on Saturdays, and at no time on Sundays and Bank Holidays.
- 7) The recommendations and mitigation set out in the Ecological Impact Assessment prepared by J L Ecology Ltd (July 2020) shall be carried out prior to the occupation of the dwelling and shall thereafter be maintained as such.
- 8) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no enlargement, improvement, or other alteration to the dwellinghouse, including any alteration to the roof or porch, and no additional buildings structures or other means of enclosure shall be constructed or erected, other than those hereby permitted.