



Appeal Decision

Site visit made on 6 September 2022

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2022

Appeal Ref: APP/U1105/W/22/3295698

The Old Reading Room, Axminster Road, Musbury EX13 8AZ

- 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 Nicholas Arrow against the decision of East Devon District Council.
 - The application Ref 21/1625/FUL, dated 9 June 2021, was refused by notice dated 1 December 2021.
 - The development proposed is the change of use from artist studio (sui generis) to hobby room ancillary to main dwelling (C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site is located within the influence of the River Axe Special Area of Conservation (the SAC), a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017. Although not an issue raised by the Council, it is incumbent upon me as the competent authority to consider whether the proposed development would be likely to have a significant effect on the integrity of the SAC. I refer to this under other matters.

Main Issues

3. The main issue of this appeal is the effect of the proposed development on the availability of employment sites and buildings in the area.

Reasons

4. Strategy 32 of the East Devon Local Plan 2013-2031 (2016) (the Local Plan) aims to resist the loss of employment sites and buildings to ensure local communities remain vibrant, viable and can meet the needs of residents. The evidence suggests that the building was last in use as an artist's studio at the end of August 2021. Whilst the business last occupying the building may be considered by the appellant as lost, Strategy 32 relates to sites and buildings, not specific businesses. Given the proposed change of use would result in a loss of an employment site or building, it would cause harm to business and employment opportunities in the area.
5. Where such harm is identified, the strategy seeks to protect these uses, except in four circumstances. Of these, the following exception is relevant to the proposed development: development would not be permitted unless "options for retention of the site or premises for its current or similar use have been

fully explored without success for at least 12 months (and up to 2 years depending on market conditions) and there is a clear demonstration of surplus supply of land or provision in the locality.”

6. No evidence has been provided demonstrating that opportunities for a similar use on the site have been fully explored for at least 12 months. The lack of Council data showing the demand for B1(as was) office uses in remote locations, is not a reason, in itself, for the appellant not providing substantive information regarding other sites in the area. Whilst I acknowledge the appellant’s desire to use the building, due to its convenient location to their home, for hobbies and not business use, this is not sufficient reason to allow development which fails to accord with Strategy 32.
7. Also, although the existing building comprises a modest amount of floorspace and has limited parking, based on my observations during my site visit, I see no reason why the accommodation would not be suitable for commercial or business use. Even if the previous occupier was not a job creating employer, there is no substantive evidence before me that demonstrates the building could not be occupied by another business, including one creating jobs. Additionally, whilst Musbury may have a range of businesses and services, limited evidence has been provided demonstrating that there is a surplus of other sites in the locality.
8. The Council has referred to strategies 3 and 4 of the Local Plan which set out the principles of sustainable development and balanced communities. As these strategies generally relate to encouraging economic development which secures jobs, and securing employment to reduce the need to travel, they are relevant in this appeal.
9. I conclude that the change of use would have an unacceptable harmful effect on the availability of employment sites and buildings in the area, contrary to Strategy 32 of the Local Plan. Additionally, I find conflict with strategies 3 and 4 of the Local Plan as the appeal proposal would not encourage economic development or employment provision.
10. I also find conflict in respect of the principles and guidance contained within Chapter 6 of the National Planning Policy Framework (the Framework) which requires significant weight to be placed on the need to support economic growth and productivity.

Other Matters

11. As the appeal site lies close to the boundary with the Musbury Conservation Area, paragraph 199 of the Framework requires me to consider “the impact of a proposed development on the significance of a designated heritage asset” and that “great weight should be given to the asset’s conservation.” Covering the core of the village, the main significance of the conservation area is that it is focused around the historic road pattern, with cottages and stone boundary walls built to the edge of narrow lanes. Given this case relates to a change of use, and no physical alterations to the building are proposed, I consider the appeal proposal would preserve the character and appearance of the conservation area.
12. As the appeal site is located within the East Devon Area of Outstanding Natural Beauty (AONB), I have had regard to Chapter 15 of the Framework. This

requires that great weight should be given to conserving and enhancing the natural beauty of the area, and that the AONB has the highest status of protection in relation to these issues. Again, given the lack of physical development changes, the appeal proposal would preserve the natural beauty of the AONB.

13. I have been referred to a previous planning permission¹ on the appeal site, approved with conditions in 2013. This included works to facilitate the change of use from office to dwelling. As this permission has now expired, and was granted under a different planning regime, it has little bearing on my considerations.
14. My attention has also been drawn to a planning permission for a change of use² from artist's studio/workshop to holiday accommodation in the district. This case relates to a site in an isolated location where the existing use had been restricted to an artist's studio/workshop only with no public access. These factors result in this case being materially different to the appeal proposal.
15. Reference has been made to another appeal³ within the district. As this case related to a site that had been vacant for several years it is not directly comparable.
16. Whilst the site is located within the Built-Up Area Boundary and there are public transport links to Seaton and Axminster, this is not determinative in this appeal.
17. Even if I were to consider that the development would not harm the living conditions of occupiers of neighbouring properties, this would be a neutral factor and would not weigh in favour of the development.
18. As I have found that the development is unacceptable for other reasons, it is not necessary for me further consider the implications on the SAC.
19. I note the support for the proposed development from Musbury Parish Council. However, this does not outweigh the harm I have identified above.

Conclusion

20. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. Therefore, I conclude that the appeal is dismissed.

Juliet Rogers

INSPECTOR

¹ Ref 12/1860/FUL

² Ref 21/2522/FUL

³ APP/U1105/W/18/3201622