



Appeal Decision

Site visit made on 4 October 2022

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2022

Appeal Ref: APP/E2530/W/21/3289898

Land on Morkery Lane, Castle Bytham, Grantham, Lincolnshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
 - The appeal is made by Mr Anthony Eudall of me&em Graphic Design Ltd against the decision of South Kesteven District Council.
 - The application Ref S21/2216, dated 5 November 2021, was refused by notice dated 17 December 2021.
 - The development proposed is described as “development and change of use of a building sited on Morkery Lane, Castle Bytham to a live/work unit”.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the address of the appeal site from the appeal form, as this more accurately describes its location. The application form simply refers to a grid reference and a general location of the building.
3. I have taken the description of development from the Council’s decision notice as, at the time of my site visit and from the submitted information, it was not clear that the change of use of the building to a flexible commercial use had been implemented and therefore the Council’s description more accurately describes the appeal proposal. I have determined the appeal on this basis.

Main Issue

4. The main issue is whether the appeal site is an appropriate location with regard to local and national policy and accessibility to services and facilities.

Reasons

5. The appeal site is located on Morkery Lane, a rural road comprising sporadic dwellings and agricultural buildings interspersed with agricultural fields. The appeal site is not located within a defined settlement in the South Kesteven District Council Local Plan 2011-2036, adopted 2020 (LP) and is therefore located in the countryside.
6. Policy SP2 of the LP sets out the locational strategy for new development and seeks to ensure that the majority of new development is within the towns, larger villages and smaller villages of the district. Outside of these defined settlements, development is restricted to those exceptions listed within Policy SP5 of the LP.

7. One exception detailed within Policy SP5 of the LP is (d) the conversion of buildings providing the existing building contributes to the character or appearance of the local area by virtue of their historic, traditional or vernacular form, are structural sound and suitable for conversion without substantial alteration, extension or rebuilding. This is generally consistent with paragraph 80 of the National Planning Policy Framework (NPPF). I therefore consider that Policy SP5 of the LP fully accords with the NPPF in this respect.
8. The existing building comprises a detached former barn that is in a dilapidated condition, with one lean-to section having collapsed. It is constructed of horizontal timber boarding with a corrugated metal roof. It would require substantial alterations and rebuilding to implement the proposed change of use. On this basis, the proposed development would not comply with any of the exceptions listed with Policy SP5 of the LP.
9. The nearest village to the appeal site is Castle Bytham. LP Policy SP2 defines Castle Bytham as a smaller village, which is at the bottom of the Council's hierarchy of achieving a sustainable pattern of development. The smaller village is located a considerable distance from the appeal site, the route has no pavement or street lighting for a significant distance, and there is a speed limit of 60mph. The footpath to the north of the appeal site appears to traverse across fields. No bus stops are in close proximity of the appeal site. Some information has been provided regarding the CallConnect bus service however, I note that this is limited to specific times, with no service operated on a Sunday or in the evening after 7pm weekdays, or in the evening after 6:30pm on Saturdays. The general condition of local infrastructure, together with the distance, is such that travel to this village by means such as walking and cycling would be highly unlikely, particularly for occupants with young children or mobility issues, especially after dark or during inclement weather.
10. I have no information that the occupation of the live/work unit would reduce the vehicle movements of the appellant and their family, as I have limited information regarding where they currently live and work. Besides, it would not be a personal permission and could be occupied by anyone. Furthermore, Castle Bytham has a limited range of shops, services and facilities. Consequently, occupants would be more dependent on the private car to access shops, education and services to support their day-to-day living. Therefore, the provision of a live/work unit on the appeal site would serve to promote unsustainable patterns of development.
11. In reaching the decision above, I accept that the provision of a live/work unit would provide some support for the vitality of the rural community, however, this would be limited due to the location of the site outside a defined settlement; the access constraints of the site; and the scale of the proposed development for one unit.
12. The proposed development would not comply with Policies SP2 and SP5 of the LP as the proposed development would not be sited within an appropriate location, with access to services and facilities. These LP policies seek to distribute development in a hierarchical manner in the interests of encouraging sustainable patterns of development and to strictly control development outside of defined settlements to protect the countryside.

Other Matters

13. Prior approval has been granted by the Council for the change of use of the building to a flexible business use under Schedule 2, Part 3, Class R¹ of the General Permitted Development Order, 2015² (GPDO) with a subsequent planning approval for operational development³. The fallback scheme would have the same external appearance as the proposed development, but the internal space would be sub-divided differently. The fallback scheme would be occupied as an employment use with a reception/waiting area, individual offices, a kitchen and a toilet, where-as the proposed development would have an office occupying 16% of the floorspace, with the remainder as a three-bed dwelling.
14. The proposed development would be akin to a dwelling with a room used as an office and is therefore not directly comparable to the fallback scheme. Furthermore, the appellant states that the proposed development is an evolution of the extant scheme, and the "work" element is significantly smaller in footprint than the fallback option. This raises uncertainties around the possibility of the extant scheme being implemented. Notwithstanding this, a residential use would have different requirements/journeys to a sole employment use and on the evidence before me, it has not been demonstrated that the fallback would give rise to a greater number of journeys.
15. After a site has changed use under Schedule 2, Part 3, Class R of the GPDO, the new use is to be treated as having a new sui generis use⁴. Therefore, should the prior approval scheme be implemented, there is no provision under the Use Classes Order⁵ for the development to change from Class E to Class C3 as permitted development. This therefore does not comprise a fallback option.
16. I have been directed to various publications⁶ by the appellant to demonstrate the importance of the rural economy and to support their appeal, however, I note that these publications are of some age. The "work" element of the proposed development would be used by the appellant and his wife to relocate their existing business which falls within the creative industry. However, limited information has been provided as to matters, such as, the nature of the business, its current location, number of employees, why the existing premises are unsuitable, or why a location outside the defined towns and villages is necessary. Furthermore, the scale of the proposed development would only provide a small contribution to the rural economy. I therefore attach limited weight to these matters.
17. No evidence has been provided to substantiate that the majority of the equipment used for the business would be high value, lightweight and highly desirable to criminals, and it has not been shown that alternatives to living on site could achieve the same means. I therefore attach limited weight to these matters. Furthermore, this raises uncertainties around the possibility of the extant scheme being implemented.

¹ Planning reference S21/1703

² The Town and Country Planning (General Permitted Development) (England) Order 2015

³ Planning reference S21/1768

⁴ Conditions R.2 (b) of Schedule 2, Part 3, Class R of The Town and Country Planning (General Permitted Development) (England) Order 2015.

⁵ The Town and Country Planning (Use Classes) (Amendment) (England) (Order) 2020

⁶ Living Working Countryside: The Taylor Review of Rural Economy and Affordable Housing (2008), Creative Industries in the Rural East Midlands: Case Study Report (2008), Rural Live/Work: Developments that Support Home-Based Business (2005)

18. The proposed development would comprise a self-build project and the appellant has highlighted the Council's responsibility under the Self Build and Custom Housebuilding Act 2015 (the Act) to provide enough suitable permissions to meet identified demand for South Kesteven. The evidence before me appears to suggest that the Council has granted a limited number of permissions for such housing, as required by the legislation. However, I have not been provided with a mechanism to ensure compliance with the provisions of the Act to provide certainty that the dwelling would be a self-build project. Even if the proposal was provided as a self-build house for the appellant, the contribution to the overall demand for such housing would only be modest, as a single unit is proposed. The failings or otherwise of the strategy used by the Council in respect of meeting the needs of self-builders is a matter that the appellant should take up directly with the Council.
19. Planning application S16/0596 was approved by the Council for a live/work unit with a similar ratio of live/work space as the proposed development and was also located in the countryside. Weight was also afforded by the Council to the potential for the building to be converted to a dwelling under Schedule 2, Part 3, Class Q of the GPDO, so the number of trips generated would be the same. The buildings to be converted comprised a traditional range of agricultural buildings constructed of brick with rosemary and clay pantiles and was considered to comprise a building of some historic merit that contributed to the character of the area. The appeal scheme is therefore not comparable to the planning approval and in any event, each development should be determined on its own merits.
20. I have been provided with copies of various appeal decisions that relate to developments for other live/work units. However, these relate to appeal sites within different areas of the country than the appeal site, whereby local plan policies will be different. I have also not been provided with full information in respect of these decisions and therefore it is unclear whether they are directly comparable to the appeal proposal. In any event, the appeal should be determined on its own merits.
21. The proposed development would allow the appellants and their children to remain close to family. Limited information has been provided to substantiate these matters, or to demonstrate that no other properties are available to buy or rent in the area, or that the appellant's existing property is unsuitable for their needs. Furthermore, the Planning Policy Guidance states that it is rarely appropriate to limit a planning permission to a particular person⁷ and therefore such a condition would not meet the tests as detailed in paragraph 56 of the NPPF.
22. The lack of visual harm, the Council's acceptability of the building's design, no net loss to biodiversity/biodiversity net gain, lack of harm to the occupiers of neighbouring properties and highway safety, are all neutral matters. No detailed evidence has been submitted to support the assertion that the availability or otherwise of mortgages related to live/work units with a "work" element of more than 20% of the total floorspace are restricted, or that those mortgages the type of mortgage referred to is unavailable to the appellant.
23. Features such as an air source heat pump, solar panels, water saving sanitary-ware, the re-use of rainwater, e-bike storage and an electric vehicle charging

⁷ Planning Policy Guidance, Use of Planning Conditions, paragraph 015

point are not shown on the submitted drawings, and I do have any information that such measures could be incorporated into the proposed development. Furthermore, the provision of e-bike storage and an electric vehicle charging point does not necessitate the occupier of the building to own such modes of transport. I therefore afford these matters limited weight.

Conclusion

24. For the reasons given above, having considered the development plan as a whole and all other material considerations, I conclude that the appeal is dismissed.

A Berry

INSPECTOR