



Appeal Decision

Site visit made on 7 February 2023

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 03 March 2023

Appeal Ref: APP/Y1138/W/22/3297692

Land Behind 22B Tiverton Road (Former Scout Headquarters), Cullompton, Devon EX15 1HT

- 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 Mrs Felicia Hart against the decision of Mid Devon District Council.
 - The application Ref 21/00706/FULL, dated 1 April 2021, was refused by notice dated 28 October 2021.
 - The development proposed is the demolition of existing building and the construction of 1 new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing building and the construction of 1 new dwelling at Land Behind 22B Tiverton Road (Former Scout Headquarters), Cullompton, Devon, EX15 1HT in accordance with the terms of the application, Ref 21/00706/FULL, dated 1 April 2021, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mrs Felicia Hart against Mid Devon District Council (the Council). That costs application is the subject of a separate Decision.

Preliminary Matters

3. In the interests of consistency, I have, in the banner heading above, used the appeal site address as included on the Council's Decision Notice.

Main Issue

4. The main issue in this appeal is whether the loss of employment land would be acceptable with regard to development plan policy.

Reasons

5. The appeal site comprises land and a former scout hut building located within Cullompton. The site is located outside of, but adjacent to the Cullompton Conservation Area (the Conservation Area).
6. Policy DM19 of the Mid Devon Local Plan 2013-2033 (the Local Plan) concerns protection of employment land, and provides that non-employment uses on employment or business land will be permitted where there is no continued commercial interest in the re-use of the site for employment. Policy DM19 of

the Local Plan indicates that alternative uses will be permitted where there is a sufficient range of suitable and available employment sites, and where there is no commercial interest in reusing the site for employment purposes which is demonstrated through suitable marketing for a period of at least 18 months. Policy S6 of the Local Plan seeks to ensure a sufficient level of employment provision over the development plan period.

7. The appeal scheme proposes the demolition of the former scout hut which, the evidence before me indicates, is in a dilapidated state, and construct a two storey residential dwelling.
8. The Council have put it to me that part of the site has permitted use as a builder's yard in addition to the existing scout building, and that the site has not been marketed for alternative commercial uses for the 18 month period that is required under Policy DM19 of the Local Plan.
9. The submissions in this appeal indicate that the scout hut building has not been in use since 2014. This would appear to be consistent with observations made on my visit and from the evidence submitted in respect of the dilapidated condition of the building. The Appellant has provided comprehensive details to demonstrate the availability of other community and employment space within the area and, given the constrained nature of the site and its ability to accommodate commercial vehicles in terms of access, and by reason of the surrounding residential dwellings, the Appellant maintains that the site is unsuitable for such uses.
10. No marketing information has been provided and, consequently, the appeal scheme would conflict with criterion b) of Policy DM19 of the Local Plan. However, evidence has been submitted to demonstrate the availability of commercial space and community facilities within Cullompton and given that the scout hut building has not been in use since 2014, it would appear that the loss of any such potential use would not, in my view, have any meaningful adverse effect on the provision of employment or community space within the local area.
11. The evidence provided in this appeal with regards to part of the site having permitted use as a builder's yard, is very limited. Whilst I acknowledge the submissions in that respect, even in the event that part of the site was previously granted permission for use as a builder's yard, given the constrained size of the plot and potential difficulties in accessing the site with commercial vehicles, I again find that the loss of a very small area for commercial, business and service would not have any meaningful consequential adverse effect on the provision of such space at this locality.
12. In light of the above, I do not find that the appeal scheme would fail to accord with the aims or provisions of Policy S6 of the Local Plan. The appeal scheme would, however, conflict with criterion b) of Policy DM19 of the Local Plan. Nonetheless, as noted above, the appeal proposal would not result in any significant loss of employment or community space nor would make any meaningful difference to the provision or availability of such spaces within the local area. As such, I attach very limited weight to the identified conflict with criterion b) of Policy DM19 of the Local Plan.
13. Following submission of the appeal, the Council have confirmed that sufficient details have been provided to demonstrate that the proposed development

would comply with Policy DM23 of the Local Plan. Consequently, the Council no longer relies on that policy with regards to the reason for refusal.

14. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
15. Against the conflict with criterion b) of Policy DM19 of the Local Plan, the proposal would provide benefits in terms of an additional dwelling towards local supply, thereby assisting with the Government's objective to significantly boost the supply of housing, and in a location with convenient access to a range of services and facilities. The proposal would make use of previously developed land and would remove an unsightly dilapidated building. Ecological benefits would arise from the provision of bird and bat boxes to be secured by planning condition requiring implementation of the enhancement recommendations contained within the submitted Ecological Impact Assessment. There would also be economic benefits from employment opportunities during construction and from the spend of future residents.
16. Whilst the scale of the proposal means that the benefits of the proposed development would not be significant, in my view, given that the scheme would not materially harm the range or supply of employment space within the area, the benefits of the appeal scheme would substantially outweigh the very limited conflict with Policy DM19 of the Local Plan with regards to marketing of the premises, as described above. As such, in this specific instance I conclude that there are material considerations which indicate that a decision should be taken otherwise in accordance with the development plan and permission should be granted

Other Matters

17. In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Moreover, paragraph 199 of the National Planning Policy Framework (the Framework) states that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
18. Whilst I have been provided with a copy of the Conservation Area plan, I have not been provided with any Conservation Area appraisal. However, from my visit, it appears that the significance of the Conservation Area is predominately derived from the historic character of Cullompton's High Street and from the architectural quality of buildings. The proposal would be of modest scale and would not be highly visible from within the Conservation Area. The site is within an area which exhibits a mixture of traditional and modern buildings and, by reason of the existing form and appearance of nearby development, I conclude that the scheme would not have an adverse effect on the character or appearance of the Conservation Area.
19. Section 66(1) of the Act requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.

20. Whilst the Council's Officer report indicates that there are listed buildings nearby, no specific details of such buildings have been provided. Nonetheless, I have had regard to the presence of the nearby listed structures as identified on the provided Conservation Area plan. In respect of the need to give special attention to the desirability of preserving the setting of listed buildings, I consider that the degree of separation between the identified listed buildings, as shown on the Conservation Area plan, and the appeal scheme is sufficient that no harm to the significance or setting of these heritage assets would arise from the proposal.
21. Interested parties have put to me that the proposal would have a harmful effect on the living conditions of nearby residents and that the scheme would not provide sufficient parking provision and would be harmful in terms of highway safety. In respect of impact on living conditions of nearby residents, within urban residential areas there would be a degree of overlooking and intervisibility between properties and, given the separation distance between relevant properties and use of obscured glazing within the design of the proposed dwelling, I find that the proposal would not affect the living conditions of nearby residents to an unacceptable degree.
22. In terms of parking provision and highway safety concerns, the evidence confirms that the proposal would provide sufficient car parking spaces in compliance with local planning policy requirements, to ensure there would be no additional pressure for on street parking close to the site. Furthermore, and following receipt of additional information regarding visibility splays, it appears that the Highways Authority raise no concerns with regards to highway safety. From the evidence before me I see no reason to take an alternative view to that of the Highways Authority in that regard.

Conditions

23. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance and the Framework. In addition to the standard three year period implementation condition, which is a statutory requirement, it is necessary, in the interest of certainty and precision, to define the plans with which the appeal scheme should accord.
24. A condition that requires details of the proposed use of external materials be provided to and agreed by the Council, is reasonable to ensure that the scheme does not adversely affect the character and appearance of the area. A landscaping condition that requires submission and approval of details is also necessary and reasonable. However, given that the planting proposed at the appeal scheme would be within an enclosed courtyard, it would be unnecessary to require the planting details for that area. As such I have adjusted the wording of the suggested condition accordingly. Whilst I note the Appellant's comments that such works are only carried out in accordance with the submitted and approved details, it is necessary and reasonable that such a condition should require that the approved details be thereafter maintained.
25. In the interests of ecology and biodiversity, a condition requiring submission and approval of details concerning ecological enhancement measures, is necessary and reasonable. From the evidence before me, the archaeological significance of the area in which the site is located requires a written scheme of investigation to be submitted.

26. It is noted that within the Council's Officer Report it has been recommended that, in the event that the proposal was found to be acceptable, a planning condition should be applied in respect of the submission and approval of a Construction Management Plan. A pre-commencement condition is necessary to require the submission of a Construction Management Plan for approval by the Council. In considering the application of such a planning condition, I have adjusted the wording of the condition as contained within the Officer's report, by reason of the scale of development.
27. Where necessary, and also in the interests of clarity and precision, I have altered the wording of conditions to better reflect the relevant guidance. The pre-commencement conditions have been agreed by the Appellant.

Conclusion

28. For the reasons given I conclude that the appeal should succeed.

Mr A Spencer-Peet

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin before the expiry of three years from the date of this permission.
2. The development hereby approved shall in all respects accord strictly with drawing number: Drainage Layout A2.04 received by the Local Planning Authority on 1 April 2021 and drawing numbers: West and North Elevations A.09, East and South Elevations A.10 and Section A.11 received by the Local Planning Authority on 10 May 2021 and drawing number: Floor and Site Plans A.06 received by the Local Planning Authority on 11 May 2021 and drawing number: Floor Plans A.07A received by the Local Planning Authority on 22 October 2021.
3. No development shall take place until the developer has secured the implementation of a programme of archaeological work 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 accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
4. Prior to the occupation of the dwelling hereby approved a scheme of ecological enhancement undertaken in accordance with the enhancement measures (bat and bird boxes), including an implementation plan, detailed within the Ecological Impact Assessment by J L Ecology dated June 2019 shall be submitted to and agreed in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.
5. The development shall not commence until full details of hard and soft landscape works, including an implementation and management plan, have been submitted to and approved in writing by the Local Planning Authority.

Details of soft landscape works shall include retention of any existing trees and hedges. The hard landscape works shall include means of enclosure; boundary and surface treatments; vehicle and pedestrian/cyclist circulation. All works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan.
6. Parking facilities shall be provided and thereafter permanently retained for the parking of vehicles in accordance with the approved plans prior to occupation of the dwelling hereby approved.
7. Prior to their use on the dwelling hereby approved, samples or details of the materials to be used on the external surfaces shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved materials.

8. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP). The CMP must include:
- (a) the timetable of the works or a phased programme of works;
 - (b) daily hours of construction;
 - (c) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (d) the estimated number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (e) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (f) the means of enclosure of the site during construction works;
 - (g) details of wheel washing facilities and obligations;
 - (h) Details of the amount and location of construction worker parking;
 - (i) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

In accordance with details that shall previously have been submitted to and approved by the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains onto any County Highway.

Once approved the CMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.