



Appeal Decision

Site visit made on 16 July 2024

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

Appeal Ref: APP/X1118/W/23/3328754

Barn adjacent Centery Lane, Bittadon EX31 4HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Pugsley against the decision of North Devon District Council.
 - The application Ref is 75487.
 - The development proposed is conversion of agricultural building to form two dwellings and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of agricultural building to form two dwellings and associated works at Barn adjacent Centery Lane, Bittadon EX31 4HN in accordance with the terms of the application, Ref 75487, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. During the appeal, on 19 and 20 December 2023, the Government published revisions to the National Planning Policy Framework (the Framework). The alterations result in paragraphs 104 and 111, which are referred to on the Council's decision notice, being renumbered 108 and 115. The wording, however, remains the same. Consequently, I have not found it necessary, in the interests of natural justice, to seek further written comments, and neither party would be prejudiced by my consideration of the revised advice in my determination of the appeal.

Main Issue

3. The main issue is the effect of the development on highway safety.

Reasons

4. The building lies in open countryside approximately a kilometre to the north of Bittadon. Policy DM27 of the North Devon and Torridge Local Plan 2011-2031 (2018) (the Local Plan) says that the conversion of redundant and disused rural buildings will be supported subject to specified criteria being satisfied. It is not disputed that the proposal to convert the buildings to two dwellings would comply with four of the five criteria. However, although this Policy has not been referred to in the reason for refusal, the Council contends that it would conflict with criterion d), which requires that suitable highway access can be provided, and the surrounding highway network can support the proposed use. Policies

ST10 and DM05 of the Local Plan also seek to ensure that new development has safe vehicular access.

5. The Highway Authority's objection to the proposal relates to the junction of Centery Lane with the B3230, approximately 450 metres to the south of the site. The basis of the objection is that the proposal would result in an increase in traffic turning right off the B3230 into the junction, and that drivers approaching from the south would have insufficient forward visibility of a standing vehicle waiting to make the manoeuvre.
6. There is little between the parties in the estimated level of traffic that would be generated by the two proposed dwellings. The Highway Authority suggests that it would be likely that 12-16 vehicle movements per day would result, whilst the appellant forecasts in the region of 9 two-way trips per day. It is only incoming vehicles that would potentially turn right into Centery Lane, so, taking the appellant's slightly higher figure, this would mean approximately 9 vehicles per day. However, Centery Lane also has a junction with the A3123 to the north, which is likely to be used by incoming traffic from Ilfracombe. As this is the nearest settlement containing a range of services, it is probable that a significant proportion of incoming trips would be via this route. The development would, therefore, only result in a small number of vehicles turning right into Centery Lane per day.
7. Furthermore, the Highway Authority's concern relates to forward visibility of standing vehicles waiting to turn right into Centery Lane. I saw that, whilst the B3230 is a fairly busy road, traffic was by no means continuous. In fact, vehicles passed the junction on a sporadic basis, such that any drivers from the south intending to turn right into Centery Lane would usually have been able to complete the manoeuvre without coming to a halt. Consequently, of the small number of right-turning vehicles generated by the development, even fewer would have to wait on the carriageway for oncoming traffic to pass.
8. Nevertheless, an incoming vehicle generated by the development may, occasionally, stand on the road before turning right. In these circumstances, the curve in the B3230 to the south would limit forward visibility for following drivers. Guidance on forward visibility can be found in the Design Manual for Roads and Bridges (the DMRB), Manual for Streets (MfS) and Manual for Streets 2 (MfS2). The DMRB contains information about current design standards relating to the design, assessment and operation of motorway and all-purpose trunk roads. Paragraph 1.3.2 of MfS2 recommends that, as a starting point for any scheme affecting non-trunk roads, designers should start with MfS. The appellant contends that forward visibility accords with the stopping sight distance (SSD) guidance in MfS2. The Highway Authority, however, contends that in this case the DMRB guidance is more appropriate, as it estimates that traffic speeds exceed 40 mph.
9. Paragraph 1.3.6 of MfS says that, where there may be some doubt as to which guidance to adopt, actual speed measurements should be undertaken to determine which is most appropriate. The appellant undertook a speed survey on 8 August 2023 between 10:00 and 16:00 in free flow conditions, which showed that the mean speed for northbound vehicles was 33.4 mph, with an 85th percentile speed of 37.9 mph (60.9 km/h). The Council has not contested these findings. I note that MfS paragraph 7.5.1 advises that where 85th percentile speeds are above 60 km/h the recommended SSDs in the DMRB

may be more appropriate. However, the more recent advice at paragraph 1.3.6 of MfS2 says that it is only where actual speeds are above 40mph for significant periods of the day that DMRB parameters for SSD are recommended. Where speeds are lower, MfS parameters are recommended. It has been demonstrated that actual speeds do not exceed 40 mph for most of the day, so the SSDs in MfS are appropriate in this case.

10. It is not entirely clear how the appellant has derived the recommended SSD of 58 metres for a speed of 37.9 mph (60.9 km/h). Table 7.1 of MfS shows a recommended SSD of 56 metres for a speed of 37 mph (60 km/h). However, as the 85th percentile speed is marginally above 60 km/h, the advice at Table 10.1 and the accompanying graph in MfS2 indicates an SSD of approximately 70 metres for a speed of 60.9 km/h. It is unlikely, however, that an increase of 0.9 km/h in speed would actually result in such a stepped change in the stopping distance of a following driver.
11. The Highway Authority states that it has measured forward visibility and found it to be in the order of 51 metres. I have not been provided with evidence of how this measurement was taken. I therefore give greater weight to the drawing submitted by the appellant, which demonstrates that forward visibility of 58 metres is achieved within the existing highway. I note, however, that this measurement has been taken in a straight line, rather than on a curve around the centre line of the road as recommended in paragraph 10.3.1 of MfS2. The actual SSD would, therefore, be a little longer. Even so, it is clear that, based on measured vehicle speeds, forward visibility of a stationary vehicle for following drivers is, at best, at the margins of acceptability, based on MfS2 guidance.
12. There is no evidence that the road layout or conditions have changed recently, so the junction has been in use for right-turning vehicles in its present form for some years. The Council has drawn attention to a number of recent accidents in the vicinity. Personal Injury Collision Data from Devon County Council for the period 2017-2022 indicates five accidents near to the junction. However, the nearest was 50 metres from the junction, with the others being at least 100 metres away. There is no evidence that any of them resulted from the use of the junction. The collision data does not, therefore, indicate that the use of the junction is inherently dangerous.
13. Drawing all of this together, the proposed use would result in a slight increase in the number of vehicles turning right into Centery Lane, but only a small proportion of these would have to stand on the highway before making the manoeuvre. The speed survey shows that forward visibility is close to the minimum recommended by MfS2, but there have been no recorded accidents to indicate that the existing use of the junction by right-turning vehicles is hazardous. Consequently, the very minor increase in vehicles making this manoeuvre would be unlikely to have a material impact on highway safety. The proposal would, therefore, accord with Policies ST10, DM05 and DM27 of the Local Plan, which support the conversion of rural buildings and seek to ensure safe access to new development. As there would not be an unacceptable impact on highway safety, the proposal would also accord with the advice at paragraph 115 of the Framework.

Conditions

14. In accordance with the legislation, I have imposed a condition limiting the period within which the development must commence. I have also included a condition specifying the relevant plans, as this provides certainty. The Council has submitted a schedule of suggested conditions to cover other matters, and the appellant has not contested any of these. Nevertheless, I have considered them against the advice in the Planning Practice Guidance (the PPG). Where I have agreed that they meet the relevant tests, I have altered them, in the interests of clarity and precision, to better reflect the guidance.
15. A condition requiring the installation of swift boxes and bat tubes on the building is necessary in the interests of achieving biodiversity net gain. The only other recommendation in the submitted Ecology Report was to avoid harm to any nesting birds during construction works. As this is covered by other legislation, a condition requiring accordance with the Ecology Report would fail the test of necessity.
16. I have imposed a condition requiring implementation and maintenance of the proposed landscaping scheme in the interests of the character and appearance of the area, and to avoid harm to the designated heritage asset. Conditions requiring the reporting of unexpected contamination and the provision of car-parking are reasonable and necessary in the interests of human health and highway safety respectively.
17. The PPG advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. However, the condition proposed by the Council clearly defines the scope of the limitations by reference to the relevant provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). I note that all of the rights that would be removed by the condition do not apply to buildings that have been converted under the provisions of Class Q of the GPDO. I therefore find that the condition would be reasonable and necessary to protect the rural character of the area. However, I have not found it necessary to impose a condition specifying the external materials, as they are clearly annotated on the approved plans.

Conclusion

18. For the reasons given above, I conclude that the appeal should be allowed.

Nick Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 921 01 RevA - Location Plan; 921 20 RevD - Site & Roof Plan; 921 30 RevA - Floor Plans as Proposed; 921 31 RevA - Elevations.

- 3) Prior to the first occupation of the dwellings hereby permitted, the swift boxes and bat tubes shall be installed in accordance with the details shown on drawing numbered 921 31 RevA, and they shall be permanently retained thereafter.
- 4) All of the works, planting, seeding and turfing set out on drawing numbered 921 20 RevD and the accompanying Landscaping Specification shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner, and shall thereafter be maintained in accordance with the Landscaping Specification; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) Prior to first occupation of the dwellings, the proposed car parking spaces shall be completed in accordance with drawing numbered 921 20 RevD, and they shall thereafter be kept permanently available for the parking of vehicles associated with the development.
- 6) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, AA, B, C, D and E of Part 1 of Schedule 2 to the Order shall be undertaken.

END OF SCHEDULE