



Appeal Decision

Site visit made on 16 July 2024

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2024

Appeal Ref: APP/U1105/W/23/3333745

Barn Close Kennels, Combe Raleigh, Honiton EX14 4SG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Paul Sparks against the decision of East Devon District Council.
 - The application Ref is 23/1496.
 - The development proposed is change of use from kennels to 3 no. dwellings including associated works and parking.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from kennels to 3 no. dwellings including associated works and parking at Barn Close Kennels, Honiton EX14 4SG in accordance with the terms of the application, Ref 23/1496, subject to the conditions in the attached schedule.

Preliminary Matters

2. Amended plans were provided with the appeal that propose enlarged window openings throughout the larger building. These changes, while widespread across the building, are minor in the context of the scheme overall as they do not change the fundamental characteristics of the proposal. Given the relationship of the site with other nearby property and that both the Council and interested parties have had opportunity to comment on the amendments through the appeal process, I am satisfied that no party would suffer injustice if I were to accept them. Therefore, I have determined the appeal on the basis of the amended plans.
3. The initial evidence, Council's decision notice, local and national policy refer to the Blackdown Hills Area of Outstanding Natural Beauty (AONB). This has since been renamed as the Blackdown Hills National Landscape and that is the name I have used throughout my decision. However, I have taken the relevant submissions and policies relating to AONBs to apply to that area as if they referred to National Landscapes.

Main Issues

4. The main issues are:
 - (i) The effect of the proposal on the character and appearance of the area, and landscape and natural scenic beauty of the Blackdown Hills National Landscape;

- (ii) Whether the site and buildings are appropriate for residential use, with regard to local and national planning policy;
- (iii) Whether appropriate living conditions would be provided for future occupiers of the site; and
- (iv) Whether there are any other material considerations that might indicate that a decision should be taken otherwise than in accordance with the development plan, with particular regard to the National Planning Policy Framework (the Framework).

Reasons

Character and appearance

5. The site is high on a plateau within the Blackdown Hills National Landscape. It currently contains a number of buildings with a somewhat decrepit external appearance, visible through the site access, that detract from the character and appearance of the area. The proposal, to reuse the core parts of the buildings sited away from the access, would result in the demolition of large canopies along the sides of the retained buildings, and a sprawling dilapidated structure close to the site entrance. Along with renovation works to the retained buildings, such would result in a considerable visual improvement to the site and enhancement of the immediate setting.
6. The proposed use as three separate dwellings would, however, bring additional domestic activity, associated paraphernalia and traffic generation to the site. This may be visible in glimpsed views from the road, through the boundary at times of low leaf cover, but the majority would still be screened from view. Views from a nearby public footpath are also screened by intervening hedgerows that, generally, leave only the roof visible such that the more domestic new fenestration would not appear intrusive or incongruous. The additional glazing proposed in the amended plans would increase light spill from the dwellings, but the windows would not be overly large and, with controls on external lighting, is unlikely to be significant.
7. It would be unusual, in this lightly settled and remote landscape, for dwellings to be arranged in a cluster. It is more characteristic for dwellings to be individual buildings, supported by a range of functional, rural buildings. However, subject to consideration of hard and soft landscaping around the site entrance and parking area, the site need not appear suburban in character. The majority of the buildings and the garden areas would be screened to varying extents throughout the year such that the site could retain a more rustic appearance. Given the character of the buildings, and the presence of another, currently unused, dwelling that is visually related to them, the site would retain an overall character of a dwelling surrounded by more functional rural buildings, even taking account of recent housebuilding that I understand to have occurred in the locality.
8. The roadside boundary trees make a substantial positive contribution to the character and appearance of the area, and natural and scenic beauty of the National Landscape. As noted above, they provide an important screening function to the buildings. I have been told that trees have recently been felled at the site, but I have made my decision based upon the situation now, and

conditions can be put in place to safeguard existing trees during construction and for a period of time immediately after that.

9. Another Inspector, in relation to a scheme for two new build dwellings at the site, found that boundary trees may face pressure for heavy pruning such that their long-term future contribution was uncertain. By contrast, the current proposal is for the reuse of existing buildings that already have a comfortable relationship with the trees and do not appear to be affecting their growth or health. The garden spaces that would be provided between the building and the trees would be fairly large and there is no obvious reason that they would cause overshadowing of these spaces to such an extent that future pruning would be necessary.
10. Overall, I find that, while there would be some increase in residential activity, paraphernalia and lighting that would detract from the character and appearance of the area, the associated improvements would result in an overall neutral effect in this regard. Such would further the purpose of preserving and enhancing the natural and scenic beauty of the National Landscape. Accordingly, it would not be major development to be resisted in the National Landscape, as the definition of such within the Framework flows from a finding that there would be significant adverse impacts on the purposes for which the area is designated.
11. Accordingly, there would be no conflict with those parts of East Devon Local Plan 2013-2031 (LP) Strategy 46, Policies D1, D2, or D3 or the Blackdown Hills AONB Management Plan 2019-2024 Policies PD2 or LC3 that collectively seek to ensure that development is of a high quality and locally distinctive, protects and enhances trees and key landscape features, and special qualities of the National Landscape.

Appropriateness for reuse

12. LP Strategy 7 sets out a general presumption that development in the countryside will be resisted unless it complies with other specific policies of the LP. LP Policy D8 applies specifically to the conversion and reuse of rural buildings. Thus, compliance with Strategy 7 in this case is dependent on compliance with Policy D8. Policy D8 sets a number of criteria, including that it would be sympathetic to and enhance the setting and character of the buildings, which I have already found would be the case.
13. Policy D8 also requires the buildings to be structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction. The buildings at the site are, primarily, of a modern blockwork construction. Having previously been said by marketing agents as being in an unsuitable condition for commercial use, they are clearly not in a particularly good condition and some renovation would be required. In addition to the enlarged window openings, the buildings would require re-roofing, but this does not amount to substantial reconstruction as the main walls can remain.
14. A small area has experienced some subsidence and, while it is uncertain what remedial works would be required, the appellant's evidence confirms that the buildings remain structurally sound. If partial rebuilding is required, the affected area is small and, even with the other works, would not amount to substantial reconstruction that would effectively result in new build dwellings.

15. Of the other relevant criteria, Policy D8 sets out that buildings to be reused for residential purposes should be located such that they are close to a range of accessible services and facilities to meet the everyday needs of residents. There is further support in this regard from LP Strategy 5B and Policy TC2 that require new development to be accessible by a range of transport modes and not dependent on the private car. Given the location and nature of the access routes, this policy requirement would not be met. The resulting conflict with Policy D8 means that there is also no support from Strategy 7.

Living conditions

16. The Council's concern in this regard is the poor outlook that would have been afforded by the high level windows of the original scheme. The amended plans have addressed this, such that future residents would be afforded with sufficient outlook and appropriate living conditions. Therefore, there would be no conflict with those aspects of LP Policy D1 that seek to ensure the provision of good living conditions for future occupiers.

Material considerations

17. The Council has explained how it can now demonstrate a sufficient supply of deliverable housing land. Nevertheless, the appellant has suggested that Policy D8 is out of date due to inconsistency with the Framework. This follows appeal decisions relating to a site in Shute where the Inspector found that Policy D8, in adding a locational criterion, introduced a requirement that undermined the Framework's policy relating to the re-use of rural buildings in the countryside. The Inspector reasoned that, while not all rural building re-use would result in car reliance, most, by their nature, are more likely to be in areas not well-served by public transport, or suitable walking or cycling facilities. As such, they would not meet the LP Policy D8 requirement to be close to a range of accessible services and facilities.
18. I note that this may be just one example of this conclusion. The Council has indicated that it does not share this view, but gives no substantive reason why it does not, or why the finding might have been made in error. With no compelling contrary evidence, I have no reason not to follow the seemingly reasonable judgement of the previous Inspector. I, therefore, find that Policy D8 is out of date by virtue of its inconsistency with the Framework.
19. There is no reason to find Policies TC2 and Strategy 5B out of date. They are clearly relevant given that they are overarching policies relating to transport and accessibility. However, in this proposal relating to the re-use of rural buildings, Policy D8 is the most important one as it relates specifically to such proposals, rather than more generalised requirements of the other policies. Conclusions against it will influence whether the aims of LP Strategy 7 are met or not.
20. Given the pivotal role of Policy D8 in this case, I find that, taken together, the policies that are most important for determining the appeal are out of date. On that basis, Framework Paragraph 11d) 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 in the Framework, taken as a whole.

21. The site has previously provided employment opportunities but business activity ceased some time ago. As such, the site is not currently making any contribution to the rural economy through employment or business activity. While there has been some suggestion that the owner's expectations of commercial value are unreasonably high and there is demand for business premises locally, letting agents have, as previously noted, confirmed that the required renovations would make such a proposition unviable. Despite the age of the commercial advice, on this basis, the Council has raised no concern about the loss of employment opportunities and I see no reason to disagree.
22. I understand that there have been previous instances of surface water flooding leading to property damage in the area. However, as no new building is proposed and some areas of roofing and building coverage would be removed, the development should not exacerbate this, provided that a suitable scheme to dispose of any surface water from the building and new areas of hardstanding are provided. Similarly, there is no reason that, subject to a suitable scheme of disposal, there should be any risk of flooding or overflow from the required foul drainage systems.
23. Surrounding properties are said to experience poor internet speeds and water pressure. In particular, I note that it has been said that the existing wired internet connections are inadequate, placing reliance on mobile internet. However, there is no substantive evidence that the existing infrastructure that is relied upon would be overloaded or significantly worsened with the introduction of new dwellings, so I attribute limited weight to these matters.
24. The road leading to the site is narrow and I understand that there is a propensity for fog. However, there is no substantive evidence that there were any highway safety problems when business activities were ongoing at the site. While most journeys associated with that would likely have been during the day, it has not been shown that night driving in the area is particularly hazardous. For these reasons and given a lack of objection from the local highway authority, I find that there would be no harm to highway safety arising from the proposal.
25. In light of the nature of the buildings, it has been suggested that the development cannot or will not be built. However, that is, ultimately, a matter for the landowner and has little to do with the planning merits of the case.
26. In consideration of the above, the only significant adverse impacts are those relating to accessibility to services and the need to travel. However, while seeking to minimise those effects generally, the Framework particularly allows for the reuse of rural buildings for residential purposes in remote locations. Taking the policies of the Framework as a whole, the adverse impacts of granting permission do not significantly outweigh the benefits associated with boosting the supply of housing. Therefore, the proposal benefits from the presumption in favour of sustainable development outlined in Framework Paragraph 11.

Planning Balance

27. I have found that the character and appearance of the area, landscape and scenic beauty of the National Landscape would be preserved. I have also found that appropriate living conditions would be provided for future residents. The building would be suitable for a residential reuse without substantial alteration

or rebuilding. However, it is located in an area that is not readily accessible other than by private car and that introduces some conflict with LP Policy D8, as well as conflict with Policy TC2 and Strategies 5B and 7.

28. Nevertheless, I have found that the most important policies for the determination of this proposal are out of date and that the presumption in favour of sustainable development applies. As Government policy, this is of very significant weight and, in this case, indicates that a decision should be taken otherwise than in accordance with the development plan.

Conditions

29. A plans condition is required in the interests of certainty. To ensure that the landscape and visual improvements occur, demolition of the structures earmarked for removal should be secured and tree protection and new landscaping details submitted. Given the sensitivity of the location, controls over external lighting and restricting future permitted development rights are justified in this case. To ensure there is no increase in off-site flood risk and foul water is appropriately disposed of, details of foul and surface water drainage schemes should be submitted.
30. The Council has referred to a need to secure the approved bat roosting and bird nesting boxes. However, none appear to be proposed and the submitted ecology report indicates that mitigation or compensation is not required. I have not, therefore, included such a condition. I have made some amendments to the Council's suggested conditions in the interests of clarity.

Conclusion

31. For the reasons given, the appeal is allowed.

M Bale

INSPECTOR

Schedule – 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: 23.019.SPARKS.03SK; 23.019.SPARKS.04SK A; and 23.019.SPARKS.05SK.
- 3) No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and a timetable for the implementation of any new landscaping.

The approved landscaping shall be carried out in accordance with the approved timetable. Any new or existing trees or plants which within a period of 5 years from the occupation 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.
- 4) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees and the appropriate working methods has been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved with protection measures installed and maintained for the period specified in the scheme.
- 5) Prior to the occupation of any of the dwellings hereby permitted, the buildings and parts of buildings identified with red lines on drawing 23.019.SPARKS.04SK A shall be demolished and the resultant material removed from the site.
- 6) No external lighting shall be installed unless it has first been agreed in writing by the Local Planning Authority.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification) no enlargement, improvement or other alteration or addition to a dwellinghouse shall be carried out and no buildings or other structures incidental to the enjoyment of a dwellinghouse shall be constructed without the further grant of planning permission.
- 8) Prior to the occupation of any of the dwellings hereby permitted, details of the means of disposal of foul and surface water shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the dwelling to which they relate and shall thereafter be maintained as such.

End of conditions