

Appeal Decision

Site visit made on 27 September 2016

by David Walker MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 01 November 2016

Appeal Ref: APP/D0840/W/16/3151890

Home Hill, St Martin's Road, East Looe, Cornwall PL13 1LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Clive Bangs against the decision of Cornwall Council.
 - The application Ref PA16/01545, dated 6 February 2016, was refused by notice dated 26 April 2016.
 - The application sought planning permission for amendment to plot 5 as previously approved under application 88/1729/S dated 29/12/88 to create an additional unit of holiday accommodation on land situated at (grid ref 2547 5433) Commonwood Manor Hotel, St Martins Road, East Looe, Cornwall without complying with a condition attached to planning permission Ref 596/0866/F, dated 12 March 1997.
 - The condition in dispute is No 2 which states that: *'The development hereby permitted shall be used for holiday purposes only and shall not be used as the only or main residence of any person'*.
 - The reason given for the condition is: *'To prevent the establishment of a dwelling/dwellings contrary to the planning standards and policies applicable to the area'*.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application to the Council sought to remove condition No 3 of planning permission Ref E2/88/20383/R. The reason given was 'To be able to use it as a full residential accommodation'. The Council amended the description of the proposal to relate to the removal of condition No 2 of application Ref 596/0866/F. With regard to the planning history provided within the Council's Officer Report it is apparent that this second permission relates specifically to the provision of the appeal property.
 3. While I have nothing before me to indicate that the appellant had expressly agreed to this change in the description, it is not contested. Moreover, the appeal form at Section E makes reference to condition No 2 rather than to condition No 3 as stated within the original application to the Council. On this basis I have determined the appeal with reference to the removal of condition No 2 of application Ref 596/0866/F and have amended the description of the proposal accordingly.
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Main Issues

4. Planning permission was granted for the appeal property subject to the restriction imposed by condition No 2 that it is used only for holiday accommodation purposes. The appellant seeks the removal of the condition so that the property can be occupied as a full-time and permanent dwelling. On this basis I consider the main issues to be:
 - i) the effect of the proposal on living conditions, with regard to the internal and external space available for future occupants, and the privacy of the occupants of neighbouring properties; and
 - ii) whether the proposal would be at an appropriate location for a permanent dwelling having regard to accessibility to services and to the provision of a safe access.

Reasons

Living conditions

5. Home Hill is one half of a chalet holiday home now occupied as a separate self-contained unit. It is located among a small grouping of other similarly designed chalet buildings around communal gardens and with off plot car parking nearby. Removing the occupancy restrictions imposed by condition No 2 would have the effect of creating a new dwelling.
6. The resulting new dwelling would be small by contemporary standards and the Council make reference to the minimum internal floor areas contained within the Government's nationally described space standard¹. However, the Written Ministerial Statement of 25 March 2015 is clear that these can only be applied where there is a relevant current local policy in force. As there is nothing within the development plan policies provided to me that relates to internal space requirements I do not find the application of the nationally described space standard to be appropriate in the circumstances.
7. Nonetheless, the National Planning Policy Framework (the Framework) at the fourth bullet point to paragraph 17 states that planning should always seek to achieve a high standard of amenity for all existing and future occupants of land and buildings. It is a policy requirement to which I afford significant weight.
8. Although I have no details before me of the amount of accommodation that would be provided in the new dwelling, the existing semi-detached chalet structure is evidently very small. While it may be suitable for short-term occupation for holiday purposes it would result in compromised living conditions for future occupants on a permanent basis. In the absence of any suitable evidence of a high standard of amenity for future occupants I am not satisfied it has been demonstrated that the proposal would accord with the Framework.
9. My attention has also been brought to the advice contained within the Cornwall Design Guide 2013 that recommends the provision of some private, or partially private, outdoor space where possible. In this regard I note the provision of a private patio at the property that is screened from neighbours. It would facilitate sitting out without being unduly overlooked as well as the use of an

¹ Technical housing standards – nationally described space standard, DCLG 2015

external clothes dryer. Having regard to the landscape setting and communal grounds of the appeal site adequate provision for outside living would be provided.

10. Condition No 2 does not place any restrictions on the amount or duration of any occupancy of the property. So long as it is used for holiday accommodation purposes in compliance with the condition it could be occupied all year round. On this basis the occupation of the property as a permanent dwelling would not necessarily give rise to any intensification in its usage. I find no demonstrable grounds therefore that the proposal would give rise to a harmful loss of privacy for the occupants of neighbouring properties.
11. Overall, however, I am not satisfied that the proposal would provide adequate living conditions for future occupants with regard to the fourth bullet point of paragraph 17 of the Framework and on this basis conclude that condition No 2 remains necessary to restrict the occupation of the appeal property for holiday purposes only.

Location and access

12. The vehicular access to the group of holiday chalets is steep and narrow with visibility compromised to the left at its junction with St Martin's Road. Moreover, the pedestrian route into Looe would involve a rough path which connects with a road that would be particularly busy during peak holiday periods. At this location occupants of the property could not realistically achieve convenient access to local services and facilities on foot and would likely be reliant upon the usage of private transport.
13. However, I have already found that the restrictions of condition No 2 would not restrict the duration of any holiday occupation of the property. While the existing access arrangements may be unsatisfactory, there is no evidence that the property would necessarily be more occupied if it were a permanent dwelling. To this extent it would not give rise to travel demands or car movements over and above that which would be afforded by the occupation of the property under the existing restrictions.
14. I reach this view in the light of a recent appeal decision² provided to me where the Inspector found that a permanent residential use would be highly dependent on car use for access to facilities and services to serve day to day needs. In the appeal before me I have no evidence of the potential destinations of holiday makers or permanent residents to determine likely travel patterns and accordingly have determined it on its merits.
15. Having regard to paragraph 206 of the Framework I therefore find the restrictions imposed by condition No 2 to be unnecessary to ensure that the accommodation remains in accord with the safe access requirements of Policies EV11 and ALT2 of the Caradon Local Plan First Alteration 2007, and the sustainability principles laid down at paragraphs 7 and 14 of the Framework. However, my findings in this issue are outweighed by the harm I have identified to living conditions and the ongoing necessity for the restrictions on occupation brought about by condition No 2.

² Appeal Ref APP/D0840/W/15/3004739

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

David Walker

INSPECTOR