



Appeal Decision

Site visit made on 4 September 2018

by M Bale BA (hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2018

Appeal Ref: APP/U1105/W/18/3195007

The Willows and The Beeches, Appledore Farm, Road from Church Green Cross to Whitley Grange, Farway, Colyton, Devon EX24 6EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Reed against the decision of East Devon District Council.
 - The application Ref 17/2506/VAR, dated 20 October 2017, was refused by notice dated 6 December 2017.
 - The application sought planning permission for the conversion of barns to form four holiday lets without complying with a condition attached to planning permission Ref 7/57/99/P1851/00132, dated 17 December 1999.
 - The condition in dispute is No 3 which states that: The units of accommodation hereby permitted shall be occupied for holiday letting purposes only and shall not be occupied by any one person, family or group of people for more than four successive weeks in any calendar year.
 - The reason given for the condition is: To ensure that the accommodation is not used permanently for residential purposes.
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion of barns to form four holiday lets at Appledore Farm, Farway, Colyton, Devon EX24 6EH in accordance with the application Ref 17/2506/VAR, dated 20 October 2017, without compliance with condition number 3 previously imposed on planning permission Ref 7/57/99/P1851/00132, dated 17 December 1999 and subject to the conditions in the attached schedule.

Procedural matter

2. Whilst the description of development in my formal decision still relates to the conversion of the barns to holiday lets, the effect of my decision is to allow the occupation of The Willows and The Beeches as a permanent dwelling. The holiday occupancy restriction still applies to the other two units subject to the original planning permission.

Background and Main Issues

3. Permission was granted in 1999 for the conversion of barns to form 4 units of holiday accommodation. This application to remove the occupancy condition clearly only relates to barn A, containing two units now known as the Willows and the Beeches. It does not seek to remove the restriction from the other units.

4. The condition is already in breach insofar as it relates to the Willows and the Beeches. The two former units have also been amalgamated into one single unit through the introduction of a new internal stair.
5. The proposal would, in effect, result in the creation of an unrestricted open market dwelling. The main issues are whether such a dwelling would be appropriate in this location, with particular regard to the access to services and facilities; and the effect of the loss of holiday accommodation on local tourism appeal.

Reasons

Accessibility

6. The site is located in open countryside, accessed via a network of rural roads. There are limited facilities and services in the immediate locality although the closest settlement, Church Green, is less than 1 mile away and contains Farway Primary School. Even so, the nature of the access roads are likely to deter many from cycling and so in order to access most day to day facilities, future residents are likely to be reliant on private motor transport.
7. Policy D8 of the East Devon Local Plan 2013-2031 (LP) relates to the conversion of rural buildings. It includes a number of criteria that proposals must comply with and for residential proposals requires an additional assessment as to the accessibility of services and facilities. Whilst I have found that the site is not accessible by a range of transport modes, this policy does not distinguish between open residential uses and those restricted for holiday accommodation. Given that the building is already converted for a residential use, I find that this policy is not directly relevant to the appeal.
8. The National Planning Policy Framework (the Framework) and East Devon Local Plan 2013-2031 (LP) seek to resist the creation of isolated homes in the open countryside, other than in particular circumstances set out in paragraph 79 of the Framework. One criterion is the re-use of redundant agricultural barns, but the building, having an established holiday use is not redundant and so the exception does not apply.
9. Whilst the above considerations do not give support to the proposal, regard must be had to the existing circumstances at the site. The building is currently in a residential use, albeit one restricted to use as holiday accommodation only.
10. The Council have suggested that travel patterns would be more intensive for permanent uses than for holiday accommodation, but there is no substantive evidence to support this claim. Whilst the holiday accommodation does not appear to have recently been occupied all year round there is nothing that would prevent such occupation. Both the Framework and LP Policy TC2 notes that in a rural district such as East Devon, there is likely to be some reliance on private transport. In part, Policy TC2 seeks to minimise the need to travel by locating new development so as to be accessible to pedestrians. However, in this case, a residential use is already existing and there is no evidence that any increase in travel would be significant. I, therefore, find no conflict with the aims of Policy TC2.
11. The Council has also suggested that permanent residents would put a greater strain on the services and facilities, but there is nothing to suggest such services are under pressure or that increased use of them would be anything

other than a benefit to their on-going viability. Appledore Farm may not be a village, but paragraph 78 of the Framework explains that housing in rural areas can help to sustain services in nearby villages. The extent of this benefit from a dwelling at the appeal site may be low, given the limited number of rural services close by and the proximity to the larger settlement of Honiton, but it is likely to have some positive benefit on Farway primary school which holiday accommodation would not. Given that the building is already in a residential use and would not result in new building in the countryside, I find that the proposal accords with the general thrust of paragraphs 78 and 79 of the Framework.

12. For the above reasons, I conclude that the site is in an appropriate location for permanent occupation of the building and I find no conflict with the development plan in this regard.

Tourism

13. In a popular tourism area such as East Devon, it is important that a range of accommodation is available to meet the requirements of visitors. For these reasons, holiday accommodation may have been permitted in the past where permanent residential development was not appropriate.
14. The LP, at paragraph 24.28, recognises that the loss of accommodation to non-tourism uses will generally be to the detriment of the district's tourism appeal and will, therefore, be discouraged. It appears from the Council's submissions and the appellant's evidence that a large proportion the accommodation in the area around the appeal site is provided in the form of self-catering units such as the appeal site.
15. LP Policy E18 aims to restrict the loss of holiday accommodation. Whilst it is mainly focussed on the seaside towns of Exmouth, Budleigh Salterton, Seaton and Sidmouth, the supporting text at paragraph 24.28 indicates that holiday accommodation elsewhere is also essential to maintain a viable tourism base. The Policy sets out criteria against which the loss of holiday accommodation should be assessed and is in two parts. The first part relates to the seaside resorts noted above and lists criteria which include the viability of the holiday use.
16. The second part of Policy E18 relates to changes of use away from holiday accommodation in general. It indicates that a change of use will not be permitted unless it can be clearly demonstrated that there is no longer a need for such a use and that the building or site has been marketed for at least 12 months at a realistic price without interest.
17. Whilst the building has not been used for holiday accommodation for some time, the Council's officer report indicates an acceptance that the property was previously marketed adequately at a realistic price in an effort to attract holiday makers. Whilst the marketing clearly did attract users, the reported profits were low and there is no evidence to lead me away from this conclusion or to suggest a conflict with this criterion.
18. The appellant's evidence indicates that there is considerable similar accommodation in the area. Although this does not automatically indicate that there is no need for that at the appeal site, the occupancy levels over the last few years that it was let do not suggest that it was making a large contribution

to the local tourism economy. There is no conflicting evidence to suggest that that there is a need to retain the accommodation to support the tourism appeal of the area.

19. The Council make the case that the appellant's arguments in terms of viability and problems letting the unit are weak and contradictory. There is also no evidence of any attempts to increase occupancy rates. Be that as it may, the wording of LP Policy E18 clearly indicates that a lack of viability is only a relevant criterion in respect of the seaside towns. Overall, I consider that the other criteria in respect of general changes of use have been met and the proposal complies with Policy E18.

Other matters

20. The proposal is within an Area of Outstanding Natural Beauty. There are no external changes proposed to the building or the site. The Council have suggested that there may be an increase in domestic paraphernalia if the condition were lifted, but there is no substantive evidence to suggest why permanent residents would have more external equipment than holiday makers. Therefore there would be no effect on the character and appearance of the area and the landscape and scenic beauty of the AONB would be conserved.
21. I note that the Council say that the occupation of the building currently contravenes its planning permission and that the applicant knew the situation prior to letting the property on a permanent basis. However, this has little to do with the merits of the case, which I have assessed on the evidence before me.

Conclusion

22. I have found no conflict with the aims of the development plan in respect of the first main issue. I have found that the proposal complies with LP Policy E18 in respect of the second main issue.
23. LP Strategy 7 is an overarching policy that seeks to strictly control development in the open countryside. It seeks to prevent development unless it accords with other policies that explicitly permit the development and where it would not harm the distinctive landscape amenity and environmental qualities within which it is located. Policy E18 is one such policy that explicitly permits the lifting of holiday restrictions and, as noted above, there would be no harm to the landscape or environmental quality of the area. The proposal, therefore, accords with Strategy 7 and the development plan as a whole.
24. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition and restating those undisputed conditions that are still subsisting and capable of taking effect. Condition 3 is replaced with a new condition to ensure continued controls over the two units of accommodation not subject to this appeal.

Other conditions

25. The effect of allowing the appeal is the grant of a new planning permission. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already

been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

26. Notwithstanding the above, I have not re-imposed the drainage condition as the development has clearly been carried out, has been occupied for some time and there is no requirement for on-going maintenance in the original condition. I have also made some minor revisions in the interests of clarity and to ensure compliance with the Framework. I have removed reference to the East Devon District Council Vehicle Parking Standards as I have no information as to their status. This does not affect the operation of the condition.

M Bale

INSPECTOR

Schedule

- 1) The development shall be carried out in accordance with the submitted drawings amended by revised drawing Nos. 2A, 4A and 5A received 13 December 1999.
- 2) Other than Barn A, known as The Willows and The Beeches, the units of accommodation hereby permitted shall be occupied for holiday letting purposes only and shall not be occupied by any one person, family or group of people for more than four successive weeks in any calendar year.
- 3) None of the units of accommodation hereby permitted shall be occupied until provision is made within the approach lane for 2 intervisible passing places in accordance with details to be submitted to and approved by the Local Planning Authority in writing before any works on the passing places commences.
- 4) All new window frames, glazing bars doors and door frames shall be formed in timber to match the style shown in the approved plans.
- 5) Vehicle parking shall be provided on the site before the use commences in accordance with details that shall previously have been submitted to and approved by the Local Planning Authority in writing and shall thereafter be maintained as such.