
Appeal Decision

Site visit made on 19 August 2019

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal Ref: APP/Y1138/W/19/3228326

Mill Ash Farm, The Mobile Home, Road from Camps Cross to Wyke Cross, Shobrooke EX17 1AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs V Ayre against the decision of Mid Devon District Council.
 - The application Ref 19/00140/OUT, dated 22 January 2019, was refused by notice dated 28 March 2019.
 - The development proposed is the replacement of an existing lawful mobile home on the site with a permanent dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application has been submitted in outline with all detailed matters reserved.
3. I have revised the applicant's original description of development omitting the words "Outline application for" as this does not constitute an act of development.

Background and Main Issues

4. The mobile home that is proposed to be replaced was granted planning permission¹ in 1985 for a temporary rural workers mobile home and access at the site. The Certificate of Lawful Use² for the existing use of the mobile home as residential, granted by the Council in 2013, relates to the breach of condition (a) attached to the original planning permission. The Council's officer report states that condition (a) relates to the removal of the caravan [mobile home] on or before 31 August 1990 and this has not been disputed by the appellant. There is no evidence before me to indicate the Council has approved the removal of the original occupancy condition (b) which tied the occupancy of the mobile home to a rural worker or that this condition can no longer be enforced.
5. In the context of the above, the main issues are (i) whether or not the proposal would in locational terms be an accessible and sustainable form of development in the countryside having regard to local and national policy; (ii) the effect of

¹ Reference: 85/00972/FULL

² Reference: 12/01589/CLU

the loss of the mobile home which is restricted by an agricultural occupancy condition; and (iii) the effect of the proposal on the provision of public open space in the area.

Reasons

Location of proposed development

6. The appeal site is outside any settlement boundary within the countryside. It is located between the adjoining Mill Ash Farm and a group of former farm buildings and is accessed via a shared private driveway off a narrow country road. It is approximately 3.0 miles from the town of Crediton and approximately 1.5 miles from the settlement of Newton St Cyres.
7. Whilst the application is outline with all detailed matters reserved, I have nonetheless taken the site location and block plans into account in so far as determining whether or not it would be possible, in land use principle terms, to erect one dwelling at the site. I am satisfied that it would be physically possible to erect one dwelling on the site without material harm being caused to the living conditions of the occupiers of the neighbouring Mill Ash Farm and that the means of access would be acceptable. The principal issue relates to whether or not the proposal would be an acceptable form of development in the countryside from a local and national planning policy point of view.
8. The proposal would replace the mobile home on the site which is restricted in occupancy terms with a permanent dwelling. I am satisfied that the existing mobile home does not amount to a building or operational development, taking into account both its modest size and its limited degree of attachment to the ground. Therefore, notwithstanding that the site has lawful use for the stationing of a mobile home for residential use, I consider this to be a different situation to where there might be an unrestricted dwelling on the site constituting operational development.
9. Access to the services and facilities in either Crediton or Newton St Cyres from the site would be via mainly unlit roads with no pavements. So, for future occupiers of the proposed dwelling walking or cycling the distances to either settlement would not be a safe or attractive prospect, especially during inclement weather or after dark. Furthermore, there is no evidence before me to indicate that there are any public transport facilities available from or to the site. Thus, by virtue of its location, the proposed dwelling would be detached from a range of services and facilities in the aforementioned settlements and in terms of accessibility any occupier would have a high dependency on the use of a private motor vehicle. In this regard, the proposal would not accord with the environmental sustainability requirements of chapter 9 of the National Planning Policy Framework (the Framework).
10. Policy COR18 of the Mid Devon Core Strategy 2026, adopted in 2007, (CS) states that development outside settlements defined by Policies COR13 – COR17 will be strictly controlled. The overall strategy of the policy seeks to deliver sustainable development, with development in the countryside restrained to meet local need and help provide appropriate forms of agricultural and rural diversification to support the rural economy and sustain the environmental qualities of the countryside. There is an indication that proposals for new housing in the named settlements will be supported. The site of the proposed development would not fall within any named settlements

and as such the conflict with the aforementioned policies weighs against allowing the proposal.

11. The Framework sets out that there are three overarching objectives to sustainable development: economic, social and environmental. The appellant contends that as there is already a lawful mobile home on the site and as the occupants have accessibility to a wide range of services and employment, and a private car has been used to access the site for 34 years, there is no difference in sustainability terms between the existing mobile home and the proposed permanent dwelling. However, I consider this comparison carries limited weight because, unlike an unrestricted replacement dwelling, the existing mobile home is a more temporary and restricted form of residential accommodation, notwithstanding that the appellant considers the abandonment of the occupation of the mobile home exceedingly remote.
12. The appellant states her understanding is that the Council cannot demonstrate a 5-year supply of deliverable housing sites. The appellant has not substantiated this view. On the basis of the evidence before me including the Council's position statement dated April 2019, I am satisfied that it is able to demonstrate a deliverable 7.43-year supply of housing sites. Therefore, the delivery of a single and unrestricted dwelling would not be a significant benefit in housing land supply terms. The appellant also states that even if the Council can demonstrate a 5-year supply of deliverable housing sites there is no evidence it can meet the requirement of paragraph 68 of the Framework, which requires the Council to identify land to accommodate at least 10% of their housing requirement on sites no larger than one hectare. However, by reference to paragraph 214 of the Framework, the policy set out in paragraph 68 of the Framework would only apply in regard to plans submitted for examination after 24 January 2019: hence is not applicable in this case as the CS was adopted in 2007.
13. Construction of the proposed dwelling would afford some economic benefit, although this would be a short-lived benefit. The replacement of the existing mobile home with a new dwelling would afford opportunity for environmental enhancement through new landscaping. However, the mobile home is set well back from the road and is reasonably well screened by existing trees and other foliage. Hence, does not adversely impact upon the open and rural character and appearance of the countryside. Thus, the environmental benefit in regard to visual characteristics of the site and its surroundings would carry limited weight.
14. For the reasons outlined above, I conclude that the development would not be located in an accessible or sustainable location. The proposal would not accord with the sustainability objectives of the Framework and the identified harm caused would significantly and demonstrably outweigh the aforementioned benefits of the proposal. Consequently, the development would not accord with Policies COR1, COR2, COR9, COR12 and COR18 of the CS; Policy DM1 of the Mid Devon Local Plan Part 3 (Development Management Policies) (DMP); and the Framework which, amongst other things, seek to deliver sustainable development.

Loss of mobile home

15. The appellant contends that as there is no longer an agricultural operation being carried out at Mill Ash Farm, and the need for such dwellings in the area is restricted to site/operational specific demand, the prospect of the mobile home ever being required again for a rural worker is no longer a material consideration. However, Policy DM10 of the DMP states, in regard to rural workers dwellings, removal of an occupancy condition will only be permitted where there is clear evidence that there is no need for the condition to remain in place. Whilst it is proposed to remove the mobile home from the site, I have no substantive evidence before me to indicate that there is no longer a requirement for a rural worker to live on the site. Furthermore, the proposal is not submitted on the basis of occupancy being restricted to a rural worker.
16. Therefore, if the development were allowed the dwelling could be occupied by a non-rural worker without any compelling evidence to demonstrate there is now no actual need for a rural worker to live on the site. In the absence of any such compelling evidence, including the unsubstantiated claim made by the appellant that at present there is no agricultural operation at Mill Ash Farm, I am concerned that if the appeal dwelling were to be allowed there might then be pressure to accommodate additional residential accommodation on the site for a rural worker. This would have the potential to cause cumulative harm to the essentially open and rural character and appearance of this part of the countryside, thereby conflicting with paragraph 170 of the Framework which states that decisions should recognise the intrinsic character and beauty of the countryside.
17. The above concern is compounded by the fact that whilst the appellant states that the mobile home would be removed from the site, I have not been provided with any suggested controlling mechanism to ensure that if it were to be removed from the site, a replacement mobile home would not then be capable of being brought back onto the land in accordance with the 1985 planning permission.
18. For the above reasons, I conclude that I do not consider that the proposal would accord with the requirements of Policy DM10 of the DMP or the countryside protection aims of the Framework.

Provision of public open space

19. The Council's decision notice includes a third reason for refusal. This relates to a lack of contribution towards public open space provision. However, since the appeal was lodged the appellant has submitted a unilateral undertaking facilitating a financial contribution of £1205 towards public open space provision in the locality.
20. Notwithstanding that the appellant is willing to make this payment, were I to allow the appeal, I would still need to consider such an obligation against tests set out in Regulation 122 of the Community Infrastructure Levy Regulations. I conclude that as I am dismissing the appeal for other reasons it is not necessary for me to pursue this matter in any further detail. Therefore, potential compliance with Policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document 2011 would not alter or outweigh my overriding concerns raised above.

Other Matters

21. I understand the wish of the appellant to provide a dwelling for her son, however this personal circumstance is not sufficient to outweigh the harm that I have found.
22. I have no substantive evidence to indicate that there is a significant probability that a large replacement mobile home falling within the definition of a caravan would be stationed on the site should this appeal be dismissed. In any event, such a possibility would not outweigh the harm that I have identified in this decision and the evidence before me indicates that any replacement mobile home would include restrictions as per the 1985 planning permission. Indeed, I am not aware of any lawful development certificate in place which would indicate that the mobile home can be occupied by any person.
23. None of the other matters raised alter or outweigh my conclusions on the main issues.

Conclusion

24. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Andrew Bremford

INSPECTOR