



Appeal Decision

Site visit made on 10 June 2020

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2020

Appeal Ref: APP/Q1153/W/20/3245715

Little Acorns, R/O 7 Burnshall Cottages, Chillaton PL16 0HX

- 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 & Mrs F Griffiths against the decision of West Devon Borough Council.
 - The application Ref 1334/19/FUL, dated 25 April 2019, was refused by notice dated 20 December 2019.
 - The appeal seeks permission to carry out development without complying with a condition attached to the planning permission granted under appeal Ref APP/Q1153/A/13/2209904, dated 9 May 2014, for the change of use to (residential curtilage) garden and retention of mobile structure (retrospective).
 - The condition in dispute is No 3 which states that:
"The development hereby permitted shall be used solely for holiday accommodation only and shall not be occupied as any person's sole or main residence. The owners/operators shall maintain an up-to-date register of the names and addresses of all owners/occupiers of the holiday unit and shall make this information available at all reasonable times to the Local Planning Authority".
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Decision

1. The appeal is allowed and planning permission is granted for the change of use to (residential curtilage) garden and retention of mobile structure (retrospective) at Little Acorns, R/O 7 Burnshall Cottages, Chillaton PL16 0HX in accordance with the application Ref 1334/19/FUL dated 25 April 2019, without compliance with condition number 3 previously imposed on planning permission Ref APP/Q1153/A/13/2209904 dated 9 May 2014 and subject to the following condition:
 - 1) 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 in Schedule 2, Part 1, Class A, shall be carried out.

Background and Main Issue

2. Little Acorns comprises a timber mobile home, which has been in situ for a number of years. Planning permission to retain the "mobile structure" was granted on appeal in 2008¹. In determining the appeal, the Inspector concluded that the mobile structure met the definition of a caravan for planning

¹ Planning Inspectorate reference: APP/Q1153/A/08/2064993/NWF

purposes. A condition was imposed limiting occupation to purposes ancillary to the residential use of 7 Burnshall Cottages.

3. A subsequent appeal decision² granted permission for the occupation of the mobile structure without compliance with this condition. The new permission was, however, subject to a condition limiting occupation to holiday accommodation. In reaching this decision, the Inspector noted that, as a result of the decision, the structure would become a dwellinghouse – albeit one that is restricted to holiday occupation.
4. The proposal before me is described on the planning application form, and the Council's decision notice, as a change of use from a holiday let to a dwelling. However, applying the principles held in *Gravesham BC v SSE and O'Brien*³, the structure already has a residential use. Consequently, it is only the planning condition that prevents its permanent occupation. Therefore, after consultation with the parties, I have determined the appeal on the basis that it seeks to allow the continued residential use of the existing mobile structure, without compliance with the limitation on occupancy imposed by planning condition 3 of the appeal decision.
5. The main issue is, therefore, whether the condition is necessary and reasonable, having regard to the settlement policies of the development plan, the accessibility of the site to services and facilities, and pedestrian safety.

Reasons

6. The appeal site lies behind a row of eight semi-detached houses that front a country lane, in an otherwise rural location. This group of buildings is in the countryside, about 600 metres to the north east of the centre of the small village of Chillaton, which has very limited services. The larger villages of Lewdown and Lifton, which have a wider range of facilities, lie approximately 5 kilometres to the north and north west. However, the nearest towns with a wide range of services are Launceston and Tavistock, which lie approximately 9 kilometres to the west and south respectively.
7. Settlement policies for the area are contained in the Plymouth & South West Devon Joint Local Plan 2014 – 2034 (adopted 2019) (the Local Plan). The strategy, set out at Policy TTV1, is to prioritise growth through a hierarchy of sustainable settlements, which comprise Main Towns; Smaller Towns and Key Villages; Sustainable Villages; and, Smaller Villages, Hamlets and Countryside. The priority for growth is in the Main Towns, such as Tavistock. Smaller Towns and Key Villages, such as Lifton, will receive support for growth commensurate with their roles in supporting the small villages and hamlets. Lewdown is identified as a Sustainable Village, where development to meet locally identified needs and to sustain limited services and amenities, will be supported. Chillaton falls in the Smaller Villages, Hamlets and the Countryside tier.
8. Development is only permitted in Smaller Villages, Hamlets and the Countryside if it supports the principles of sustainable development and communities set out in Policies SPT1 and SPT2, and as provided for in Policies TTV26 and TTV27. Policy TTV27 is not relevant in this instance, as it refers to the provision of affordable housing, which is not proposed under the appeal.

² Planning Inspectorate reference: APP/Q1153/A/13/2209904

³ *Gravesham Borough Council v Secretary of State for the Environment and Another* - Queen's Bench Division 8 November 1982 (1984) 47 P. & C.R. 142

Policy TTV26 says that isolated development in the countryside will be avoided and only permitted in exceptional circumstances. Whilst the site lies outside the main part of the village of Chillaton, it is closely associated with an existing cluster of houses. Consequently, it cannot reasonably be described as isolated for the purposes of this policy or paragraph 79 of the National Planning Policy Framework (the Framework). Neither, therefore, places a presumption against development on the site.

9. The principle of new residential development on the appeal site would, therefore, be dependant on it meeting the principles of sustainable development and communities set out in Policies SPT1 and SPT2.
10. The site is distant from local education, services and jobs. Although the appellant states that Lifton and Lewdown are both accessible by public transport, I have not been provided with information to demonstrate that the time and frequency of these services would make them a realistic alternative to private transport for most trips. The nature of the roads to these villages, and the distance involved, means that they would not be attractive to most cyclists or pedestrians. Occupants of a new dwelling in this location would not, therefore, be well served by public transport, walking and cycling opportunities, so would be heavily reliant on private vehicular transport to access daily community needs. This would conflict with the sustainable development aims of Policies SPT1 and SPT2.
11. Therefore, in the absence of any special circumstances, such as an essential agricultural requirement, or the provision of affordable housing to meet an identified need, a new dwelling on the appeal site would not accord with the settlement policies of the Local Plan.
12. However, the appeal does not involve the provision of a new dwelling. The mobile structure is already in position. Whether or not it still complies with the statutory definition of a caravan, it has assumed a degree of permanence. The existing planning permission does not include a temporary condition, and no evidence has been put forward to suggest that it will not remain on the site for the foreseeable future. Moreover, it already has a lawful residential use. Although that use is limited to holiday occupation, it will generate traffic movements from the comings and goings of holidaymakers and deliveries. In view of my earlier conclusions, these trips would, in all likelihood, involve reliance on private vehicles.
13. Removal of the holiday occupancy restriction would alter the travel requirements of future residents. The trips of holidaymakers are likely to be to recreational destinations, whereas permanent occupants may have a greater need to travel to a place of employment, or education. However, there is no substantive evidence before me to indicate that an unrestricted residential use would inevitably result in a higher level of private transport movements. Either form of occupation will require trips by car to obtain goods and services. Whilst some holidaymakers may bring their own provisions and enjoy a period of isolation, others may choose to make numerous trips to shop and to explore the area. Permanent occupancy by a single person working from home would generate a much lower level of activity.
14. Therefore, the frequency of traffic movements will depend as much on the nature and personal choices of the occupants, as on the type of occupancy. As removal of the condition would not, necessarily, lead to an increase in the use

- of private transport, there would be no conflict with the sustainable development aims of Policies SPT1 and SPT2.
15. The pedestrian route from the site to the centre of Chillaton involves a walk of about 700 metres, initially via a narrow lane, but for the most part along a reasonably wide road. The Council's decision notice refers to this route as a busy A road, but the appellant contests the road classification. I have no definitive evidence on this matter, but I saw that it is a minor road carrying low levels of traffic. Although there are streetlights, there are no separate footpaths for most of its length, which makes it less than ideal for pedestrians. However, it is reasonably level, and walking into the village is a feasible alternative to driving.
 16. The facilities in the village are, however, limited to a pub, which is currently closed, and a repair garage. There is, therefore, little reason for occupants of the appeal site to regularly walk along this road, other than purely for exercise. The Council has suggested that the proposals would lead to increased pedestrian movements on the road. However, there is no evidence to demonstrate that unrestricted occupancy would result in such an increase, compared to the existing use as holiday accommodation. Again, this is likely to be more dependant on the choices of the occupants, rather than the nature of the occupancy. Consequently, the retention of the occupancy condition is not necessary to avoid potential conflict between pedestrians and car users.
 17. In conclusion, the mobile structure is already in position and has a residential use. The proposal would not, therefore, result in a new dwelling in the countryside. In the particular circumstances of the case, therefore, the use of the accommodation for permanent residential purposes would not conflict with the settlement strategy set out in Policies TTV1, TTV2 and TTV26 of the Local Plan and Paragraph 79 of the Framework. Removal of the occupancy condition would not result in an inevitable increase in private vehicle movements to access services and facilities, so there would be no conflict with the sustainable development objectives of Policies SPT1 and SPT2 of the Local Plan and paragraph 78 of the Framework. Furthermore, removal of the holiday restriction would not result in additional conflict between pedestrians and car users.

Conditions

18. The Planning Practice Guidance says that, to assist with clarity, 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 the development approved by the original permission has already been implemented, it is unnecessary to reimpose conditions 1 and 2, which required commencement within a set timescale and compliance with the approved plans.
19. Condition 5 of the original permission required the approval of a parking scheme prior to commencement of the permitted use. I do not have evidence of whether this condition was discharged. However, I saw that suitable off-street car-parking facilities have been provided. Consequently, it is not necessary to re-impose this condition.
20. A condition removing permitted development rights for extensions is still necessary in order to preserve the landscape. I have therefore reimposed

condition 4, but in an amended format, to reflect the updated legislation. The removal of the occupancy condition does not confer any additional permitted development rights, so I see no justification for extending the scope of the condition, or to include a further condition restricting the rights to provide means of enclosure, as suggested by the Council.

21. I saw that the mobile structure sits in a landscaped domestic garden, which is largely enclosed by the rear fences of the adjacent houses, and stockproof fencing to the surrounding fields. The removal of the occupancy condition will not have any impact on the character and appearance of the area, and will not necessitate the provision of any additional means of enclosure. The Council's suggested condition, requiring details of all boundary treatment and soft landscaping to be submitted for approval prior to implementation of the development, would therefore be unnecessary and unreasonable.

Conclusion

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

Nick Davies

INSPECTOR