



Appeal Decisions

Site visit made on 29 September 2020

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2020

Appeal Ref: APP/E2001/W/20/3252462

Oak Tree Cottage, Owstwick Hull HU12 0LH

- 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 C Peart against the decision of East Riding of Yorkshire Council.
 - The application Ref 19/04135/VAR, dated 2 December 2019, was refused by notice dated 27 January 2020.
 - The application sought planning permission for the erection of a dwelling in connection with a vehicle repair shop without complying with conditions attached to planning permission Ref DC/10/00724/PLF/EASTSE, dated 16 November 2010.
 - The conditions in dispute are: No 5 which states that the occupation of the dwelling shall be limited to a person solely or mainly employed or last employed in the business occupying the plot edged in red on plan 10/00724/PLF PLAN 01, or a widow or widower of such a person or any resident dependants; and No 6 which states that the office shown hatched on the attached plans 10/00724/PLF PLAN 02 shall be retained for use in connection with the business as indicated in condition No 5 above and shall not be used for any other purpose whether incidental to the enjoyment of the dwelling or not.
 - The reasons given for the conditions are: the site is situated in the open countryside where residential development is not normally considered acceptable unless in connection with agriculture or forestry or other rural uses; and the dwelling has been granted permission on the basis there is a need for someone to be present on the site at all times in connection with the business known currently as Peart Auto Services.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling in connection with a vehicle repair workshop at Peart Auto Services, Quaker Road, Owstwick, East Riding of Yorkshire HU12 0LH in accordance with application DC/10/00724/PLF/EASTSE without conditions 5 and 6 but shall remain subject to the following conditions:
 - 1) The development shall be carried out in accordance with the following approved plans: Drawing number CP.09.01.B – proposed elevations and layout plans; Site Plan scale 1:500; and Block Plan 1:1250 received 1 March 2010.
 - 2) No development shall take place until details of the proposed floor levels of the building(s) in relation to the existing and proposed levels of the site and the surrounding land have been submitted to and approved in writing by the Local Planning Authority. The building(s) shall then be constructed with the approved levels.

- 3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Procedural Matter

2. There is another appeal concerning this site which will be subject to a separate decision.

Main Issue

3. The main issue is whether the conditions if removed would result in harm to the open countryside and associated sustainable development objectives.

Reasons

4. It was determined by the Council in 2010 that the occupants of the appeal dwelling needed to be at the adjacent workshop outside of normal working hours to carry out urgent recovery and repair work as well as enabling on-site security. These were the specific reasons accepted for allowing the dwelling under planning application 10/00724/PLF as the Council's development plan in force at the time would have otherwise discouraged an isolated home within the open countryside away from key services. Current development plan policy continues to serve a similar purpose in step with the National Planning Policy Framework (the Framework).
5. However, the appellants have stated that the business no longer undertakes urgent recovery operations and therefore they do not need to be available for business call outs. Moreover, they have installed CCTV thus meaning the previous site security provided by occupation of the dwelling is now defunct. I note a larger office within the workshop premises is in use and the smaller office space within the dwelling had become obsolete because of this. I give substantial weight to these changes in circumstances.
6. The dwelling erected lacks ready access to day to day services or public transport. Subsequently, without a link to a rural business the location of the dwelling would be out of step with the Council's current Development Plan and Framework. But the Council's decision to allow what was originally a 'new' dwelling in the open countryside has already been determined and implemented. The dwelling is no longer new. Thus, revisiting the sustainability credentials of the appeal dwelling as prescribed by current local and national policy would not serve a useful objective as relevant policies are centred on new dwellings and uses. The dwelling exists, it is in use and as a result I find that the changes in circumstances raised by the appellant are the factors most relevant to my decision.
7. There is no substantive evidence demonstrating that the business would cease or that there is an essential need for occupants of the dwelling to be at the site to undertake recovery operations or to provide site security. Furthermore, the business premises can provide a more suitable office space than is possible using the layout of the dwelling. Thus, the original need for each of the conditions is now obsolete. The dwelling has been substantially complete for some time, occupied and is an existing established physical feature within the open countryside. As a result, there would be no change in the impact to the

countryside or any effect to wider objectives requiring new dwellings to be located near to key services should the conditions be removed.

8. Accordingly, I conclude that the removal of the conditions would not harm the open countryside. The absence of any harm outweighs any conflict with Policies S1, S2 and S4 of the East Riding Local Plan 2012-2029 Strategy Document, which, in combination, support sustainable development and only encourage new dwellings within the open countryside when linked to agricultural, forestry or other rural-based occupational dwellings subject to demonstrating an essential need; or Paragraph 79 of the National Planning Policy Framework which seeks to avoid isolated homes.

Conditions and Conclusion

9. Planning Practice Guidance (PPG) 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.
10. The original time limit condition is not appropriate to carry forward given the development is substantially complete. There is no evidence that the other remaining original conditions have been discharged. It remains a matter between parties whether they have been discharged, thus I have repeated them in the new consent.
11. For the above reasons the appeal succeeds.

M Shrigley

INSPECTOR