



Appeal Decision

Site Visit made on 1 February 2021

by David Wyborn BSc(Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2021

Appeal Ref: APP/W3330/W/20/3261062

Three Oaks, Combe Florey Road, Ash Priors, Taunton TA4 3NQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Brian Forsey against the decision of Somerset West and Taunton Council.
 - The application Ref 02/20/0002, dated 27 March 2020, was refused by notice dated 17 June 2020.
 - The development proposed is the retention of existing mobile home for use as ancillary annexe accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for the retention of existing mobile home for use as ancillary annexe accommodation at Three Oaks, Combe Florey Road, Ash Priors, Taunton TA4 3NQ in accordance with the terms of application Ref 02/20/0002, dated 27 March 2020 and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1349-PL-301A, 1349-PL-302 and 1349-PL-304.
 - 3) The mobile home hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling currently known as Three Oaks, and shall not become a separate unit of accommodation.

Application for costs

2. An application for costs has been made by Mr Brian Forsey against Somerset West and Taunton Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The mobile home on site was allowed as a unit of separate accommodation for a temporary period while the rural worker's dwelling was being constructed. The new dwelling has been built and provides permanent on-site accommodation to serve the race horse training enterprise at the site. Condition 8 of the planning permission¹ for the dwelling required that within 2

¹ Approved on 2 October 2012 under Council reference 02/12/0011

weeks of the new dwelling being first occupied the temporary dwelling should be removed and the land restored to its former condition.

4. The dwelling is occupied, however, the mobile home which was used as the temporary accommodation remains on site. The application seeks to use the mobile home as ancillary annexe accommodation to the main dwelling.
5. The Council's second reason for refusal, and supplemented in their appeal statement, in essence, argues that as the mobile home should have been removed now the new dwelling has been completed it would contravene its original purpose to remain on site. However, the proposal the subject of the appeal is not based on an application to extend the time period or vary the condition on the original approval. The proposal is a separate planning application based on the case that the mobile home would be used as an annexe. In these circumstances, while I have had regard to the background planning history, it is the merits of the proposal as now argued that are the key considerations.

Main Issues

6. Accordingly, the main issues are:
 - whether the proposal would be tantamount to the provision of a separate unit of accommodation in the countryside or an ancillary annexe to the main dwelling and, dependent on the outcome, whether the development plan would support the proposal in this countryside location, and
 - the effect of the development on the character and appearance of the area.

Reasons

Separate unit of accommodation or an ancillary annexe to the main dwelling.

7. The submissions from the appellant explain that the annexe is required to provide additional guest accommodation, for use by apprentice stable hands gaining experience working in the stables, by visiting owners who come periodically to view their horses and to check on their progress, and by visiting members of the family². It was explained that all occupiers would be staying on a temporary basis and would not have exclusive use of the mobile home, using it mainly for sleeping, with most daily activity in the main dwelling. The letter sets out that the majority of meals would be taken in the main dwelling, and there would be substantial shared use of facilities, such as for laundry, cooking, and socialising.
8. The applicant accepts that any planning permission would be conditional that the mobile home should be used for ancillary domestic use only, and not as a separate dwelling.
9. The third reason for refusal explains, in summary, that the mobile home would be a self-contained unit of accommodation with no functional link to the host dwelling. As a consequence, the Council judge that the proposal would not constitute an annexe but an additional unit of accommodation.
10. A leading case in respect of these matters is *Uttlesford DC v SSE & White [1992]* which determined that, even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate

² Letter dated 27 March 2020.

- planning unit from the main dwelling – instead it would be a matter of fact and degree.
11. In this case, the mobile home has been used as independent accommodation in the recent past, is fairly extensive in size, has all the facilities for separate occupation and lies outside the residential curtilage of the main dwelling.
 12. On the ground, the mobile home is reasonably well grouped with the main stables building and occupants could share a communal parking area accessed off the only driveway to the site. However, the mobile home is some way across the yard area from the main house and therefore the location is not so convenient and clearly associated with the dwelling that the positions of the mobile home and dwelling would clearly facilitate an ancillary relationship. It is a matter of judgement as to whether the positioning and separation would, as a matter of practical reality and regardless of any occupancy condition, lead to the two elements of the accommodation functioning separately.
 13. I give substantial weight to the explanation of the appellant and the submissions whereby it is made clear that there is a need for ancillary accommodation on the site for a range of occupiers. There is no substantive evidence and, on balance, no clear physical reason to conclude that the occupation of the mobile home could not operate in the way envisaged and applied for.
 14. The combination of all these circumstances lead me to conclude that the outbuilding would be occupied as ancillary accommodation and not as a separate dwelling. A single planning unit of residential accommodation across the site would be retained. A planning condition in any approval restricting the use to ancillary accommodation would be reasonable and necessary to ensure that the use was appropriately controlled and that a separate unit of accommodation would not be formed in this countryside location.
 15. I therefore conclude as a matter of fact and degree, and subject to an appropriately worded condition in any approval, that the proposal should be considered, as proposed in the application, as ancillary annexe accommodation to the main dwelling and not on the basis that it would constitute the formation of a separate unit of accommodation.
 16. If the mobile home was not to be used as proposed and there was a breach of planning control in the future to create a separate unit of accommodation, then a separate grant of planning permission would be required, and there would be a risk of enforcement action if such permission was not granted.
 17. However, in addition to the above, it is also necessary to consider whether the provision of a mobile home to provide the annexe accommodation would accord with the development plan. The Council draw attention to Policy D6 of the Taunton Deane Adopted Site Allocations and Development Management Plan 2016 (the DMP) which allows for the consideration of ancillary accommodation. The policy does not prevent such accommodation in the countryside and requires that where ancillary accommodation is permitted, planning control over subsequent use or sale as a separate dwelling will be imposed.
 18. The Policy sets out an approach which includes the conversion of an appropriate building within the curtilage for such accommodation. In this case,

there is not an appropriate building that is available to convert. The garage has not yet been built and the evidence indicates that if this was built and used as an annexe this approach would impact on the finances of the business. The policy also considers the approach when considering the erection of a new building within the curtilage of a dwelling although the policy does not address the circumstances when the proposal is in the form of a mobile home for ancillary accommodation. Nevertheless, as the policy is referenced in a reason for refusal it is reasonable to examine the policy criteria in the context of the present application for the use of the mobile home.

19. In relation to criterion A of Policy D6 of the DMP, it is difficult to judge the impact of an extension to the dwelling compared with the present proposal because there is no extension before me to consider. However, the dwelling is on a slightly elevated part of the site and an extension could potentially be more prominent than the mobile home in its present location depending on the size, position and design of any extension. As I have concluded below that the location of the mobile home does not cause harm to the surroundings it could very well be the case that the appeal proposal would be less damaging than an extension.
20. The retention and use of the mobile home would comply with criteria B, C and D of Policy D6 of the DMP for the reasons explained above. In relation to criterion E, the proposal would not harm the form and character of the main dwelling. As the mobile home is a standard size and a use of the land rather than a building, the individual design is not an issue and the size would be fixed by the legislation for caravans and therefore is not a matter of specific control.
21. It follows that the general policy approach for the provision of ancillary accommodation as set out by Policy D6 of the DMP would not be breached where the criteria was considered applicable to the appeal proposal. This weighs in favour of the scheme.
22. The Council also highlight that the dwelling was permitted to be of a size that allowed for a fourth bedroom to meet the then accommodation requirements of the business and that this bedroom is now used as a store room. However, the appellant has explained the reason the space is used as a store, and the need for the annexe accommodation both in terms of family and business needs. The personal circumstances carry little weight, however, the appellant has explained that the ability to provide accommodation particularly for apprentice stable hands and for visiting owners is very important to the ongoing success of the business. Consequently, the use of the mobile home as proposed would have an economic benefit to the business and this weighs in favour of the proposal.
23. In summary, a new unit of accommodation would not be formed. The scheme would provide an ancillary annexe and on the basis of the above analysis I conclude the proposal would be supported by or not conflict with the relevant policies of the development plan. In particular, the proposal would accord with the approach in Policies SB1, CP1, CP8 and DM2 of the Taunton Deane Core Strategy 2011-2028 (September 2012) (the Core Strategy), D6 of the DMP and the National Planning Policy Framework which, amongst other things, sets the approach to development in the countryside.

Character and appearance

24. When approaching along the drive, the mobile home is sited in a slight dip in the land and is well screened by a beech hedge and other planting. It is seen within the site against the backdrop of the high hedge along the southern boundary and behind the fairly well established planting to its northern side. The screening and position of the mobile home means that it appears as a fairly minor feature when experienced in conjunction with the more prominent stable barn and new dwelling.
25. Within the wider landscape, the mobile home, or any replacement, is only visible in some limited locations from outside the site. In these locations the reasonably low height of its form, the position in the dip in the site and the established planting mean that it does not cause any material level of visual harm to the rural character of the area. This is especially in the context of it being set amongst the present group of buildings and in the wider surroundings which have a scattering of other structures.
26. The appellant has made the case, that if permission is refused, it would be possible to station a caravan within the curtilage of the dwelling and use it as ancillary annexe accommodation as an alternative to the present proposal. An appeal decision³ from another site setting out the lawfulness of this general type of approach is included in the submissions. While all cases will have their individual circumstances, I consider, given the information on intended occupants and the way they would interact with the main house, that the siting of a caravan/mobile home within the curtilage of the dwelling, in a form that would not require planning permission, is an option that is likely to be available to the appellant.
27. There is space within the curtilage area to position a caravan and I consider that this alternative could be a real prospect to provide the accommodation that the appellant seeks. The dwelling and its curtilage are on slightly higher land and more exposed to views from the open countryside broadly to the north than the site of the mobile home. A caravan within the curtilage is therefore likely to be more prominent and cause some harm within the landscape compared with the mobile home site. Consequently, I consider that this fallback situation lends moderate additional weight in favour of the location of the appeal proposal.
28. In the light of the above analysis, I conclude that the present mobile home in its position does not harm the character and appearance of the area. Accordingly, the proposal complies with Policies CP1, CP8, and DM1 of the Core Strategy which seek, in this respect, amongst other things, that the appearance and character of any affected landscape would not be unacceptably harmed by the development.

Other Matters

29. I have carefully considered all the representations both for and against the appeal proposal together with the comments of the Chairman of the Ash Priors Parish Meeting. The concerns that the mobile home has not been removed as required by the condition are understandable. However, the mobile home is still in place and I am required to consider the proposal on its planning merits. I

³ APP/L5810/X/15/3140569

have already examined the issues regarding the size of the dwelling that was originally permitted to meet the appellant's needs and the arguments now raised both in support and against the additional space.

30. The adjoining landowner has explained that within the main buildings located to the south, livestock are overwintered and there is a machinery/workshop. It is explained that these buildings are directly adjacent to the mobile home and the relationship led to numerous complaints until the dwelling was moved across to the other part of the site. Concerns with the relationship of the mobile home and the adjoining farm buildings have been highlighted by the Council, although this was not progressed as a separate reason for refusal. The appellant has commented on this matter and judges that as they would have flexibility regarding when and how to utilise the annexe that any usual agricultural activities would not prove to be an issue for occupants of the annexe.
31. The mobile home would be an annexe and effectively be used as overflow accommodation and not a separate dwelling. In these circumstances, there would be some flexibility as to how it would be used and, on this basis, I consider that the relationship to the adjoining agricultural buildings would not be so harmful as to justify dismissal of the appeal on this issue.

Conditions

32. I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. The statutory time limit is required and a condition specifying the approved plans is necessary in the interests of certainty.
33. A condition is necessary to restrict occupation of the mobile home to ancillary accommodation to the main dwelling and for it not to be used as a separate unit of accommodation so as to comply with development plan policies for the location of new residential units across the plan area.
34. The Council seek a condition requiring the removal of the mobile home within 5 years. However, a permanent permission is sought and such a temporary permission would not be reasonable as it would effectively negate the benefits of approval and be contrary to the advice in the Planning Practice Guidance.
35. Furthermore, the Council seek to remove permitted development rights, such as the ability to extend or alter what the draft condition says is a building, or erect outbuildings. However, in this case the proposal is the siting of a mobile home rather than a building and it would not benefit from permitted development rights for extensions and alterations. The area around the building is already fenced and well landscaped and the condition seeking the removal of permitted development rights is not necessary or reasonable.
36. The Council also seek a condition seeking details for approval of the parking areas to be associated with the mobile home. The mobile home would be used as an annexe in conjunction with the main dwelling and there is ample parking available adjoining the dwelling and yard. The condition is, therefore, not necessary in the interests of highway safety or visual impact.

Conclusion

37. For the reasons given above, the scheme would comply with the development plan when considered as a whole and other material considerations do not indicate that a decision should be made other than in accordance with the development plan. Accordingly, and taking all other matters into account, I conclude that, subject to the specified conditions, the appeal should be allowed.

David Wyborn

INSPECTOR