The Planning Inspectorate

Appeal Decision

Site Visit made on 25 May 2021

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Appeal Ref: APP/U1105/W/21/3269783
Apple Barrel Barn, Orchard Cottage, Dunkeswell Abbey EX14 4RP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr and Mrs G and S Bowey against the decision of East Devon District Council.
- The application Ref 20/2054/VAR, dated 23 September 2020, was approved on 20 February 2021 and planning permission was granted subject to conditions.
- The development permitted is change of use of redundant barn to holiday cottage.
- The condition in dispute is No 1 which states that: *The occupation of the residential unit hereby permitted shall be restricted as follows:*
  (i) Shall be occupied for holiday purposes only;
  (ii) Shall not be occupied as a person's sole, or main place of residence; and
  (iii) The operators shall maintain an up-to-date register of the names of any occupiers and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.
- The reason given for the condition is: *To ensure that the approved holiday accommodation is not used for unauthorised permanent residential occupation due to its unsustainable location where a separate unit of accommodation would not be adequately served by a range of services and facilities, in accordance with Strategies 3 (sustainable development) and 7 (development in the countryside) of the East Devon Local Plan 2013-2031*.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have taken the address from the Council's decision as it is more concise than the address provided on the application form.

Background and Main Issue

3. Planning permission was granted in 2010 to 'change the use of redundant barn to holiday cottage'[1]. The building was converted soon after and is currently in use as a holiday cottage. An application was submitted in 2020 that sought the removal of condition 02 of the 2010 permission. Rather than remove the condition the Council varied it, and issued a new decision, as referred to above. The variation removed the tie between the appeal building and Orchard Cottage previously included within condition 02, but maintained the occupancy restriction for holiday purposes only.

[1] Council Ref: 09/01906/FUL

4. The main issue is whether restricting the occupancy of the building for holiday purposes is necessary with regard to its location and local and national planning policies.

Reasons

5. The appeal building is a small converted barn. Despite its conversion it retains its character as a former agricultural building and is served by a generous area of garden with its own access and parking area. It forms part of the small hamlet of Dunkeswell Abbey, within the Blackdown Hills Area of Outstanding Natural Beauty (AONB).

6. The hamlet is undeniably rural. Strategy 7 of the East Devon Local Plan 2013 to 2031 (LP) establishes that the countryside is defined as those parts of the plan area that are outside the Built-up Area Boundaries and outside of site specific allocations. The appeal site is within neither and should therefore be regarded as a countryside location in the context of the LP. Policy D8 of the LP supports new uses for buildings in the countryside subject to a number of conditions. For the re-use of rural buildings for residential purposes the Policy establishes that the conversion must enhance its setting and the building must be located close to a range of services and facilities to meet the everyday needs of residents.

7. Policy TC2 of the LP seeks to ensure that new development is well located to be accessible to minimise the need to travel by car.

8. It is clear that the small hamlet of Dunkeswell Abbey would not provide services or facilities that could meet the everyday needs of permanent occupants of the appeal property. The larger settlements of Dunkeswell and Hemyock are approximately 2 miles away, accessed via country lanes. The appellants suggest that there is no definition of what is meant by 'close' and advise that there are cases where the Council has taken a generous approach, although specific examples are not before me. Based on my assessment on site, journeys to either settlement would not be convenient on foot or bicycle on a regular basis for most, owing to the narrow width of the lanes, and the lack of dedicated footway or lighting. As a result, it is likely that permanent occupants of the property would be likely to rely on the use of a private car for such journeys.

9. The removal of the condition to allow unrestricted residential occupation of the building would not deliver an enhancement to the building's setting and would result in a dwelling that is not located close to a range of accessible services and facilities. Journeys by private car would be likely to increase as the occupiers of the building as a permanent residential dwelling would need to regularly access goods and services including those for employment or education. I consider it likely that this would be quite different to journeys a holiday maker may make as they are likely to spend more time at the property to enjoy the peaceful environs of the site, and only make journeys from the building for leisure purposes. The removal of the occupancy restriction would thus not accord with parts b) and c) of Policy D8 or Policy TC2 of the LP.

10. Policies D8 and TC2 of the LP align with paragraphs 78, 79, 102 and 103 of the National Planning Policy Framework (the Framework) which restrict development in rural areas by seeking to avoid the development of isolated homes in the countryside, providing opportunities to promote walking, cycling

and public transport and actively managing patterns of growth. I am therefore satisfied that both LP Policies should be given full weight.

11. With regard to paragraph 79 of the Framework, the proposal would not satisfy part c) as the existing building is not redundant or disused, and it would not result in the enhancement of its immediate setting.

12. Evidence before me demonstrates that the use of the building as a holiday let made a regular loss between 2015-2018. Whilst I do not dispute these figures, I note that there is nothing before me that considers in any detail why the business may run at a loss. It is a characterful building that appears to receive very good reviews, is well equipped and stands in a tranquil rural location within its own grounds. It is located within the AONB and is not far from the Jurassic Coast, the value of which is recognised by its status as a World Heritage Site. I am therefore not satisfied that there is an inherent reason as to why the building is not suited to a holiday let that would lead me to conclude that it would always remain unviable.

13. I note that a significant cost arises from the payment of mortgage fees. Without this, letting the building as a holiday let would make a profit. I am mindful that the appellants raised funds to carry out the initial conversion through a mortgage, and that if the building was sold a future owner may also need to borrow money to finance the purchase. However, there is nothing before me to indicate how long the mortgage term has left to run, and if the building was sold someone may buy it who is able to complete the sale without raising a mortgage.

14. The appellants also highlight that the figures do not account for the high cost of maintaining and periodically replacing fixtures and fittings, to maintain a high standard of accommodation. I also note that other costs such as the time taken to check guests in and out have not been factored in. However, a future owner who may add the property to an existing portfolio of holiday lets would be likely to have the ability to address these matters with greater efficiency.

15. I agree that without a long term viable use the building may become redundant, and that if left to fall into a state of disrepair the character and appearance of the area could be adversely affected. However, based on my findings I am not satisfied that the existing use of the building is not viable.

16. The appellants have referred to two other cases where the Council agreed to the removal of a holiday let condition. I do not know the circumstances of these cases, including details of the financial position or the characteristics of the buildings. I therefore give little weight to this matter.

17. It is suggested that an application to convert the building into an unrestricted dwelling would be considered differently in the current Policy context than it would have in 2010. However, this is not the proposal before me.

18. I accept that the building would be capable of functioning as a permanently occupied dwelling without the need for alteration or extension. I also accept that releasing its occupancy condition would make a small contribution to local housing supply. However, the proposal would conflict with LP Policies and I give weight to the fact that one of the key objectives of the LP within rural areas is to prioritise agriculture, energy production, water management and tourism

over other forms of development. These matters would not therefore outweigh the Policy conflict.

19. In summary, the condition remains necessary to ensure that the development does not conflict with Strategies 3 and 7 and Policies D8 and TC2 of the LP, which seek to manage development in the countryside and to ensure that new development is well located to be accessible to minimise the need to travel by car.

Conclusion

20. There are no material considerations that indicate that the appeal should be determined other than in accordance with the development plan. For the reasons above, I therefore conclude that the appeal should be dismissed.

A Tucker

INSPECTOR