



Appeal Decision

Site visit made on 19 July 2021

by C Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd August 2021

Appeal Ref: APP/U1105/W/21/3268125

April Rise, Crewkerne Road, Axminster EX13 5SX

- 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 Phillip and Christine Potter against the decision of East Devon District Council.
 - The application Ref 20/2043/VAR, dated 23 September 2020, was refused by notice dated 15 December 2020.
 - The application sought planning permission for 'retention of garage as built and change of use to create holiday accommodation' without complying with a condition attached to planning permission Ref 18/1425/FUL, dated 28 September 2018.
 - The condition in dispute is No 3 which states that: *The unit of accommodation hereby approved: (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 owners/operators shall maintain an up-to-date register of the names and main home addresses of persons occupying the unit of holiday accommodation hereby permitted 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 accommodation hereby permitted is not used as a separate dwelling in this open countryside location where new development is restricted in accordance with Policy E16 - Proposals for Holiday or Overnight Accommodation and Associated Facilities and Strategy 7 - Development in the Countryside of the Adopted New East Devon Local Plan 2016.*
-

Decision

1. The appeal is allowed and planning permission is granted for a development described as "retention of garage as built and change of use to create holiday accommodation" at April Rise, Crewkerne Road, Axminster EX13 5SX in accordance with the application Ref 20/2043/VAR, dated 23 September 2020, without compliance with condition number 3 previously imposed on planning permission Ref 18/1425/FUL, dated 28 September 2018 and subject to the conditions set out in the Schedule at the end of this Decision.

Background

2. The appeal property is a small residential unit situated within the curtilage of an existing dwelling. It is part of a small settlement which lies outside the Built-Up Area Boundaries defined by the Local Plan¹ and is therefore considered to be within the countryside for planning purposes. I understand that planning permission was granted as an exception to Local Plan policies which control

¹ East Devon Local Plan 2013 to 2031

unrestricted housing in the countryside on the basis that the building would only be used for holiday accommodation purposes. The appellant now seeks removal of the planning condition which requires the unit to be used for holiday accommodation. This would enable the building to be used as an unrestricted, open-market dwelling in the countryside.

Main Issue

3. The main issue is whether the disputed condition is necessary to maintain a sustainable pattern of development in the countryside.

Reasons

4. Although the appeal property is situated outside the Built-Up Area Boundaries, there is a public house and small post office shop approximately 500 metres away on the A35. There are also various bus services passing through the area, most of which stop on the A35 near the public house. While the route from the appeal property to this part of the A35 is mainly unlit, there is a pavement and it is a relatively flat and easy walk. As such, the appeal property offers somewhat better opportunities to reach local services by foot than the site in Cooks Lane which was the subject of a recent appeal decision². This narrow road has no pavement and there is a far greater opportunity for conflict between pedestrians and passing traffic.
5. Yet despite the presence of some limited services, it seems to me that the appeal property is not situated in a particularly accessible location when considered in the context of the Local Plan. The bus routes, public house and post office in the vicinity of the site bear little comparison to the range of shops, services and public transport options that may be expected in larger settlements. It would clearly be necessary for future residents of the property to travel out of the area to access higher order services. The unlit pedestrian route to the main bus stops would not be attractive to everyone and, in reality, it seems very likely that permanent occupiers would choose to drive relatively long distances in order to do their main shopping or to access employment, leisure or healthcare facilities. This is one reason why the Local Plan aims to focus development within the Built-Up Area Boundaries rather than in countryside locations where service provision is more dispersed.
6. A new dwelling in this countryside location would not be in accordance with Strategy 7 of the Local Plan which indicates that housing will only be supported by policies which explicitly permit such development. For the reasons outlined above, I do not consider that a new dwelling could be supported on the basis of Policy TC2 which says that development should be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses to minimise the need to travel by car. While the re-use of rural buildings is permitted by Policy D8, I am not entirely convinced that the appeal property can be described as a rural building and, in any case, there is little evidence that the proposal would 'enhance the rural setting' which is a requirement of development coming forward under this policy.
7. However, unlike the nearby appeal site in Cooks Lane, the appeal property has already been constructed and brought into use. Physically, the property has all the attributes of a self-contained dwelling suitable for day-to-day living,

² Appeal Decision: APP/U1105/W/20/3249964

including a bedroom, living area, kitchen facilities and private outdoor space. Hence, it has the distinctive characteristics of a dwellinghouse as established in the case *Gravesham BC v SEE and O'Brien [1983] JPL 307*. In the event of the appeal being dismissed, the property would continue to function as a dwelling, albeit restricted to holiday occupancy use by the disputed planning condition. The appeal therefore turns on whether there are material differences between the property being used for holiday occupancy purposes and its proposed use as an unrestricted, permanently occupied dwelling.

8. One potential difference is that holiday accommodation can play a role in helping to support the rural economy. The reason for the Council originally imposing the disputed condition was to ensure compliance Policy E16 of the Local Plan, which explicitly permits holiday accommodation in the countryside. Although it has since been decided that Policy E16 does not apply to this geographic area, the National Planning Policy Framework nonetheless supports the rural economy, including sustainable tourism. However, as the Council has not objected to the proposal on these grounds, little evidence has been put forward to demonstrate what contribution the appeal property could make towards these objectives were it to be retained for holiday occupancy purposes. Consequently, I am only able to give limited weight in this appeal to any economic benefits associated with the holiday use of the property.
9. In terms of length and frequency of private vehicle journeys, it seems to me that removal of the holiday occupancy condition would have a limited impact. Holiday occupiers would still be likely to drive in order to access most shops and services, as well as using the property as a base from which to explore the wider area. Although use of the property as a permanent residence would be likely to generate different travel patterns (for example regularly accessing places of work or education) not a great deal of evidence has been put forward to show whether this would result in longer or more numerous journeys. Based on the information provided, I am unable to conclude that removal of the holiday occupancy condition would necessarily lead to a less sustainable pattern of vehicular movements.
10. Therefore, while the proposal would not directly accord with the provisions of Strategy 7, it would not harm the underlying sustainability objectives of the Local Plan when assessed against the economic and environmental elements of sustainable development. I have based my decision on the particular circumstances of this case and the evidence presented in this appeal. Differing circumstances would represent matters to be considered if similar proposals were to be advanced elsewhere in the future.
11. For the reasons set out above, I conclude that the appeal should be allowed and grant a new planning permission without the disputed holiday occupancy condition. As the property has already been constructed, I have not included the original time limit condition. However, for the avoidance of doubt, there is a condition requiring compliance with the plans.

C Cresswell

INSPECTOR

(Schedule of Conditions attached)

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Site Plan, 1319/02B, 1319/03B.
- 2) The first floor window on the northwestern elevation shall be fitted with permanent obscure glazing which shall be retained at all times.
- 3) 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 works within the Schedule 2 Part 1 Class E relating to the improvement or other alterations to outbuildings, other than works that do not materially affect the external appearance of the building, shall be undertaken.