



Appeal Decision

Site visit made on 29 November 2022

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2022

Appeal Ref: APP/U1105/W/22/3302272

Lucehayne Cottage, Road From New Road To Halshayne, Widworthy EX14 9JS

- 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 Russell and Julie Payne against the decision of East Devon District Council.
 - The application Ref 21/1837/FUL, dated 5 July 2021, was refused by notice dated 6 January 2022.
 - The development proposed is change of use of annexe building, approved under permission 18/2546/FUL, for use as either an annexe and/or for holiday accommodation purposes.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The existing building is already occupied as an annexe to the main dwelling. The continued use of the building as an annexe is not in dispute by the main parties. The dispute relates to the use of the building for holiday accommodation purposes. Accordingly, I have centred my considerations around the proposal to use the building for holiday accommodation purposes.

Main Issue

3. The main issue is whether the appeal site would provide a suitable location for the proposed holiday accommodation, having regard to the policies set out in the development plan and the National Planning Policy Framework (the Framework) that seek to restrict development in the countryside and minimise the need to travel by private car.

Reasons

4. The site lies within the East Devon Area of Outstanding Natural Beauty (AONB). It is within a rural location, positioned in the garden of Lucehayne Cottage to the south-east of Wilmington and well beyond its built-up area. It comprises an existing building that is used as additional accommodation of Lucehayne Cottage. The building was granted planning permission in 2018 and built in 2020. It lies next to a single width country lane. An area for vehicle parking is laid out to one side. An external terrace and an area of garden are accessible from it.
5. Strategy 7 of the East Devon Local Plan (the LP) relates to development in the countryside, and indicates, amongst other things, that development in the

- countryside will only be permitted where it is in accordance with a specific policy of the development plan that explicitly permits such development.
6. Strategy 5B of the LP sets out that development proposals should contribute to the objectives of promoting and securing sustainable modes of travel and transport. It seeks to direct development at locations where it will encourage and allow for efficient, safe and accessible means of transport with overall low impact on the environment. Policy TC2 of the LP similarly sets out that development should be located so as to be accessible by pedestrians, cyclists and public transport.
 7. Policy E16 of the LP refers to proposals for holiday or overnight accommodation and associated facilities. The policy is essentially set out in two parts, with a first part referring to such development being within the defined settlements and a second part referring to open countryside. In the open countryside, the policy advises that the conversion or use of existing buildings will be permitted where it is compatible with criteria set out under the first part including relating to accessibility by sustainable transport means. Although the explanatory text supports the use of buildings in the countryside, that's not necessarily inconsistent with the need for such development to be accessible by sustainable transport.
 8. Policy D8 of the LP considers the reuse of buildings outside defined built-up area boundaries. The Policy in referring specifically to residential proposals requires that such development, amongst other things, is located close to a range of accessible services and facilities to meet the everyday needs of residents. Whilst the appellant disputes the relevance of Policy D8 of the LP, the proposed holiday use would fall into a residential use under Use Class C3 of the Town and Country Planning (Use Classes) order 1987. As such, Policy D8 applies to the proposed holiday use.
 9. The existing building is permitted as an annexe for use in conjunction with, and ancillary to, Lucehayne Cottage, so it cannot be used as a separate dwelling. Occupiers of the holiday accommodation would be likely to generate more frequent travel movements that would not be associated with the existing residential use of the site but would be independent of it. Thereby causing a material increase in traffic movements.
 10. Future occupants of the development would need to travel to Honiton or Axminster as the nearest settlements with a range of services. The distance to these settlements together with the route, which would involve unlit and unsegregated roads, including the A35 that carries significant levels of traffic, would be sufficient in most cases to deter walking and cycling of residents of the holiday accommodation as a mode of access to obtain goods, services and entertainment.
 11. I observed a limited extent of services and facilities, including a restaurant, public house and bus stops in Wilmington. However, these are more than 1.5km from the appeal site and the route to Wilmington, including the bus stops, would be along single-track undulating roads. The length and nature of the road is such that it would not be an attractive option for most journeys, especially at night and in poor weather conditions.
 12. Whilst I acknowledge the Honiton Ring & Ride service, the evidence indicates that this is a limited service. In any case, the appeal site's open countryside

location and the nature of its holiday use mean that it is likely that future occupants of the holiday accommodation would be highly likely to use private cars rather than this mode of travel for most day-to-day needs.

13. I am cognisant that paragraph 84 of the National Planning Policy Framework (the Framework) supports the sustainable growth and expansion of all types of business in rural areas both through conversion of existing buildings and well-designed new buildings. I am also mindful that paragraph 85 of the Framework accepts that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements. However, the Framework advises that in these circumstances it will be important to ensure that development exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). This is not demonstrated by the proposal.
14. The appeal site, given the absence of realistic alternatives, would give rise to the reliance of the occupants of the holiday accommodation on the private car for most journeys. Therefore, the proposal would not be located so as to be accessible by sustainable means of transport in order to minimise the need to travel by private car and would not be a sustainable location for development. As such, the proposal would conflict with Strategy 5B and policies D8, E16 and TC2 of the LP, which together seek to ensure development is located so as to be accessible by sustainable transport means to minimise the need to travel by private car. In the absence of policy support for the proposal, it would also conflict with Strategy 7 of the LP.

Other matters

15. The appellant has brought my attention to two recent appeal decisions relating to Greenhayes, Shute in East Devon. The full details of that case are not before me, however, although in the context of that appeal my colleague found Policy D8 of the LP out of date given the conflict with paragraph 80 of the Framework, there are material differences between that case and the proposal subject of this appeal. Unlike the Greenhayes example, the existing building is clearly in use. The proposal would not involve physical changes to the building, or its environs and the existing building is constructed to a high standard and sits comfortably within its setting. The proposal would not involve the re-use of a redundant or dis-used building and therefore paragraph 80 is not relevant. These are significant differences to the Greenhayes case.
16. I have had regard to the other case examples provided with the appeal submission. From the evidence available I note that the case relating to The Cider Barn, Goldcombe Farmhouse considered a proposal to use an existing unit of holiday accommodation as a permanent dwelling and, as such, did not propose a new residential use to the building. The planning application case relating to Quantock, Stockland had an existing use as an artist studio/workshop and the former use of the site as a boarding kennel formed part of the Council's decision to grant planning permission. In terms of the planning application case at Stomorage Cottage, the proximity of services and facilities within Payhembury and Feniton led to the Council's conclusion that there were reasonable alternatives for travel available. The planning application site relating to Finches lies with other development in Churchill.
17. The circumstances of all these cases are therefore different to the proposal, which is subject of appeal. In any case, the fact that apparently similar

development has been granted permission is not a reason, on its own, to allow unacceptable development. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reason set out above. Therefore, these cases are matters to which I attach limited weight and they do not deflect from my concerns relating to the appeal scheme.

Planning Balance

18. The proposal is in conflict with the development plan. There is no dispute that the Council cannot demonstrate a five-year housing supply at present. Paragraph 11 (d) ii. of the Framework therefore applies. This states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
19. The proposal would give rise to the reliance of the occupants of the holiday accommodation on the use of a private car for most journeys and would not be a sustainable location for development. Given that the policies seeking to ensure development is located so as to be accessible by sustainable transport means to minimise the need to travel by private car are broadly consistent with the relevant provisions of the Framework, this conflict is a matter of considerable weight in my decision.
20. Paragraph 60 of the Framework refers to boosting significantly the supply of housing. In terms of this proposal, there would be a small benefit in providing an increase of a housing unit on the site, that would contribute to the stock of holiday units and may ease pressure on the existing housing stock that may otherwise be used for such purposes. Some economic advantages would arise from the occupation of an additional dwelling as holiday accommodation through related visitor expenditure in the area, and related employment opportunities. However, the provision of one additional unit would make little meaningful difference to the supply of housing and these benefits would be limited.
21. Against the benefits, the proposed development harm would arise from the inability to credibly minimise the dependency on the use of private cars rather than the use of sustainable travel modes by holiday occupants, and the necessary vehicle journeys that would generate. Overall, I find that the adverse impacts of the proposed development relating to its location where it would substantially add to the need to travel by car would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As such, the proposal would not be a sustainable form of development.

Conclusion

22. The proposal would conflict with the development plan as a whole and there are no material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

J White

INSPECTOR