



Appeal Decision

Site visit made on 23 November 2023

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2024

Appeal Ref: APP/W3330/W/23/3319548

The Coach House, Old Cleeve, Minehead, Somerset TA24 6HH

- 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 Eric Beavan against the decision of Somerset Council.
 - The application Ref 3/26/22/017, dated 15 December 2022, was refused by notice dated 15 February 2023.
 - The application sought planning permission for change of use of the gatehouse from holiday accommodation to residential annexe or holiday accommodation without complying with a condition attached to planning permission Ref 3/26/12/019, dated 14 November 2012.
 - The condition in dispute is No 3 which states that: The development hereby approved shall not be occupied at any time other than for a residential annexe or holiday accommodation ancillary to the residential and guest house use of the property known as Cedar House and shall not be occupied as a separate dwelling unit.
 - The reason given for the condition is: The site is outside the Development Limit of any Town, Rural Centre or village and is not in an area appropriate for the establishment of new dwellings, having regard to the provisions of Saved Policies SP/5 and H/6 of the West Somerset District Local Plan (2006).
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Decision

1. The appeal is dismissed.

Application for costs

2. The appellant made an application for costs. This application for costs has been dealt with in a separate decision.

Preliminary Matters

3. The appeal was submitted against the decision of Somerset West and Taunton Council. Somerset Council has now taken over the functions of Somerset West and Taunton Council. Somerset Council has therefore been named in the banner header, above.
4. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties were provided with an opportunity to comment and I have taken the comments received into account. I have had regard to the December 2023 version of the Framework in my decision.

Background and Main Issues

5. The Coach House is a building located to the north of Cedar House, found near the edge of the village of Old Cleeve. The Coach House was, according to the

appellant, originally built as a family home for the coachman employed by the then-owner of Cedar House. According to the appellant, The Coach House was built in 1906, and this date has not been disputed by the Council.

6. I accept that it is feasible that The Coach House could have been used as an unfettered residential dwelling at various points in the past. The appellant has also asserted that The Coach House would historically have met the *Gravesham*¹ test, with *Gravesham* holding that the distinctive characteristic of a dwellinghouse is its ability to afford to those who use it the facilities required for day-to-day private domestic existence, and that this essential character is not lost if its usage is restricted in duration.
7. However, even if The Coach House has met the *Gravesham* test, The Coach House has been used as holiday accommodation since at least 2003, when permission was granted for Cedar House to be used as private residential and guest house accommodation, with the 3 properties in the grounds to be used for holiday accommodation.
8. Furthermore, the 2012 permission² shows that the building was considered by the Council to be in use as holiday accommodation at that time. Additionally, following the 2012 permission, which specifically authorised a change of use of the building to a residential annexe or holiday accommodation, the evidence provided relating to the travel patterns of various holiday makers using The Coach House provides support for the view that the usage of The Coach House for holiday accommodation has been ongoing since 2012.
9. Taking all of the above into account, due to the long-standing usage of The Coach House as either a residential annexe or holiday accommodation, I have considered The Coach House as currently being used as stated in the 2012 permission, that is, as a residential annexe or holiday accommodation.
10. The case of *Reid*³ clarified a number of points in relation to the scope of applications under s73 of the Town and Country Planning Act 1990 (as amended), including that a change of use is permitted not by the description of the permitted development but by operation of law⁴, and that a public decision-maker cannot adhere to a description of permitted development while at the same time deciding to impose a condition that is inconsistent with that description⁵. However, condition No 3 is not inconsistent with the description of development in the 2012 permission, as they both relate to a residential annexe or holiday accommodation. *Reid* does not therefore provide support for the view that condition No 3 should be removed.
11. The appeal proposal seeks to remove condition No 3 of the 2012 permission, which currently prevents The Coach House from being used as a separate dwelling unit. It is not the purpose of this appeal decision to re-appraise the Council's decision-making based on the circumstances and planning policy that prevailed in 2012, but rather to assess whether condition No 3 is reasonable and necessary at the present time, including by reference to current local and national planning policies.

¹ *Gravesham BC v SSE & O'Brien* [1983] JPL 306

² 3/26/12/019

³ *Freddie Reid v SSLUHC* [2022] EWHC 3116 (Admin)

⁴ Paragraph 36 of *Reid*

⁵ Paragraph 51 of *Reid*

12. The main issues therefore are whether condition No 3 is reasonable and necessary in relation to:

- planning policies which restrict residential development in the countryside;
- the suitability of the location for permanent residential accommodation; and
- highway safety.

Reasons

Principle of proposed use

13. The site is located in a predominantly residential area, and is near to residential development. Considering this, in the terms of *Braintree*⁶ the site is not physically separate or remote from other development. The site is not therefore in an isolated location with respect to paragraph 84 of the Framework, meaning that the 5 exceptions listed under paragraph 84 are not applicable to the proposal. Moreover, as The Coach House is not physically attached to Cedar House, the removal of condition No 3 would not involve the subdivision of an existing residential building, which means that paragraph 84 d) would not provide support for the proposal in any event.
14. Appeal decision Ref APP/M1710/W/20/3249372 dealt with a situation where the equivalent paragraph in the Framework relating to the development of isolated homes in the countryside was applicable to the proposal under consideration, and that appeal involved a single-storey annexe which was physically attached to a detached house, which is not the case here. That appeal decision is therefore not directly comparable with the appeal proposal.
15. Although the removal of condition No 3 would not result in the development of an isolated home in the countryside, it is still necessary to consider development plan policies which seek to restrict development outside of settlement boundaries. In this regard, the appeal site is situated in the open countryside for planning policy purposes. Policies SC1 and OC1 of the Adopted West Somerset Local Plan to 2032 (adopted 2016) (Local Plan) set out the settlement hierarchy for the area. In particular, Policy OC1 of the Local Plan provides criteria which must be fulfilled for development in the open countryside to be permitted. Policy OC1 refers to development in general and does not specifically exclude its applicability to applications connected to changes of use.
16. Policy OC1 refers to the conversion of existing, traditionally constructed buildings in association with employment or tourism purposes as part of a work / live development. However, the proposal would result in The Coach House being used as an independent dwelling, separate from Cedar House, and not as part of a work / live development. Hence, that criterion within Policy OC1 is not applicable to the appeal proposal. The proposal also does not fall within any of the other criteria listed within Policy OC1.
17. The proposal therefore conflicts with Policy OC1, and by extension, Policy SC1 of the Local Plan which provides that, amongst other things, development elsewhere in the open countryside will be considered under Policy OC1. There is

⁶ *Braintree DC v SSCLG & Ors* [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

nothing within the wording of Policy SC1 or its supporting text that excludes its applicability to applications connected to changes of use.

18. Given that the Framework provides at paragraph 15 that, amongst other things, the planning system should be genuinely plan-led, this conflict with the Council's adopted spatial strategy for the area is of importance. It strongly weighs against the proposal.
19. I have had regard to the details submitted in relation to the planning applications at Grooms Cottage⁷ and Langtry Country House⁸. I concur with the appellant that saved Policy H/6 of the West Somerset District Local Plan (adopted 2006) when read as a whole appears to relate to the loss of business premises to residential or holiday accommodation. Although evidence has not been provided to demonstrate that the proposal complies with part I) of Policy H/6, which requires the applicant, in relation to a proposed change of use to permanent residential use, to demonstrate that every reasonable attempt has been made to secure a business use of the building, due to the age of this policy and that it has been largely superseded by the provisions of Policy OC1, this conflict is not of critical importance to this appeal.
20. Whilst the planning history for Langtry Country House was deemed by the Local Planning Authority to be unclear, that is not the case with respect to the history of The Coach House since at least 2003, as described above. My findings on this main issue therefore remain unchanged.
21. In light of the above, I find that condition No 3 is reasonable and necessary in relation to planning policies which restrict residential development in the countryside. The proposal would conflict with Policies SC1 and OC1 of the Local Plan, which collectively provide that, amongst other things, development is not generally appropriate in the open countryside.

Location

22. The evidence before me indicates that there is a limited range of facilities available in Old Cleeve. I have not been referred to any particular employment destinations which might exist in Old Cleeve, either. In all likelihood, then, if The Coach House were occupied as a permanently-occupied independent dwelling, the future occupiers would be required to use private motor vehicles to travel beyond Old Cleeve to access the services and facilities required for day-to-day living, including those relating to shopping and employment. Furthermore, as an independent dwelling, trips would likely be generated by visits from friends and family and through deliveries to The Coach House.
23. The evidence provided by the appellant relating to the travel patterns of holiday makers using The Coach House demonstrates that these holiday makers typically travel long distances to reach The Coach House, and then make regular shopping and leisure trips by private motor vehicle once there. Given the extensive range of desirable tourist destinations within reasonable driving distances from The Coach House I have no doubt that holiday makers would regularly drive to these during their stay.
24. Nevertheless, the key consideration here is that, according to the appellant, lettings for The Coach House largely cease in the October to April period,

⁷ 3/26/05/005

⁸ 3/26/16/017

whereas The Coach House would likely be occupied all-year-round if condition No 3 were removed. Hence, the evidence indicates that permanent residential occupiers of The Coach House would likely generate more trips by private motor vehicle over the course of a typical year. Given the limited services and facilities available in Old Cleeve, sustainable modes of transport would not likely be used to access the required services and facilities. These facts distinguish the present case from the situation described in *Blackpool BC v SSE*⁹, where it was held that the character of the user of the building from a planning point of view had not been changed.

25. Whilst the appellant has referred to the residential use of The Coach House, the 2012 permission restricts this type of use to a residential annexe. No specific information has been provided to accurately quantify the amount of comings and goings to The Coach House which might occur over any given period if it were used as a residential annexe. It has not therefore been demonstrated that its usage as a residential annexe generates more trips by private motor vehicle over a given period compared with The Coach House being used as an independent dwelling. This reinforces my finding that the removal of condition No 3 would not promote the use of sustainable modes of transport.
26. Therefore, I find that condition No 3 is reasonable and necessary in relation to the suitability of the location for permanent residential accommodation. The proposal would conflict with Policy TR2 of the Local Plan which provides that, amongst other things, development should be located and designed to maximise the attractiveness of modes of transport other than the private car.
27. The proposal would also conflict with chapter 9 of the Framework, which seeks to promote sustainable transport.

Highway safety

28. A short accessway links the site to Old Cleeve Road. I observed that visibility is quite limited when exiting this accessway and looking to the left, due to the presence of the side of The Coach House and vegetation on the roadside verge. Visibility to the right is also somewhat constrained by the existing hedgerow. No technical evidence has been provided to demonstrate that the existing access meets the requirements of Manual for Streets in terms of an adequate visibility splay.
29. The short and narrow accessway from the road leads to a small hard surfaced area to the rear and side of The Coach House. This area, as it currently stands, is not large enough for a car to turn and exit the site in forward gear. The future occupiers of The Coach House would therefore be required to reverse their vehicle onto the road, using an access which, as stated above, has not been demonstrated to have adequate visibility.
30. I note that the 2012 permission stated that the means of access and parking arrangements met the required safety standards. However, few details have been provided to illustrate what safety standards the 2012 proposal was considered against. I also note that, compared to the Site Photograph - rear elevation provided in the Design and Access Statement, the available parking area is now appreciably smaller than as shown in that photograph, meaning that it is unclear to what extent historic parking arrangements reflect those at

⁹ (1980) 40 P&CR 104

the present time. For these reasons, the 2012 permission does not change my findings on this main issue. The fact that visibility from accesses is commonly poor in the local area and that holidaymakers may be less familiar with the local road network than a resident family does not alter the safety implications of the access at The Coach House itself.

31. Taking all of the above into account, including my findings on the second main issue above in relation to the potential for the proposal to result in an uplift in vehicle movements to and from the site, I consider that it has not been demonstrated that the proposal would not result in an unacceptable impact on highway safety, which paragraph 115 of the Framework sets as the threshold for development to be prevented or refused on highways grounds.
32. I therefore find that condition No 3 is reasonable and necessary in relation to highway safety. The proposal would conflict with paragraph 115 of the Framework, the relevant part of which has been summarised above.

Other Matters

33. The conduct of the Council during the processing of the planning application is not a matter that I can assess in the context of a planning appeal.
34. Few details have been provided to substantiate the assertion that maintenance of The Coach House is becoming increasingly unviable, and therefore the extent of any financial burden in this respect unclear. Whilst the loss of the holiday accommodation might not be significant in economic terms and other properties offering holiday accommodation are present in the locality, the evidence does not indicate that The Coach House has encountered significant issues in generating business during the holiday season.
35. Moreover, the restriction in condition No 3 relating to The Coach House being used as holiday accommodation ancillary to the residential and guest house use of Cedar House is congruent with the reference to holiday accommodation in the description of the proposal in the 2012 permission and I have not been provided with evidence which suggests that the words 'holiday accommodation' in condition No 3 has resulted in difficulties with The Coach House being operated in commercial terms.
36. The removal of condition No 3 would allow The Coach House to be occupied as an independent dwelling, thereby providing a limited contribution to the housing stock in the locality. I note the aspiration for Cedar House to be sold, but as no mechanism is before me to secure this, this consideration can only be given limited weight in favour of the proposal. Policy EC9 of the Local Plan relates to new proposals for tourism developments outside settlements rather than the potential loss of tourism development, and accordingly the criteria listed within it are not directly relevant to the present proposal. Considering all of the above, the collective benefits of removing condition No 3 are therefore given no more than moderate weight in favour of the proposal.
37. The proposal would conflict with the Council's spatial strategy for the area, and it would not promote sustainable transport. It has also not been demonstrated that the proposal would not result in an unacceptable impact on highway safety. Given the range of adverse impacts identified, covering matters of fundamental importance to the planning system, it is clear that the benefits of

the proposal, as summarised above, are not sufficient to outweigh the adverse impacts identified.

38. Overall, I find that condition No 3 is reasonable and necessary in the present circumstances, and that the proposal would conflict with Policy SD1 of the Local Plan which seeks to, amongst other things, secure development that improves the economic, social, historic and natural environmental conditions in the area.

Conclusion

39. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR