



Appeal Decision

Site visit made on 8 May 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2024

Appeal Ref: APP/K1128/W/23/3332223

The Old Rectory, East Portlemouth Corner to Goodshelter Cross, East Portlemouth TQ8 8PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Sarah Linton against the decision of South Hams District Council.
 - The application Ref is 1371/23/FUL.
 - The development proposed is change of use from ancillary accommodation for the Old Rectory to a mixed use of ancillary accommodation and holiday letting accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from ancillary accommodation for the Old Rectory to a mixed use of ancillary accommodation and holiday letting accommodation at The Old Rectory, East Portlemouth Corner to Goodshelter Cross, East Portlemouth TQ8 8PA in accordance with the terms of the application, Ref 1371/23/FUL, and the plans submitted with it, subject to the following condition:
 - 1) Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking and re-enacting those Orders, with or without modification), the development shall be used only for holiday accommodation or for accommodation ancillary to the residential occupation of the Old Rectory and for no other purpose.

Applications for costs

2. An application for costs is made by Sarah Linton against South Hams District Council. The application is the subject of a separate decision.

Preliminary Matter

3. The application form states that work or change of use began in February 2022. I note that the application has been dealt with retrospectively. I have determined the appeal on that basis.

Main Issue

4. The main issue is whether the site is a suitable location for the development having regard to the provisions of local policy and the accessibility of services and facilities.

Reasons

5. The appeal site comprises a former boathouse that has been converted into small-scale residential accommodation under planning ref 1690/18/HHO. It is

within the grounds and ownership of a substantially larger property known as The Old Rectory. The property is in the countryside and connects to Salcombe via a ferry. This permission, which was allowed at appeal, includes an occupancy condition that restricts its residential use to ancillary accommodation within the planning unit of The Old Rectory.

6. Planning permission would ordinarily be required for the material change of use of land, but not for any change of who occupies the site. Nevertheless, the proposal seeks to allow the existing residential accommodation to be used for holiday purposes as well as those ancillary to The Old Rectory. A new separate dwelling has not been applied for.
7. Policy TTV1 of the Plymouth & South West Devon Joint Local Plan 2014-2034 (JLP) sets out the settlement hierarchy which is to focus new employment and housing towards the main towns which provide a broad range of services. Beyond the towns and villages, economic development is only permitted where it would support the principles of sustainable development set out in policies SPT1, SPT2 and TTV26 of the JLP. Amongst other things, these policies encourage opportunities for business growth, optimizing the reuse of previously developed sites. Support is given for development that is well served by public transport, walking and cycling opportunities, and with access to a healthy, wildlife rich local environment.
8. Policy TTV26 of the JLP aims to protect the special characteristics and role of the countryside. It is made up of 2 parts. Firstly, isolated development is only permitted under certain circumstances. One such scenario where support can be given is where the reuse of a brownfield site is secured. Nevertheless, the Council does not consider the appeal site to be isolated, and this is not disputed.
9. The second part of the policy supports, in part, the reuse of traditional buildings that are structurally sound enough for renovation without significant enhancement or alteration. The Council says that 'traditional buildings' would be heritage assets and have merit in their retention. Having paid regard to the Council's JLP Supplementary Planning Document 2020 (SPD), there is however little evidence such buildings would need to be heritage assets. Whilst the appeal building has already been renovated to a modern and high standard, it has the distinctive narrow appearance of a pitched roof boathouse on the water's edge, within part of the garden of a period property. There is consequently a case that it is a traditional building. Even if described otherwise, it is already in residential use, albeit one that is controlled through an occupancy condition. For these reasons, there would clearly be merit in its retention.
10. Alternatively, Policy TTV26, part 2 is supportive of schemes that respond to a proven agricultural, forestry or other occupational need that requires a countryside location. The Council's SPD adds detail to this by noting that *in order to meet this policy requirement an applicant should provide operational details of the farm business or land-based enterprise to demonstrate the requirement to live on-site. This will be subject to an independent agricultural needs assessment.* However, this proposal does not relate to a separate land-based enterprise that itself would require on-site accommodation. Even if I were to accept that this part of the policy was relevant, the evidence shows

that this specific type of holiday accommodation is not immediately available within the area.

11. Policy DEV15 of the JLP supports proposals in suitable locations which seek to improve the balance of jobs within the rural areas and diversify the rural economy. Amongst other things, the policy supports the reuse of suitable buildings for employment uses. I shall return to this later. In addition, small businesses in rural areas are supported as long as the effects on the environment and neighbouring uses are acceptable. In that context, this different occupancy does not harmfully affect the immediate or surrounding environment. Additionally, the nearest neighbouring property is screened by existing boundary treatment. As such, it is unlikely that a holiday use generates any meaningful alteration to noise or light spill.
12. 'Suitable locations' are not defined within Policy DEV15. However, part 8 ii of it says that development should avoid a significant increase in the number of trips requiring the private car and facilitate the use of sustainable transport, including walking and cycling, where appropriate. It adds that a Sustainable Travel Plan (STP) will be required to demonstrate how the traffic impacts of the development have been considered and mitigated. The submission includes an STP.
13. The development does not have immediate access to public transport which weighs against it. The electric vehicle charging point within the safe parking area would provide further options to reduce carbon emissions, though the use of this could not be enforced.
14. However, despite the unlit and unpaved lanes, the nearest shop, beaches, water sports business, cycle hire, café and pop-up bar are all within reasonably accessible walking and cycling distances. This is consistent with the aims of policies SPT2 and DEV29 of the JLP. Additionally, the ferry to Salcombe provides a realistic option to access a wider range of services and facilities. The fact that it would take less time to drive to East Prawle or Southpool is acknowledged. However, holiday makers would be less likely to be concerned with shaving minutes off their journey as commuters might for example. Conversely, they would be more inclined to take advantage of healthy options of walking, cycling, and the ferry to enjoy the wildlife rich local environment and surrounding services/facilities.
15. Furthermore, the submitted STP highlights that a mooring is available for guests to arrive by boat. Although tide and weather restricted, the availability of a 3-person kayak at the appeal site allows guests to explore the estuary and reach nearby beaches. In respect of the changing seasons, it is acknowledged that many of the aforementioned access options and services would be less inviting or limited. The proposal does however include an ancillary use. In these circumstances, family members or their guests may choose to stay at the appeal building outside of the main tourist season. For these reasons, I give the lack of access to public transport very little weight.
16. The Council contends that the proposal creates a new planning unit, and that this would be likely to lead to a net increase in vehicle movements. However, a new dwelling has not been applied for. If the building is not used as proposed, or if there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required.

Additionally, the building would be at risk of enforcement action if such permission is not granted.

17. The plans show that the appeal building would remain within the ownership of the host property. Even though it has its own parking and stepped access, it still forms an intrinsic part of the wider garden of the host property. It is therefore part and parcel of the primary dwellinghouse use. However, given the countryside location, an appropriately worded condition could be imposed to maintain effective control over who occupies the building.
18. The existing permitted use of the well-equipped residential building could generate daily vehicular movements to access jobs, services, or facilities. This is likely to be similar to a holiday or ancillary occupation. In fact, for the reasons given above, it is more likely that holiday makers would choose to minimise the use of their private vehicles during their overall stay. Consequently, in the absence of any compelling evidence to the contrary, the effect on vehicle movements would be negligible.
19. Policy DEV24 of the JLP says that development that would have a detrimental effect on the undeveloped and unspoiled character, appearance or tranquillity of the Undeveloped Coast (UC) is only permitted under exceptional circumstances. In this case, the Council does not consider that there would be harm to the local designation. I find no reason to disagree. Therefore, there is little evidence of conflict with DEV24 in this regard.
20. The policy does not explicitly state that its list of 5 tests are those exceptional circumstances, but this is how it reads. Even if these tests were applicable to the appeal scheme, the alternative occupation of an existing residential building could not reasonably be located outside the UC. Furthermore, as mentioned earlier, the reuse of a suitable building is supported in rural areas through Policy DEV15. The appeal building is already in the UC where there are no comparable or available forms of holiday accommodation. In these particular circumstances, if restrictive criteria were relevant, it has been demonstrated that a coastal location is effectively required.
21. In any case, the thrust of Policy DEV24 is to preserve the undeveloped character of the coast from visually harmful development. This is expanded upon within the SPD, which cross references Policy DEV15's aim to divert camping, caravan, chalet, or similar facilities away from the UC.
22. The scheme does not fall neatly within a leisure or recreational pursuit as set out in paragraph 7.31 of the SPD. Rather, it more closely reflects a residential conversion or other built facility. Paragraph 7.37 of the SPD explains that visually intrusive development of this type should be avoided. The proposal does not introduce new, visually harmful development into the UC of the type identified above.
23. Drawing these matters together, whilst the access to public transport is sub-optimal, the proposal provides a small-scale, sustainable, and health promoting tourist accommodation within an existing residential building. Therefore, when taken as a whole, the scheme accords with the Council's strategy for rural economic development.
24. Therefore, I conclude that the site is a suitable location for the proposed development having regard to the provisions of local policy and the accessibility

of services and facilities. As such, the development does not conflict with policies SPT1, SPT2, TTV1, TTV2 or TTV26, DEV15 or DEV29 of the JLP.

Other Matters

25. My attention has been drawn to an appeal¹ where the Inspector identified that no demonstrable measures for STP targets or mitigation had been shown. I have however been provided with very little information surrounding this particular case. Additionally, it is in a different location and proposed an event venue, residential and offices. It is therefore materially different and not comparable with the appeal proposal.
26. The Council refers to an appeal² in Exbourne for holiday accommodation. I am not aware of the site-specific circumstances, though note that scheme was for a conversion of a building that was not already in a residential use. Also, it was considered highly likely that the majority of trips would be made by private car. As I have concluded that walking and cycling are realistic options with this appeal, the Inspector's conclusions in respect of sustainability at that site are materially different and not comparable.
27. I have paid regard to representations in respect of a previous appeal at this site. That appeal was primarily concerned with the effect on the character and appearance of the surrounding area, which is materially different to this appeal. However, like that appeal, and as mentioned above, this scheme does not propose a separate dwelling. Indeed, it would be within the gift of the appellant to choose whether the appeal building is occupied by family members, guests, or holiday makers.
28. Comments in respect of a precedent being set are noted. However, I have based my decision on the evidence provided and my own observations of the site-specific circumstances. Moreover, it is also a long-established principle that each case must be assessed on its own individual merits.

Conditions

29. As the development has already been carried out, it is not necessary to impose a time limit or plans condition. As mentioned above, the appeal site is in a countryside location. It is therefore necessary to include a condition that controls occupancy for ancillary or holiday purposes, as applied for.

Conclusion

30. For the reasons given, the appeal is allowed.

J Hills

INSPECTOR

¹ APP/K1128/W/22/3307997

² APP/Q1153/W/22/3309267