



Appeal Decision

Site visit made on 24 April 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2024

Appeal Ref: APP/U1105/W/23/3331385

**Salcombe Regis Camping and Caravan Park, Salcombe Regis, Devon
EX10 0JH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Gary Burns on behalf of Serenity Leisure Parks Ltd against the decision of East Devon District Council.
 - The application Ref is 23/0615/VAR.
 - The application sought planning permission for a shop with residential accommodation to replace existing without complying with a condition attached to planning permission Ref 87/P0699, dated 28 May 1987.
 - The condition in dispute is No 3 which states that: *The building hereby permitted shall be used solely for the purpose of a residential dwelling, site office and shop in conjunction with and solely for the permitted use of the caravan site.*
 - The reason given for the condition is: *The site is in an area where permanent residential dwellings will not normally be permitted.*
-

Decision

1. The appeal is allowed and planning permission is granted for a shop with residential accommodation to replace existing at Salcombe Regis Camping and Caravan Park, Salcombe Regis, Devon EX10 0JH in accordance with the application Ref 23/0615/VAR dated 16 February 2023, without compliance with condition number 3 previously imposed on planning permission Ref 87/P0699 dated 28 May 1987 and subject to the following condition:
 - 1) The building hereby permitted shall only be used as a shop and office ancillary to the operation of Salcombe Regis Camping and Caravan Park or as a residential dwelling.

Preliminary Matters

2. I understand that a separate appeal has been lodged against the Council's refusal to grant a Certificate of Lawfulness at the site¹ which has not yet been determined. However, the appeal before me is concerned solely with the condition relating to the use of the building.

Background and Main Issues

3. Planning permission was granted for a replacement building comprising a shop and residential unit under application reference Ref 87/P0699 subject to a number of conditions. Condition 3 seeks to control the use of the building as a

¹ LPA Ref. 23/0027/CPL

residential dwelling, site office and shop in conjunction with and solely for the permitted use of the caravan site. The reason for the condition is that the site is located in an area where permanent residential dwellings will not normally be permitted.

4. The appeal submissions indicate that the residential accommodation, which was previously occupied by the former owners of the caravan and camping park, is no longer required by the appellant in connection with the operation of the site. The application subject of this appeal therefore sought to vary condition 3, to allow the occupation of the dwelling as an independent residential unit, unconnected to the caravan park.
5. The main issues are therefore whether the condition is necessary having regard to the location of the site and relevant development plan policies and the need for the accommodation in relation to the operation of the business.

Reasons

Location

6. The appeal property comprises a detached building situated at the entrance to an established caravan and camping park. The site is located within a rural area beyond a defined settlement boundary, and is therefore in the open countryside for planning policy purposes.
7. Strategy 7 of the East Devon Local Plan 2013-2031 (the LP) sets out that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development. Policy TC2 of the LP requires new development to be located so as to be accessible by pedestrians, cyclists and public transport, and also well related to compatible land uses so as to minimise the need to travel by car.
8. During my site visit I observed that the site is some distance from any day-to-day services, or facilities. The appellant indicates that there is a bus stop some 650m from the site, which would provide access by public transport to Sidmouth, where there are a range of amenities and services. However, I do not have details of the frequency of the service. Moreover, access on foot to either the bus stop on the A3052, or Sidmouth itself, which is a considerably greater distance from the site, would require pedestrians to walk along narrow unlit country lanes devoid of footpaths. These characteristics are likely to discourage access to services and facilities in the wider vicinity by pedestrians. Consequently, the occupiers of the property would be likely to be reliant on the use of private cars to access day-to-day services and amenities.
9. In the absence of any specific policy support, an unrestricted dwelling in this location would conflict with LP policies which seek to restrict development in areas of open countryside, and locations where future occupiers would be reliant on the private car.
10. The existing residential use of the building, albeit in conjunction with the caravan park, would itself generate trips to facilities and services in nearby settlements by private transport. Nonetheless, given that condition 3 requires the use of the building solely in connection with the caravan site, occupiers of the property would not need to travel elsewhere for work. As such, the variation of the condition, to allow occupation of the dwelling by persons unconnected to the caravan and camping park, would be likely to have some

effect on the number of journeys made to and from the site over and above current levels, including to employment opportunities.

11. However, even if this were to be the case, any increase in trips generated by someone living at the property independently from the business, when compared to that of an occupier employed at the caravan park, would be likely to be very limited. As such, any increase in journeys by the private car would not be so significant to give rise to tangible planning harm in terms of travel patterns.
12. The proposed variation of the condition would allow an unfettered dwelling in an area of open countryside, which would conflict with the aims of Strategy 7 and Policy TC2 of the LP with regards to the location of development and the need to reduce travel by car. Nevertheless, it has not been demonstrated that the occupancy of the dwelling, otherwise than in connection with the caravan and camping park, would have a material impact on the number of journeys by private car to and from the site, having regard to its existing use as a dwelling.
13. For the foregoing reasons a condition restricting the use of the dwelling solely in connection with the caravan and camping park, would not be reasonable or necessary, having regard to the location of the site and relevant development plan policies. Accordingly, the variation of the condition as sought, which would allow the unrestricted occupation of the dwelling, would not result in unacceptable harm.

Need

14. The appellant's 'Operational Statement' sets out that the site, which is one of several in the same ownership, operates in such a way that the residential property is no longer required to meet the needs of the business. Functions such as bookings and checking in take place online and there is a reception building on site which includes an office, shop and staff facilities, as well as separate buildings with toilet, shower, laundry and washing facilities. As well as regular visits to the site by the company's mobile management team, a warden's lodge² adjacent to the site entrance provides staff accommodation to enable an on-site presence to deal with any emergencies or problems that may arise.
15. I note the Council's suggestion that the occupation of the property in connection with the business would provide benefits in terms of local employment and the local tourism industry. However, given the modest scale of the property, in the form of a single dwelling, any benefits in that regard would be limited. Moreover, there is no substantive evidence that the accommodation is required in connection with the day-to-day operational needs of the site, including the health and safety of visitors, or that the unfettered occupation of the property, separately to the park, would undermine the current or future viability of the business.
16. Concern has been expressed regarding the loss of the shop within the building and the effect of this on the viability of the site. However, while there is no requirement for such a facility to be provided with in the appeal property, the proposal to vary the condition would not affect the part of the condition which

² LPA Ref. 96/P1573

would allow the appellant to operate a shop in conjunction with the site from the building.

17. I therefore conclude that, from the evidence before me, the disputed condition is not necessary, in the interests of the operation of the business. As such, the variation of the condition as proposed would not be contrary to Strategy 33 of the LP which seeks to support and facilitate high quality tourism in East Devon or the aims of the Framework with regards to supporting a prosperous rural economy.

Other Matters

18. Even if the Council can demonstrate a sufficient supply of housing land, given my findings on the main issues, and having regard to the aims of the Framework relating to the supply of housing, this would not weigh against the proposal.
19. The appeal relates to an application under section 73 of the Town and Country Planning Act 1990 (the Act). The Planning Practice Guidance (PPG) clarifies that there is no statutory definition of a minor material amendment, but that it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved. The appeal seeks to vary a condition relating to the occupation of the building, the scale and nature of the development would, therefore, not be substantially different. As such, I am satisfied that the minor material amendment process is appropriate, and I have considered the appeal accordingly.
20. There is no policy requirement that the building should be demolished if no longer required for the intended purpose when it was first constructed. Whether or not permission would have been granted for an unrestricted dwelling when the building was first constructed, is not for consideration as part of the appeal, which relates solely to the future occupation of the property.
21. The appeal seeks to vary the original planning permission for the building, the planning permission hereby granted has the same description and the new condition imposed relates specifically to the use of the building. Consequently, there is no reason why the variation of the condition as proposed, would have any implications in terms of other conditions imposed on planning permissions relating to the caravans on the wider site.
22. Whether or not the dwelling is currently being occupied in breach of the condition is not a determining factor in the appeal. Furthermore, the way in which the wider site is managed is beyond the scope of my decision.

Conditions

23. The PPG is clear that permission granted under section 73 of the Act should reinstate conditions imposed on the earlier permission that continue to have effect. As the building has been constructed it is not necessary to reimpose conditions 1 and 2 which specified the time limit for implementation of the permission and required samples of materials to be submitted for approval. Nor is condition 3, which requires the removal of the existing caravan prior to the occupation of the new dwelling necessary, as such I have not reimposed it. The Council has also suggested a condition regarding drawing numbers; however,

this condition was not on the original permission and there is no justification for me to impose it now.

Conclusion

24. The appeal site is not a suitable location for an unrestricted dwelling when judged against relevant development plan policies relating to the location of residential development and to minimise the need to travel by car. As such, it would not accord with the development plan as a whole. However, the weight to be given to this conflict is modest because the harm that would arise would be very limited for the reasons set out above.
25. For the foregoing reasons, I therefore conclude that the appeal should be allowed.

E Worley

INSPECTOR