



Appeal Decision

Site visit made on 7 August 2024

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2024

Appeal Ref: APP/Q1153/W/24/3340578

**The Old Rectory, Road from Keepers Cottage to St James Church,
Jacobstowe, Devon EX20 3RQ**

- 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 Mr John Milverton, JF & KA Milverton, against the decision of West Devon Borough Council.
 - The application Ref is 2027/23/FUL.
 - The development proposed is described as Conversion and extension of store to use as annex or holiday let (part retrospective).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by John Milverton against West Devon Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The building and extension the subject of the appeal (the store) have been constructed and I was able to observe both the exterior and interior on my site visit. The available evidence indicates that the store, excluding the extension and the proposed holiday and annex uses, is now lawful through the passage of time. I have dealt with the appeal on this basis.

Main Issues

4. The main issues are:
 - whether the proposed use as a holiday let would be in a suitable location, with particular regard to development plan policies in relation to need and accessibility;
 - whether the proposed use as an annex would be acceptable with regard to the development plan.

Reasons

Holiday let

5. The appeal site includes the store and two points of access with the B3216 highway. Jacobstowe is situated in the largely rural setting of west Devon, has little in the way of services and facilities, and is not identified by the Plymouth & South West Devon Joint Local Plan 2014-2034 (JLP) as being a key or sustainable village. Nevertheless, it is reasonable to describe it as, in the words

of JLP Policy TTV1, a smaller village/hamlet. The site is also not isolated given its position within the built-up area of the settlement and near to several buildings. Being neither in the countryside nor isolated, the provisions in JLP Policy TTV26 are therefore not applicable to the appeal proposal.

6. However, whilst the building, with its double skin block, is clearly a well-built structure and is finished to a high quality, its size and external finish means that it could, in light of the proposed holiday let use, reasonably be described as a chalet or similar facility. As such, JLP Policy DEV15, which sets out that such facilities that respond to an identified local need will be supported, is applicable. However, the submitted evidence includes only relatively limited, generic detail covering this matter and does not sufficiently demonstrate that the proposed holiday let use would respond to an identified local need. Irrespective of business planning, the appeal proposal is therefore not supported by JLP Policy DEV15.
7. The store contains all the facilities necessary for normal day to day private domestic existence. It would not lose this characteristic if it was occupied by a series of different persons. Consequently, although its proposed holiday let use could be conditioned, I do not consider it inappropriate to treat the appeal proposal as providing residential accommodation for the purposes of applying planning policies; the findings in other appeal decisions on other sites do not lead me to a different conclusion in this instance. JLP Policies DEV29 and SPT2 – which seek the location of homes to enable safe, secure walking, cycling and public transport access; and set out that development should support the creation of communities which are well served by those modes of transport – are therefore not irrelevant to the acceptability of the appeal proposal.
8. With 16 busses a day, Jacobstowe is, relative to its rural situation, very well-connected via public transport to several other settlements with services and facilities in the wider area. In addition, national cycle route 27, from Ilfracombe to Plymouth and forming part of the Tarka Trail, runs past the site's eastern access. In theory, users of the building could therefore access the site through public transport and cycling. It would also be possible to walk to the various services and facilities in Exbourne.
9. However, whilst walking to Exbourne would include a section of footpath separated from the highway, the footpath is unpaved and therefore unlikely to be attractive in wet weather. The other part of the route would involve walking either on the carriageway with no separation from vehicular traffic or, where present, on grass verges. Combined with limited lighting and the distance involved, it seems to me that accessing services and facilities from the site on foot is unrealistic for most people. The highway between the site's eastern access and the bus stop also has neither a separate footway nor lighting, and I observed on my visit that the section of B3216 needing to be negotiated is relatively narrow and has limited visibility due to a bend in the carriageway.
10. Consequently, although only a short distance, walking between the site and the bus stops would not be particularly appealing or safe, particularly in the dark. This is also likely to put off many occupiers of the proposed holiday let from using the bus. In addition, the submitted timetable indicates that the evening plans of occupiers wishing to use the bus would be significantly restricted.
11. The national cycle route means that the proposed holiday let may well appeal to cyclists. However, the cycle route in the vicinity of the site is on the

carriageway – parts of which are not part of small, quiet, minor rural highways – and is not separated from vehicular traffic. Combined with the undulating nature of the local highway network and the unrestricted sections of carriageway outside of settlements, it seems to me that most people, other than cyclists, would therefore find it neither particularly appealing nor sufficiently safe to cycle to and from the holiday let, especially to access services and facilities. The highway surface and distances to nearby settlements do not lead me to a different conclusion. Whilst those cycling route 27 or the Tarka Trail may well use the holiday let, and it could be marketed for cycling holidays, there would also be nothing stopping non-cyclists or people without bicycles from staying in the holiday let.

12. I accept that my above findings may be applicable to rural areas in general. Amongst other aspects, the National Planning Policy Framework (Framework) also recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas and sets out that sites to meet local needs in rural areas may have to be found in locations that are not well served by public transport. It also seeks to support prosperous rural economies by seeking planning policies and decisions which, amongst other things, enable sustainable rural tourism.
13. However, the limited alternative transport options available mean that occupiers of the proposed holiday let would be likely to be highly reliant on one mode of transport – the private vehicle – for the majority of their journeys and to serve their daily needs. Consequently, the proposed holiday let use cannot reasonably be described as delivering a sustainable rural tourism development, being well served by public transport, walking and cycling opportunities, or enabling access to local services and amenities by those modes.
14. It is unlikely that vehicle movements associated with the holiday let would be significant, and it has not been put to me that the proposed use would result in unacceptable traffic impacts. It seems to me that a sustainable travel plan covering the development's traffic impacts, as set out in part 8 ii) of JLP Policy DEV15, is therefore not necessary in this instance. Nevertheless, part 7 of Policy DEV29 refers to proposals incorporating travel planning to help maximise the use of sustainable transport; and with no reference to size or other such thresholds, and based on the site's location and my findings above, incorporating travel planning as part of the proposed use seems appropriate and reasonable in this case.
15. However, the submitted evidence includes various means by which the appellant would promote sustainable transport options. This includes promoting the adjoining cycle route, providing information on public transport options and local facilities, and providing an electric vehicle charging point and storage for bicycles and equipment. Given the scale of the proposed development and the travel demands likely to be generated, this detail is sufficient in relation to part 7 of JLP Policy DEV29; and, through the use of conditions where necessary, would facilitate the use of sustainable transport, even if my above findings indicate that this would likely be limited with regards to public transport, walking and cycling.
16. Nevertheless, for the above reasons, I conclude that the proposed use as a holiday let would not be in a suitable location, with particular regard to development plan policies in relation to need and accessibility. I therefore find

that it does not accord with JLP Policies TTV1, TTV2, DEV15, DEV29, SPT1 and SPT2. Amongst other aspects, these support the delivery of sustainable rural tourism developments that respond to an identified local need; set out that growth will be delivered according to a hierarchy of settlements, with development in smaller villages/hamlets permitted only if it supports the principles of sustainable development and sustainable communities; seek to manage change in accordance with various sustainable development principles, including with respect to the availability of sustainable and health-promoting transport options; require safe, secure walking, cycling and public transport access to local services and amenities, and set out that development should support the creation of communities which are well served by those modes of transport.

Annex use

17. JLP Policy DEV10 supports residential annexes provided they are in the same curtilage and ownership as the principal dwelling and are clearly ancillary to it via a functional link, with no separate demarcation or boundary. Whilst not policy, the JLP Supplementary Planning Document 2020 (SPD) provides additional helpful detail to assist with determining whether a proposed annex use would be ancillary (in terms of the use and degree of dependence on the main dwelling) or form a separate planning unit providing a self-contained dwelling. This includes the list of considerations contained in paragraph 4.130. At paragraph 4.129, the SPD is also clear that annexes that demonstrate little dependence on the main dwelling and appear effectively to be proposals for a new dwelling will likely be refused permission.
18. Being of sufficient size and containing all the facilities needed for private living, the store's design means that it could clearly provide a self-contained unit, independent from the main dwelling and with no reliance on it. Although the red line boundary is not determinative, the distance to the main dwelling is significant. The degree of separation to other buildings and storage areas means that it does not read as forming part of the disparate (or extended) building group within the blue line boundary. I observed on my visit that The Old Rectory's main rear garden is also clearly marked by a hedge, with the store beyond that boundary and separated from it by the drive. In addition, there is a patio/garden area around the store, also demarcated by a wall and planting, whilst the appellant describes the store as sitting in a separate parcel of land.
19. On this basis, whilst in the same ownership and even though a planning condition could prevent the creation of a separate planning unit, the store cannot reasonably be regarded as being in the curtilage of The Old Rectory. In coming to this view, I have taken into account the size of the house and its grounds, and that the former paddock area is claimed to be lawfully used as part of the owner's garden. Furthermore, whilst the issue of whether a separate planning unit would be created was the subject of detailed consideration in the Uttlesford case, the relevant development plan policy here does not focus solely on that matter.
20. Both the store and main dwelling can be accessed from the site's two entrances. However, the route between them is tortuous and relatively tight in places, and I observed on my visit that there are separate parking areas near to each building. The store is also close to the northern access whilst The Old

Rectory is close to the eastern access. On this basis, it is likely that occupiers of the former would generally and most frequently use the northern entrance and occupiers of the latter would use the eastern entrance (other than when needing to access other parking and storage areas). Whilst no separate access would be created and occupiers of both buildings could in theory use both entrances, the proposed annex use would effectively therefore benefit from an access essentially independent of the main dwelling.

21. The appellant indicates that the annex use of the store would be for staff or friends and family of the occupiers of The Old Rectory, who may also one day wish to live in it, with their son and family living in the main house. Such a use could be ancillary to the residential use of the main dwelling, and planning conditions can be used to secure uses ancillary to an existing dwelling and prevent the creation of an independent planning unit. Be that as it may, and despite the store being recently used by a dependent family member, my above findings indicate that the proposed annex use cannot, based on fact and degree, reasonably be regarded as functionally linked to the principal dwelling or dependent on it. Instead, it would effectively read and operate as a separate, independent unit. The identification of the store as the only building available for conversion and the Old Rectory's larger size and current provision of foul drainage, electricity and water to the store do not lead me to a different conclusion; and it seems to me that imposing a condition as described above would, in this instance, neither be appropriate nor reasonable in all other respects.
22. For the above reasons, including in particular that the proposed annex would not be in the curtilage of the principal dwelling and boundary treatment provides clear demarcation between them, it would fail to accord with JLP Policy DEV10. I therefore conclude that the proposed annex use would not be acceptable with regard to the development plan. It would also be inconsistent with the SPD guidance on residential annexes.

Other matters

23. Several appeal decisions have been put to me by the main parties to support their case. Although all the decisions are noted, the available evidence indicates that the circumstances are sufficiently at variance that I have judged this appeal proposal on its individual merits.
24. The Council does not allege that the proposed development would have an adverse effect on The Old Rectory or the Church of St James listed buildings, or their setting or any features of special architectural or historic interest which they possess. Having considered the development and visited the site, I concur with that view and find that the development would preserve the listed buildings and their significance as designated heritage assets.
25. I note the appellant's frustration with not being able to engage in detailed discussions with the Council during the determination of the planning application and the number of errors they consider the Council made in its assessment. However, this is not determinative as to the acceptability of the appeal proposal, which I have determined on its merits and the plans and evidence before me.

Planning Balance

26. I have found that the proposed development would not be acceptable with regards to relevant development plan policies and that the use as a holiday let would not be in a suitable location in relation to need and accessibility. On the basis of the submitted evidence and the proposal not according with the various development plan policies detailed above, this leads me to conclude that it conflicts with the development plan as a whole. The permissive nature of some of the relevant policies and that the appeal proposal would not conflict with various other JLP policies do not lead me to a different overall view.
27. Generating a rental income and potential cleaning and maintenance employment, the letting of the building as holiday accommodation would support the rural economy. Through the use of services and (potentially) buses by tourists, the appeal proposal would also contribute towards the viability of such facilities and the vitality of the rural community, and support the services in nearby settlements. Along with using footpaths in the surrounding area, tourists may also use the national cycle route and Tarka Trail, which has been created for such leisure/holiday uses and forms an important part of the area's tourism and economy.
28. The proposed development would therefore provide some economic, social and health benefits, as well as support the aims behind the creation of the cycle route. The design and appearance of the building is also acceptable, whilst the available evidence indicates that the appeal proposal would meet the requirements of JLP Policy DEV32 and the Council's Climate Emergency Planning Statement. However, given the scale of the development, the benefits of the appeal proposal would be relatively limited. With the lack of realistic transport alternatives meaning that occupants of the tourist let would likely rely on driving to and from the site, the development also cannot be regarded as having no adverse environmental impact. Consequently, I find that the above matters outweigh neither the harm I have identified nor the conflict with the development plan.

Conclusion

29. The proposal conflicts with the development plan read as a whole and there are no material considerations which carry sufficient weight to warrant a decision otherwise than in accordance with it. Given my findings above, a split decision – allowing one rather than both of the proposed uses – would not be appropriate. The appeal is therefore dismissed.

T Gethin

INSPECTOR