



Appeal Decision

Site visit made on 29 October 2024

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2024

Appeal Ref: APP/D0840/W/23/3336106

Horsepool Lodge, St Mellion, Saltash, Cornwall PL12 6RN

- 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 Peter James Newton against the decision of Cornwall Council.
 - The application Ref is PA23/07772.
 - The development proposed is use of dwelling house for unrestricted residential occupation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The evidence indicates that planning permission for the subject dwelling was granted by the Council pursuant to an application submitted in 2008. Condition 12 of the planning permission prevents the dwelling from being used other than for holiday accommodation. The application did not seek to allow the occupation of the dwelling without compliance with the condition under Section 73 of the Town and Country Planning Act 1990 (as amended). Instead, it was a full application *"to remove 'holiday accommodation' from dwelling house clause"*.
3. The Council's decision notice described the proposal as *"Change of use from holiday to residential dwelling"*. However, occupation of the dwelling for holiday or permanent residential purposes would both fall within Use Class C3 of the Town and Country Planning (Use Classes) Order 1987, so there would be no change of use. Nevertheless, the restriction imposed by the condition dictates that planning permission is required for unfettered occupation. I have therefore used the description in the banner heading above, which more accurately describes the proposal than that given on the application form or decision notice. As the nature of the proposal would not be altered, neither party would be prejudiced by my adoption of this description.
4. During the appeal, on 19 and 20 December 2023, the Government published revisions to the National Planning Policy Framework (the Framework). The alterations result in some of the paragraphs that are referred to on the Council's decision notice, being renumbered. The wording, however, remains the same. Consequently, I have not found it necessary, in the interests of natural justice, to seek further written comments, and neither party would be prejudiced by my consideration of the revised advice in my determination of the appeal.

Main Issue

5. Whether the site is suitable for an unrestricted residential dwelling, bearing in mind the settlement policies of the development plan and the accessibility of the location and, if not, whether there are material considerations that would justify removal of the holiday restriction.

Reasons

6. The evidence indicates that the holiday occupancy condition was imposed because the construction of a new permanent residential dwelling would not have complied with development plan policies that prevailed at the time. My attention has not been drawn to any current development plan policies that address how the proposed removal of such conditions should now be treated. However, the proposal would result in a new open-market dwelling in place of the existing holiday accommodation, so it would be appropriate to consider whether a new dwelling would be acceptable under current development plan policies that govern the location of new housing development. I note that this is also the approach advocated in the Chief Planning Officer's Advice Note: Lifting Holiday Occupancy Conditions (December 2017) (the Advice Note).
7. The Council's strategy for the location of new housing is set out in Policies 2 and 3 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (adopted 2016) (the Local Plan). The strategy seeks to maintain the dispersed development pattern of Cornwall, and provide housing based on the role and function of each place. Policy 3 says that, outside specific main towns, housing growth is to be delivered through rounding off of settlements; development of previously developed land (PDL) within or immediately adjoining settlements; infill schemes; rural exception sites; and the identification of sites through Neighbourhood Plans.
8. Proposals for rounding off, infill, or development of PDL are only supported by Policy 3 within or immediately adjoining a settlement. The appellant contends that the building lies within the village of St Mellion. However, the edge of the built-up part of that settlement is almost 400 metres away, and is separated by open land, comprising a golf course and agricultural fields. The site cannot, therefore, reasonably be considered to be within or immediately adjoining the village, so a new dwelling in this location would not be supported by Policy 3 as rounding off, infill, or development of PDL. The development is not put forward as a rural exception site, and the site is not identified for residential development by a Neighbourhood Plan. Therefore, a new dwelling in this location would not comprise any of the types of new housing that is supported by Policy 3 of the Local Plan.
9. Paragraph 2.33 of the Local Plan defines open countryside as the area outside of the physical boundaries of existing settlements. So, although the appeal building sits between a house and two tennis courts, it does, nevertheless, lie in open countryside for the purposes of development plan policy. Policy 7 of the Local Plan says that development of new homes in the countryside will only be permitted where there are specified special circumstances. The evidence indicates that none of these applied at the time that permission was granted for the holiday dwelling. It could be argued that, now there is a building on the site, criterion 3 of Policy 7 comes into play. However, the building is not redundant, disused, or historic, and the proposal would not lead to an enhancement to its immediate setting, so the requirements of criterion 3 would

not be met. The use of the building as an unrestricted dwelling would not fall within any of the other criteria described in Policy 7, so would not meet any of the special circumstances required to justify residential development in the countryside.

10. I have no evidence to indicate what the status of the land was when permission was originally granted for the holiday dwelling, but it is now PDL. Policy 21 of the Local Plan encourages the use of sustainably located proposals that use PDL. In this regard, however, the site is quite remote from high-level services, such as employment, healthcare, secondary education, retail, and leisure facilities. The unrestricted use of the dwelling would result in a greater demand for access to these services from occupants than would be the case for occupation by holidaymakers.
11. St Mellion lies a relatively short distance to the southeast, and can be reached via Church Lane, which carries little traffic. During daylight hours this route would provide a convenient walking or cycling route into the village. However, the range of facilities there is limited to a church and a primary school, so would not serve most of the day to day needs of the occupants of a new unrestricted dwelling.
12. Occupants would need to travel to Callington (about 4 kilometres to the north) or Saltash (about 6 kilometres to the south) to meet those needs. These settlements are approached via the busy A388, which is largely unlit and without footpaths, and carries fast-moving traffic. It is not, therefore, a safe walking route and is inconducive to cycling. In view of the distance involved, it is unlikely that occupants would regularly walk or cycle to these settlements anyway. There is a bus stop within easy and convenient walking distance from the dwelling, which provides a sustainable transport option for some trips. However, I have no information regarding the frequency of the services running along the A388. Consequently, on the evidence before me, occupiers of a new unrestricted dwelling would be located away from everyday services and facilities, and would be heavily dependent on the private vehicle to meet their daily needs.
13. To summarise, the appeal site is not in an appropriate location for a new dwelling, having regard to the settlement policies of the development plan. Furthermore, it is not suitably located to enable permanent occupants to easily access services and facilities by sustainable transport modes. The holiday occupancy condition is, therefore, still pertinent, and necessary to make the original development acceptable. Consequently, removal of the restriction would be contrary to Policies 1, 2, 3, 7 and 21 of the Local Plan and Policies C1 and T1 of the Climate Emergency Development Plan Document (February 2023). Taken together, these policies seek to locate new housing based on the role and function of each place, and to minimise the need to travel by fossil-fuelled vehicles. The proposal would also conflict with the Framework's aim to promote sustainable transport.
14. In coming to this conclusion, I have had regard to the two dwellings that have recently been built on the western edge of St Mellion, which the appellant suggests set a precedent for the proposal. I have little information regarding the background to that development, but I saw that the site immediately adjoins the built edge of the village, so the context is substantially different to

the appeal site. This recent development therefore carries no weight in my conclusion.

15. Moving on to whether there are material considerations that would justify removal of the holiday restriction, the appellant's case rests largely on his assertion that operating the dwelling for holiday letting purposes is not viable. In this regard, my attention has not been drawn to any development plan policies that indicate that a holiday condition should be removed in these circumstances. However, the Advice Note advises that applications to lift conditions must be treated on their own merits, including an understanding of the viability of proposals.
16. The appellant states that the property has never made a profit and is currently only occupied sporadically. As it is no longer run as a business, no up to date business accounts are available. However, a costs breakdown has been provided, together with an assessment of future income, and it is concluded that the property would have to be let for 33 weeks of the year to break even. Bearing in mind that the dwelling is a permanently constructed modern building, I see no reason why it should not be occupied all year round, and its location adjacent to a renowned golf course should be a draw that would help to attract occupants outside the peak season. Consequently, I am not persuaded on the evidence that the break-even figure is unachievable.
17. Furthermore, the costs breakdown assumes that the business would need to service a 75% mortgage. There is no evidence to demonstrate that the property is being or has been marketed at a price reflecting the occupancy condition. Consequently, there is no basis on which to assume that a future purchaser would require such a high level of borrowing. Indeed, it could attract a cash investor who could operate the business on a more profitable basis. The fact that the property has recently been valued at a much higher level than it was when the appellant prepared his statement of case indicates that it could be an attractive investment in its own right, as well as providing an income from holiday rentals. In the absence of any marketing, therefore, it has not been demonstrated that the property is not viable for holiday letting purposes.
18. The appellant has drawn my attention to a recent government consultation¹, which he contends is aimed at making it easier to change the use of holiday accommodation to a dwelling. However, the consultation relates to proposals to address concerns in certain areas about the increase in the numbers of short term lets, and the impact this can have on the sustainability of communities and the availability and affordability of homes for local people. It does not, therefore, have any particular relevance to my decision.
19. The removal of the occupancy restriction would mean that the dwelling would benefit the general stock of local housing. However, the benefits of an additional dwelling must be weighed against the conflict with the settlement policies of the development plan regarding the location of housing and the minimisation of travel by fossil-fuelled vehicles.

Conclusion

20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications for planning permission, and therefore appeals, should be

¹ Introduction of a use class for short term lets and associated permitted development rights - Published 12 April 2023

determined in accordance with the development plan, unless material considerations indicate otherwise. For the reasons given above, the proposal would not comply with the development plan, and there are no material considerations that outweigh the harm and associated conflict with the development plan. I therefore conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR