



Appeal Decision

Site visit made on 24 June 2025

by Colin Cresswell BSc (Hons) MA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 July 2025

Appeal Ref: APP/D0840/W/24/3357482

Kerryanna, Valley Road, Mevagissey, Cornwall, PL26 6SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for 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 & Mrs Hannah against Cornwall Council.
 - The application Ref is PA24/07140.
 - The application sought planning permission for an annexe without complying with a condition attached to planning permission Ref PA18/02980, dated 29 June 2018.
 - The condition in dispute is No 3 which states that: *the development hereby permitted shall only be occupied by members of the family or non-paying guests of the owners of the dwelling known as Kerryanna (guest house) and shall not be used sold or let at any time as a separate residential unit of accommodation.*
 - The reason given for the condition is: *the Local Planning Authority consider that the proposed annexe would be inappropriate for occupation independent of the main dwelling by virtue of the physical relationship between the annexe and the main house which would create inadequate levels of residential amenity for the occupiers of both in accordance with Paragraph 17 of the National Planning Policy Framework 2012.*
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Decision

1. The appeal is allowed and planning permission is granted for an annexe at Kerryanna, Valley Road, Mevagissey, Cornwall, PL26 6SA, in accordance with the application Ref PA24/07140, without compliance with conditions 1, 2 and 3 previously imposed on planning permission Ref PA18/02980 and subject to the conditions set out in the Schedule at the end of this Decision.

Background

2. Kerryana is a large residential property which is used as a guest house. Within the grounds there is a detached, self-contained residential annexe which gained planning permission in June 2018. Condition No 3 of that permission prevents the annexe from being used as separate unit of accommodation. The appellants now seek removal of this condition. This would have the effect of creating a new, independent dwelling on the site.

Main Issue

3. The main issue is whether the disputed condition is reasonable and necessary in the interests of policies which seek to control the location of housing.

Reasons

4. The site is located outside the settlement boundary of Mevagissey as shown in the Neighbourhood Plan¹. Policy HO3 of that plan only supports new housing outside the boundary where it would deliver affordable housing. As the proposal would not deliver affordable housing, it would conflict with Policy HO3.
5. The Local Plan² aims to achieve a sustainable pattern of development. This is expressed through Policies 2 and 3 which, when taken together, aim to steer the majority of new housing towards the main towns. Policy 3 does allow some new housing within, or on the edge, of rural settlements. However, the site is situated outside the main built-up area of Mevagissey and the pattern of development in the vicinity of the site does not take the form of an identifiable settlement. As such, the proposal cannot be justified on the basis of Policy 3.
6. As the site is not within a settlement, it is in the open countryside for planning purposes. Policy 7 of the Local Plan only permits new dwellings in the countryside under certain circumstances, none of which apply in this case.
7. Removal of the disputed condition would therefore result in a new dwelling in a location that is not supported by the development plan as a whole. This leads me to conclude that the condition is reasonable and necessary in the interests of policies which seek to control the location of housing.

Other matters

8. The reason for imposing the disputed condition in the original planning permission was to protect amenity. However, I saw on my visit that while the annexe is close to Kerryana, acceptable standards of privacy would be maintained if it were to become an independent dwelling. While there may be opportunities for some overlooking to take place, this is typical of most residential settings. I am also satisfied that both properties would have ample private outdoor space.

Planning Balance

9. I understand that the Council is unable to demonstrate a five-year supply of deliverable housing sites. In these circumstances, paragraph 11 of the Framework³ advises that the relevant development plan policies should be considered out of date. Of most relevance in this case are Policies 2, 3 and 7 of the Local Plan and Policy HO3 of the Neighbourhood Plan. Because these policies affect the supply of housing, they are out of date for the purposes of this appeal.
10. By directing most growth towards larger settlements, the development plan aims to reduce the need to travel by private car. This is broadly consistent with the aim of the Framework to promote walking, cycling and public transport use. As such I give Policies 2, 3 and 7 a good deal of weight in this appeal. I note that weight has also been given to these policies in other Appeals⁴.
11. However, although the site is outside Mevasgissey, it is nonetheless in close proximity to it. Indeed, in granting planning permission for the original annexe, the Officer Report noted that the site *has a close relationship with the settlement of*

¹ Mevagissey Parish Neighbourhood Development Plan 2017-2032

² Cornwall Local Plan Strategic Policies 2010-2030

³ National Planning Policy Framework, December 2024

⁴ Appeal References: APP/D0840/W/24/3348094 & APP/D0840/W/24/3343450

Mevagissey and is within walking distance to the services and facilities, including the leisure centre. It therefore seems to me that allowing the proposal would not undermine the aim of focusing growth in the most accessible locations.

12. I am also very mindful of the imperative of the Framework to significantly boost the supply of homes. According to the Council, there are only 3.8 years supply of deliverable housing sites in Cornwall. Although the current proposal would only contribute a single dwelling to this undersupply, it would nonetheless help to address the shortfall. I give this benefit very substantial weight.
13. Hence, the adverse impacts of the proposal do not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As such, the proposal would represent sustainable development as defined in the Framework. Material considerations therefore indicate that planning permission should be granted for development that is not in accordance with the development plan.

Conditions

14. Condition 3 of the original permission is deleted for the reasons stated above. However, in order to ensure that the dwelling contributes to local housing supply, a condition has been imposed to prevent it being used as holiday accommodation. There is also a condition which removes permitted development rights. This is to prevent extensions and alterations that may harm the residential amenity of the occupiers of Kerryana. Because the annexe has already been constructed, the original condition requiring the development to be carried out in accordance with a time limit does not need to be re-imposed. However, there is a condition to ensure compliance with the plans as this shows the access and proposed curtilage.

Conclusion

15. For the reasons given above, the appeal is allowed.

C Cresswell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 154a 01B, 154a 02B, 154a 04B, 154a 05B, 154a 06B.
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), no development within Classes A, B, C, D and E of Part 1 of Schedule 2 to the said Order shall be carried out without an express grant of planning permission, namely: > The enlargement, improvement or other alteration of the dwellinghouse. > The enlargement of the dwellinghouse consisting of an addition or alteration to its roof. > Any other alterations to the roof of the dwellinghouse. > The erection of construction of a porch outside any external door of the dwelling. > The provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure.
- 3) The dwelling shall not be occupied otherwise than by a person as his or her only or principal home. For the avoidance of doubt the dwelling shall not be occupied as a second home or holiday letting accommodation. The occupant will supply to the Local Planning Authority (within 14 days of the Local Planning Authority's written request to do so) such information as the authority may reasonably require in order to determine whether this condition is being complied with.