
Appeal Decision

Site visit made on 7 December 2016

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 December 2016

Appeal Ref: APP/W1850/W/16/3159150

New House Farm, Glewstone Road, Glewstone, Herefordshire HR9 6BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Roderick Warner against the decision of the County of Herefordshire District Council.
 - The application Ref 160025, dated 4 January 2016, was refused by notice dated 21 March 2016.
 - The application sought planning permission for the conversion of an existing redundant barn to a two storey holiday let accommodation without complying with conditions attached to planning permission Ref S121614/F, dated 7 November 2012.
 - The conditions in dispute are Nos 3, 5 and 6 which state that: (3) The development hereby permitted shall not be sold separately from the property currently known as New House Farm, Glewstone, Herefordshire, HR9 6BA; (5) The building which is the subject of this application shall be used for holiday accommodation only and for no other purpose including any other purpose within Class C of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification; (6) The development hereby permitted shall only be occupied by tourists for holiday purposes. No person or groups of persons shall occupy the building subject of this planning permission for more than 28 days consecutively and shall not be occupied by any one person or groups of persons for more than 156 day in any one calendar year. The owners/operators of the site shall maintain an up-to-date register of the names of all occupiers of the holiday let accommodation hereby permitted and shall make this information available at all reasonable times to the Local Planning Authority.
 - The reasons given for the conditions are: (3) Separate ownership and/or occupation would result in the unacceptable impact upon the amenity and privacy of both units being untenable and unacceptable contrary to Herefordshire Unitary Development Plan Policies DR1, DR2, and HBA13; (5) Having regard to Policies DR1, DR2 and H7 of the Herefordshire Unitary Development Plan the local planning authority are not prepared to allow the introduction of a separate unit of residential accommodation, due to the relationship and close proximity of the building to the property known as New House Farm, Glewstone, Herefordshire, HR9 6BS and also by virtue that the unit is in an unsustainable rural location; (6) To ensure that the holiday units hereby permitted are not used as permanent unrestricted dwellinghouses contrary to Policy H7 of the Herefordshire Unitary Development Plan 2007 and also the use of the holiday let accommodation hereby permitted as an independent unrestricted dwellinghouse would result in the unacceptable impact upon the amenity and privacy of New House Farm and the hereby approved unit contrary to Herefordshire Unitary Development Plan Policies DR1, DR2 and HBA13.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I note that the proposal, involving the removal of the conditions referred to above, would relate to use of the building as a separate permanent dwelling. I have determined the appeal on that basis.

Main Issues

3. The main issues are:
 - i) the effect of the proposal on Herefordshire's tourism industry in respect of provision for tourist accommodation;
 - ii) the effect of the proposed use as a permanent dwellinghouse on the living conditions of the occupiers of New House Farm with regard to privacy, and whether it would provide acceptable living conditions for future occupiers of the building concerned, with regard to privacy and, in respect of the adjacent equine use, noise and disturbance, odour and safety.

Reasons

Effect on tourism industry

4. Policy E4 of the Herefordshire Local Plan Core Strategy (the Core Strategy) states that Herefordshire will be promoted as a destination for quality leisure visits and sustainable tourism. It further sets out that the tourist industry will be supported by a number of measures including, in respect of this issue, retaining and enhancing existing accommodation.
5. I have had regard to the appellant's claim that the accommodation, which is in place following conversion of the former barn, has not yet been let and that it has therefore not made any contribution to the tourism industry to date. That may be so but it remains the case that the accommodation is there and useable, especially as I saw it to be fully furnished.
6. I have also had regard to claims that the demand for such accommodation is less than in other locations such as the Cotswolds or Cornwall and that there are other holiday units locally to meet demand. However the comparisons, including reference to a snapshot analysis of the availability of accommodation in these different locations, are not supported by substantive documentary evidence, including over a wider period of time. Such snapshot analysis also does not necessarily reflect the potentially different nature of the tourist industry in those respective regions throughout the whole year. On the other hand, policy E4 highlights that there is clearly a need for tourist accommodation. I have received insufficient substantive evidence to the contrary.
7. It is also claimed that despite the accommodation having a high quality finish, it has no additional facilities such as swimming pool, hot tub or games room, viewed as important to families. However, again I have received insufficient documentary evidence to demonstrate that this would be likely to be a key factor in terms of demand. Furthermore, in respect of testing the demand, I

- have received no evidence from the appellant relating to any attempts at marketing or promoting the accommodation for tourists, in support of his claims.
8. I cannot therefore be certain that the accommodation is, and would be in the future, unviable for tourist use.
 9. It is claimed that in terms of the local economy, tourists tend now to use home delivery from big supermarkets rather than supporting local shops to the same extent. However, this is not supported by any substantive evidence and, in any case, neglects to acknowledge the inevitable support that tourist accommodation would provide to the local tourist economy in respect of, for example, local attractions, restaurants and public houses.
 10. For the above reasons, I conclude on this issue that the proposal would, in failing to retain existing tourist accommodation, be contrary to the Council's objective, set out in policy E4 of the Core Strategy, to support Herefordshire's tourist industry.
 11. The Council, in its decision notice, also refers to Policy RA6 of the Core Strategy. That relates to support for appropriate employment generating proposals and a range of economic activities. However, whilst it promotes sustainable tourism proposals, it does not specifically preclude the loss of tourist accommodation and so it is not directly relevant to this issue.

Living conditions

12. In respect of privacy, any overlooking between windows of the existing Farm House and the appeal building is and would continue to be at significantly oblique angles, also hampered to some extent by the thickness of the walls in which those windows are set. Together with the distance involved, it would be unlikely to cause a harmful level of overlooking of either dwelling.
13. The appeal property has a patio area level with its ground floor but, due to the difference in levels, raised above a fenced off grass area connected to the property via steps from the upper patio down to a lower paved area. Although the garden area is either directly or obliquely overlooked from the Farm House, the patio area, that would be likely to have the most use being closest to the building, is only overlooked at varying oblique angles. Overlooking of the Farm House windows from here is also at an angle, and several of the windows are in any case either to hallway or landing areas.
14. There is also a good degree of distance between the two buildings and between the patio and Farm House.
15. These factors would combine to ensure that, regardless of the occupancy of the appeal building, it would be unlikely for there to be overlooking between the two properties to an extent that would be harmfully intrusive, ensuring an acceptable level of privacy for the respective occupiers.
16. The site is located within a farm complex currently used for equine purposes with horses stabled in a barn to the north-east, angled away from the appeal building and separated from it by a rear garden area and stable yard. Due to that degree of separation, it is unlikely that those horses or the fairly low level of activity relating to their upkeep, would generate such levels of noise and

disturbance as to amount to a harmful level of intrusion to permanent residents of the proposed dwelling.

17. Odour from the horse stables is evident. However it is not to an extent that is overpowering or unexpected in a rural location.
18. In terms of the safety of future occupiers with regards the movement of horses in the vicinity of the site, including on the access drive, it is evident that there are sufficient gated and fenced off yards and fields to enable appropriate levels of control in this respect without causing the need for conflicting activity.
19. For the above reasons, I conclude on this issue that the proposed use as a permanent dwellinghouse would be unlikely to cause unacceptable harm to the living conditions of occupiers of New House Farm with regard to privacy, or unacceptable living conditions for future occupiers of the appeal property with regard to privacy, noise and disturbance, odours and safety. As such, in respect of this issue, it would accord with policy SD1 of the Core Strategy which requires development proposals to safeguard residential amenity for existing and proposed residents. It would also accord with the Framework which in paragraph 17 states, amongst other things, that planning should always seek to secure a good standard of amenity for all existing and future occupiers.
20. The Council, in its decision notice, also refers to policy RA5 of the Core Strategy. That policy relates to redundant or disused buildings. The proposal relates to an already converted rural building which, from the submissions, has not yet been used as tourist accommodation and so cannot have ceased use as such. It cannot therefore be considered disused in respect of its current converted, and fully furnished, state. Furthermore, it has not been conclusively demonstrated to be redundant for the purposes of tourist accommodation, in the absence of evidence of attempted marketing. Policy RA5 is therefore not relevant in this case.

Other matters

21. In respect of any potential benefits that would relate to the proposed dwellinghouse, I have had regard to the extent to which it would be in a suitable location for a permanent dwelling, having regard to the principles of sustainable development.
22. In this respect I have had regard to policy RA3 which sets out that only certain types of residential development in rural locations outside of settlements would be acceptable. This is broadly consistent with paragraph 55 of the Framework which states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It goes on to say that new isolated homes in the countryside should be avoided unless there are special circumstances.
23. It would be one of a generally sporadic distribution of dwellings in the surrounding open countryside. It would therefore be in an isolated location distinctly detached from any settlements with the facilities and services needed for day to day living such as schools, the full range of shops, leisure and health facilities, or with a greater range of employment destinations. Furthermore, it is acknowledged that local bus services are poor and in any case access to them would involve initial walking along unlit and narrow lanes without

- footways, which would be likely to discourage use of such transport on a regular basis. Future occupiers would therefore be highly likely to be heavily reliant on private car use.
24. A permanent dwelling would be likely to make a small contribution to the rural community in terms of, for example, spending by future occupiers in local shops, although this would also be likely to apply to tourist occupiers to some degree, and use of services such as local schools and libraries. However, there is no evidence of such services and facilities being in need of any support. Furthermore, the level of support would be likely to be limited by the degree of isolation of the site. I have also no evidence of a current dominance of tourist accommodation in the area, in terms of any detrimental effect that may have on the local resident population.
25. I have previously found that policy RA5 of the Core Strategy is not relevant in this case and the same applies to the fourth criteria of policy RA3 relating to the sustainable re-use of a redundant or disused building. In any case, in respect of that criteria, the proposed use as a permanent dwellinghouse would not lead to a material enhancement of its immediate setting as the conversion has already been completed. The same scenario applies to the sixth criteria in any considerations as to whether it comprises exceptional quality and innovative design. Therefore, and in light of my findings in relation to the first main issue, I find that there are no special circumstances that would apply to its use as a permanent dwellinghouse.
26. I therefore find that the proposed dwelling would not be in a suitable location for a permanent dwelling, having regard to the principles of sustainable development. As tourist accommodation on the other hand, it is at least fairly well located for access to surrounding rural tourist destinations, including in relation to the Wye Valley. Tourist occupiers would also be likely to contribute to the local tourist economy in various ways, as I referred to under the first main issue.
27. As such, in light of my findings on the first main issue, I am not satisfied that a permanent dwelling would constitute a use that, in respect of the above factors, would have any benefits to outweigh the loss of tourist accommodation.
28. The appellant refers to Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development)(England) Order 2015 relating to agricultural buildings to dwellinghouses. He highlights that the Government does not expect such decisions to be refused simply because they are on farmsteads away from villages or towns. However, the proposal does not relate to Class Q as the conversion has occurred, and I have determined this appeal, which is not made under Class Q, on its merits based on all of the evidence before me.
29. The appellant highlights that no third party objections have been received, including from the local Parish Council, the County Council Tourism Unit or any other local tourism body, local residents or statutory consultees. However, I have determined this appeal on its planning merits taking into account all material considerations.

Conclusion

30. The Framework sets out that there should be a presumption in favour of sustainable development and indicates that to achieve that, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
31. I have found that the proposal would be unlikely to give rise to any unacceptable harm in respect of the living conditions of the occupiers of New House Farm or future occupiers of the appeal property.
32. The appellant claims that the Council cannot demonstrate a 5 year housing land supply (HLS) and in this respect I bear in mind paragraphs 47-49 of the Framework. I note reference to other appeal decisions, albeit that I have not received the full details of those cases or decisions, and the Council's most recent Annual Monitoring Report showing a 4.49 year HLS as of April 2016. However, I do not have any substantive more recent evidence as to whether or not there is currently a 5 year HLS and so find the evidence in this regard inconclusive.
33. Nonetheless, even if there is not such a supply, I consider that the contribution the proposed single dwelling would make towards addressing the undersupply of housing, together with my findings in respect of living conditions, does not outweigh my conclusions on the first main issue, taking account of those other matters that I have considered. It would therefore not be a sustainable form of development.
34. Therefore, for the above reasons, I conclude that the appeal should be dismissed.

Andrew Dawe

INSPECTOR