
Appeal Decision

Site visit made on 6 December 2016

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 1 February 2017

Appeal Ref: APP/W1145/W/16/3157369
19 Greenway Drive, Westward Ho! EX39 1FG

- 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 David Beer against the decision of Torridge District Council.
 - The application Ref.1/0613/2016/FUL, dated 27 June 2016, was refused by notice dated 3 August 2016.
 - The application sought planning permission for the erection of 35 units of holiday accommodation together with associated landscaping without complying with conditions attached to planning permission Ref.11/1121/2013/FULM, dated 21 March 2014.
 - The conditions in dispute are Nos.3 and 4 which state that:
 - (3) The premises shall be used for holiday accommodation and for no other purpose including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification); and
 - (4) Upon commencement of the use hereby approved the owner/site operator shall keep a record of all persons who have occupied the units for holiday purposes including details of the duration of their stay on the form attached. Such records shall be kept on the attached form and made available for inspection by the local planning authority upon prior written request.
 - The reasons given for the conditions are:
 - (3) To ensure that the holiday accommodation is occupied in accordance with the justification for the development provided; and
 - (4) To enable the local planning authority to ensure that the premises are occupied strictly in accordance with the restrictions imposed.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issue

3. Paragraph 206 of the National Planning Policy Framework (the Framework) tells us that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The main issue to be considered here is whether conditions 3 and 4 meet those tests.

Reasons

4. It is evident from the original grant of planning permission for the development that the Council considered the holiday accommodation proposed to be compliant with the development plan and, in particular, Policies DVT2C and ECD6 of the Torridge Local Plan (LP), adopted in 2004.
5. LP Policy DVT2C sets out the type of development permissible in the open countryside, including identified types of tourist development, while LP Policy ECD6 sets out tourist development criteria.
6. To ensure that the accommodation is used for its intended tourism-related purpose, conditions like (3) and (4) are obvious necessities. Without them, the accommodation could be used for permanent residential purposes.
7. A residential scheme on the site would draw no support from the development plan, and neither, for that matter, would the use of one of the units as a permanent place of residence, as sought by the appeal before me.
8. In that overall context, it is clear that conditions (3) and (4) are a necessary imposition to ensure the development complies with the development plan and, as such, they meet the tests of paragraph 206 of the Framework.
9. The argument put forward on behalf of the appellant has a number of facets. First, in simple terms, the point is made that the site is in an accessible location and that use of No.19 as a permanent residence would not be harmful. I do not accept that. The site might well be relatively accessible but the reason why LP Policies DVT2C and ECD6 support tourist accommodation in the open countryside, is largely based around the obvious economic benefits visitors bring to the area.
10. Those economic benefits played a significant role in the original grant of planning permission for the proposal, bearing in mind especially the approach of LP Policy ENV6 to rural gaps.
11. Those benefits would not manifest themselves in the same way if No.19 were to be used as permanence places of residence. The point has been made that the owner of No.19 has no intention of letting the property out for holiday purposes. That is, of course, his prerogative but that does not justify removal of the conditions because to do so would take away the potential for the property to generate the economic benefits that justified it in the first place.
12. More substantially, it is suggested that because the Council cannot demonstrate a 5 year supply of deliverable housing sites, as required by paragraph 47 of the Framework, we are taken via paragraph 49, to paragraph 14 and a judgement is required, conscious of the exhortation in the Framework to boost significantly the supply of housing, on the question of whether any adverse impacts of removing the conditions and thereby creating an unrestricted dwelling, would significantly and demonstrably outweigh the benefits of so doing, when considered against the policies in the Framework considered as a whole.
13. I accept that the Framework offers substantial support for the provision of housing. However, the Framework is very clear in its approach to building a strong, competitive economy too. Paragraph 18 tells us that the Government is committed to securing economic growth in order to create jobs and prosperity.

14. With that in mind, and appreciative of the importance of tourism to the area, I believe that the economic loss to the area that would result from the use of No.19 as an unrestricted dwelling would significantly and demonstrably outweigh the benefits offered by adding one unrestricted dwelling to the Council's overall supply of housing.
15. Both the appellant and the Council have referred to other Council decisions, and appeal decisions, in support of their cases. These pull in different directions for what appear to me to be site-specific reasons. On that basis, I have dealt with the proposal before me on its own merits, and formed my conclusions accordingly.
16. For the reasons given above I conclude that the appeal should be dismissed.

Paul Griffiths

INSPECTOR