
Appeal Decision

Site visit made on 1 February 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 07 March 2017

Appeal Ref: APP/P1133/W/16/3162673

Sampsons Farm, Road past Sampsons Farm, Preston, TQ12 3PP

- 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 Sampsons Farm Construction Ltd against the decision of Teignbridge District Council.
 - The application Ref 16/01628/MAJ, dated 8 June 2016, was refused by notice dated 26 September 2016.
 - The application sought planning permission for the change of use of existing holiday lets to provide 4 dwellings, conversion of restaurant and bed and breakfast to single dwelling, erection of 8 new holiday units (12 month occupancy) and creation of new access and parking areas, without complying with a condition attached to planning permission Ref 14/02517/MAJ, dated 24 November 2015.
 - The condition in dispute is No 8 which states that: The holiday units shall be occupied for holiday purposes only, for no more than a total of 4 months in any calendar year by any individual occupant, group of individuals or family and shall not be occupied as a main place of residence. The owner shall maintain an up to date register of the details of all occupiers, including the length of any stay, their names and main home addresses, of the holiday units on the site and shall make it available for inspection at all reasonable times for inspection by the Local Planning Authority.
 - The reason given for the condition is: To ensure the holiday accommodation is not used for permanent residential accommodation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's title that I have used above has been confirmed in correspondence since the submission of the appeal. It is not "Simpsons Farm Construction Ltd" as was included on the application form.

Main Issue

3. The main issue is whether the disputed occupancy condition is reasonable and necessary with respect to the suitability of the site for permanent residential accommodation having particular regard to the accessibility of the location as well as relevant policies for residential development.
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Reasons

4. Preston includes a concentration of houses and other buildings mainly positioned alongside lanes through the area. The appeal site includes a complex of what were originally traditional farm buildings positioned alongside a lane that extends to the south-west of Preston. Those buildings were the subject of building work at the time of my site visit.
5. The 8 units which the disputed condition would limit to holiday occupancy, would be positioned to the south-east of the existing complex of buildings. There were no obvious signs that construction work had started with respect to those at the time of my site visit. This part of the site is presently a level, undeveloped grassy area not clearly in agricultural use. This is surrounded by undeveloped fields.
6. I could see from the site, a line of buildings within the main part of Preston separated from the site by one of the adjoining fields. Those dwellings are distinctly separated from the field by a hedge-line including mature trees. The other adjoining fields are also surrounded by hedges. The site, apart from the existing buildings near the road, is by contrast defined on 2 sides by lightweight fencing and encroaches into the fields beyond the predominant linear pattern of building within Preston. The site therefore intrudes into the undeveloped countryside rather than being entirely within the existing built up area. This would cause some harm to the existing qualities and character of the rural landscape around this small settlement. Policy EN2A of the Teignbridge Local Plan¹ (LP) requires the protection and enhancement of the area's landscape. That harm needs to be weighed up with any advantages of the proposed development.
7. Preston is not a defined settlement within the LP. LP policy S22 states that land outside of defined settlements is classified as open countryside where development will be strictly managed. On travelling around the area I could not see any services or community facilities nearby. The nearest higher order, defined settlements with services and facilities are Kingsteignton, according to the appellant 1.1 miles away, and Newton Abbott which has been referred to as being 1.6 miles and 2 miles away. These settlements are reached over a range of road types but those closest to Preston are rural in nature with few street-lights or footpaths. Occupants of dwellings within Preston are likely to rely upon vehicles to reach those settlements and therefore most everyday services.
8. LP policies S1 and S22 are consistent with the requirements within the NPPF to promote sustainable development in rural areas, locating housing where it will enhance or maintain the vitality of rural communities, avoiding isolated homes in the countryside. Whilst the site is close to residential properties, isolation also relates to the degree of separation from infrastructure and community facilities. Although the impacts of holiday or unrestricted occupation due to this isolated position may be similar, use for tourist occupation could bring additional benefits. LP policy S22 explicitly refers to tourist uses as one of those limited uses which are necessary to meet the overall aim of the policy. The Council has referred to the benefits of the development for holiday units being greater than unrestricted dwellings in the countryside and LP policy S22 supports that position.

¹ Teignbridge Local Plan 2013-2033, adopted 6 May 2014

9. The appellant has provided a development viability statement and financial appraisal. The statement explains that since the original planning permission was issued in November 2015, financial circumstances have changed including the liability for taxes on second homes and increased construction costs. I am not instructed through this appeal to determine whether the proposed holiday units would be dwellinghouses classified within the C3 use class² and therefore liable for Community Infrastructure Levy payments. However, I recognise that this would be another cost for the developer.
10. The development would, on the basis of the proposed business model, make a loss of 12.39%. These figures are not disputed by the Council. On this basis, it seems clear that the development will not go ahead.
11. Concern has been raised as well by the appellant about the restriction within the disputed condition preventing occupation for no more than a total of 4 months in any year by one person or set of people. There is no particular justification provided to explain why 4 months is not adequate for holiday makers even if the properties were intended as second homes. The viability statement and financial appraisal have not indicated that other holiday occupancy options have been considered.
12. If the development were not to go ahead, the benefits of the tourist use would not be achieved. In that situation some of the resultant impacts would not occur either, such as the encroachment of built development into the rural setting of Preston. However, providing housing in an isolated location would not bring sufficient benefits to outweigh the impacts of the buildings and associated developments.
13. In relation the main issue the disputed occupancy condition remains reasonable and necessary as the site would be unsuitable for permanent residential accommodation due to the isolation and inaccessibility of the location. Furthermore, such development would not comply with LP policies S1, S1A, S22 and EN2A. The special circumstances to justify the residential development in such as location as required by the Framework have not been demonstrated.
14. The main building within the Sampson's Farm complex is a Grade II Listed building. The type of occupancy of the proposed dwellings would make no difference to the impacts upon that building and its setting would therefore be preserved. This is a neutral matter that neither weighs for or against the proposal.

Conclusion

15. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be dismissed.

Andy Harwood

INSPECTOR

² Town and Country Planning (Use Classes) Order 1987 (as amended)