

Appeal Decision

Site visit made on 11 January 2017

by **J F Powis BA (Hons) MSc MRTPI**

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

Decision date: 7 April 2017

Appeal Ref: APP/D0840/W/16/3159618

Hotel St Eia, Trelyon Avenue, St Ives, Cornwall TR26 2AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Michael Wodskou of Gonwin Developments Limited against Cornwall Council.
 - The application Ref PA16/06590 is dated 13 July 2016.
 - The application sought the deletion of condition 2 of planning permission PA/16/04507 dated 12 July 2016, which concerns the removal of condition 9 (requirement for the provision of affordable housing) in respect of PA14/03921 (appeal decision APP/D0840/W/14/3001837).
 - The disputed condition, no.2 of PA16/04507, states that: *The dwellings hereby permitted shall not be occupied otherwise than by a person as his or her Only or Principal Home. For the avoidance of doubt the dwellings shall not be occupied as a second home or holiday letting accommodation. The Occupants 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.*
 - The reason given for the condition is: *To safeguard the sustainability of the settlements in the St Ives NDP area, whose communities are being eroded through the amount of properties which are not occupied on a permanent basis and to ensure that the resulting accommodation is occupied by persons in compliance with Policy H2 of the St Ives Neighbourhood Plan 2015 – 2030.*
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Decision

1. The appeal is dismissed and planning permission is refused for the deletion of condition 2 of planning permission PA/16/04507 which concerns the removal of condition 9 (requirement for the provision of affordable housing) in respect of planning application PA14/03921 (appeal decision APP/D0840/W/14/3001837) at Hotel St Eia, Trelyon Avenue, St Ives, Cornwall TR26 2AA.

Procedural Matter

2. Following submission of the appeal, the Cornwall Local Plan: Strategic Policies 2010-2030 (CLP) was adopted on 22 November 2016 and the St Ives Area Neighbourhood Development Plan 2015-2030 (NP) was made on 29 December 2016. Both documents now form part of the development plan. This appeal is determined on the basis of the development plan at the time of writing.
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Background and Main Issue

3. In 2015, planning permission was granted on appeal¹ for 8 dwellings on the former Hotel St Eia site. In 2016, planning permission was granted by the Council² for the removal of condition 9 of the 2015 permission which required the provision of affordable housing. The 2016 permission imposes as condition 2 a requirement that the dwellings shall not be occupied other than as a person's only or principal home.
4. The application seeks permission to carry out the development without complying with condition 2 of the 2016 permission. The appeal is made against the Council's failure to determine the application within the statutory period. The main issue is the effect that removing condition 2 would have on the supply of housing for local people in the area.

Reasons

5. The appeal development involves 8 new residential units in the St Ives NP area. Policy H2 of the NP states that new open market housing will only be supported where there is a restriction to ensure its occupancy as a principal residence. A principal residence is defined as being occupied as the resident's sole or main residence, where residents spend the majority of their time when not working away from home. The policy requires that the restriction is secured via planning condition or legal agreement and obliges the occupiers to keep and provide to the Council on request proof of principal residence.
6. Policy H2 is consistent with the aims of Policies 1, 2, 2a and 3 of the CLP, which together seek to provide homes where they can best meet need and sustain the role and function of places, including by assisting in the creation of resilient and cohesive communities. St Ives with Carbis Bay is identified as one of 18 main towns forming the focus for delivery of housing and other new development in Cornwall.
7. Following the approach set out within Policy H2, condition 2 ensures that all of the properties within the appeal development are retained for occupation as principal residences. The evidence before me indicates that St Ives has one of the highest proportions of second homes and holiday lets in Cornwall and that this has been an increasing trend in recent years. Against this backdrop, condition 2 ensures that the appeal development contributes to meeting the housing needs of local people in the area, bringing greater balance to the local housing market and helping to strengthen the local community and economy.
8. I have had regard to the appellant's stated intention to implement the original 2015 permission should this appeal fail and his submissions that the appeal development would have no greater adverse effect on the sustainability of St Ives than this 'fallback' position. I accept that the appellant has the option to revert to implementing the 2015 permission, which remains extant, and I have taken account of the High Court Judgement³ referred to in his submissions in this regard.

¹ Appeal reference APP/D0840/W/14/3001837

² Council reference PA16/04507

³ Zurich Assurance Ltd v North Lincolnshire Council and Simons Developments Ltd [2012] EWHC 3708

9. However I am mindful that, in implementing the 2015 permission, the appellant would be required to comply with its condition 9 which involves the provision within the development of not less than 50% of the total number of dwellings permitted as affordable housing. Therefore, implementing the 2015 permission would necessarily result in the provision of an element of local needs housing in the form of at least 4 affordable units within the development. In light of this, I do not consider that the fallback position would be significantly more harmful to the supply of housing for local people than the appeal scheme so as to justify it. As a result, I attach only limited weight to the fallback position in this case.
10. My attention has been drawn to a 2016 appeal decision⁴ in which permission was granted for the construction of a dwelling on a site in Carbis Bay. In that case, the Inspector afforded limited weight to Policy H2 of the NP. I note that at the time of that decision, the NP had not been made and was the subject of a legal challenge. The status of the NP at the time of that decision was therefore materially different from its status in respect of this appeal. Consequently, I afford the 2016 appeal decision little weight in my consideration of this case.
11. For the same reasons, I attach little weight to the Council's submissions to the Secretary of State in relation to the Gonwin Farm appeals⁵, which also reflect a time before the NP formed part of the development plan.
12. It has been put to me that there is no justification to impose a second homes restriction in this case when the CLP has included an allowance for second homes as part of its overall housing provision. However, I am mindful that there has been a recent examination of the NP, and the approach contained in Policy H2 has been found to be sound. As the NP now forms part of the development plan it carries full weight.
13. Taking into account all of the above matters, I find that removing condition 2 would have an adverse effect on the balance of the local housing market and would fail to strengthen the local community. This would undermine the sustainability of the St Ives area and conflict directly with the aims of Policy H2 of the NP. It would also be contrary to Policies 1, 2, 2a and 3 of the CLP.
14. I therefore conclude that condition 2 is necessary to protect the supply of housing for local people in the area, having regard to the development plan and all other material considerations. I also consider that the condition is enforceable, relevant to planning and to the development to be permitted, precise and reasonable in all other respects in accordance with paragraph 206 of the National Planning Policy Framework. Consequently, the appeal must fail and the condition be retained in its original form.

Conclusions

15. For the reasons given above I conclude that the appeal should be dismissed.

J F Powis

INSPECTOR

⁴ Appeal reference APP/D0840/W/16/3145638

⁵ Appeal references APP/D0840/W/15/3002925 & APP/D0840/W/15/3005068