

Appeal Decision

Site visit made on 28 February 2017

by H Porter BA(Hons) PGDip IHBC

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

Decision date: 20 April 2017

Appeal Ref: APP/D3125/W/16/3165056

Ancillary Holiday Let Separate Unit to No. 1 Stonelands, Nr. Brize Norton, Carterton, Oxon OX18 3PA

- 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 Sid Reynolds against the decision of West Oxfordshire District Council.
 - The application Ref 16/01759/S73, dated 7 May 2016, was refused by notice dated 4 July 2016.
 - The applications sought planning permission for conversion of garage to form self contained annexe and Holiday Let (Retrospective); and erection of extension to holiday let and erection of detached garage without complying with conditions attached to planning permissions Ref 11/1773/P/FP, dated 29 December 2011 and Ref 13/1319/P/FP, dated 11 November 2013.
 - The conditions in dispute are No 1 of 11/1773/P/FP which states that: 'The occupation of the accommodation shall be limited to holiday tenancies not to exceed 8 weeks (in each case) and no person shall occupy the accommodation in consecutive tenancy periods, or when not used as holiday accommodation shall be used as accommodation ancillary to the existing dwelling on the site, and shall not be occupied as a separate dwelling'; and No 6 of 13/1319/P/FP which states that: 'The occupation of the accommodation shall be limited to holiday tenancies not to exceed 8 weeks (in each case) and no person shall occupy the accommodation in consecutive tenancy periods'.
 - The reason given for both the conditions is: 'The accommodation is on a site where residential development would not normally be permitted, and is unsuitable for continuous residential occupation'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. It is unclear whether the appeal site is currently being occupied in breach of the occupancy restriction conditions imposed. The application form describes the ancillary unit as being in use as a holiday let, whereas the Council's decision notice describes the proposal as being retrospective. I shall take it that the building is not being occupied as a permanent dwelling. In any event, the current use of the building does not affect my consideration of the planning merits of the proposal or my judgement as to whether or not to remove the occupancy conditions.
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Main Issue

3. The main issue in this case is whether the disputed conditions restricting the use of the dwelling to holiday let accommodation are reasonable and necessary, having particular regard to whether the appeal site is a suitable location for an open market dwelling in terms of access to services and facilities to support daily living needs in the context of current planning policy and the principles of sustainable development.

Reasons

4. The appeal relates to a former detached garage, in the grounds of 1 Stonelands, which has been converted and subsequently extended for residential use for holiday lettings. The appellant seeks to remove condition 1 attached to the original planning permission (11/1773/P/FP) and condition 6 attached to planning permission for the subsequent extension (13/1319/P/FP). Both conditions restrict the occupancy of the appeal building to a short-let holiday residential use; condition 1 also allows for use of the building as ancillary accommodation to 1 Stonelands. Therefore, were I to allow the appeal, the removal of the two conditions would have the effect of granting planning permission for conversion to a permanent open market dwelling unfettered by any occupancy restrictions.
5. The appeal site is located along a country lane, just off the Burford Road, set within a landscape of open fields and mature hedgerows. Notwithstanding the small pocket of residential development in the immediate context, and proximity to 'commercial zoning', the location is outside any built-up area and within the countryside. Amongst the core principles of the National Planning Policy Framework (the Framework) is the requirement to actively manage patterns of growth to make the fullest use of public transport and to support thriving communities within the countryside.
6. While the appeal building is located within a loose group of buildings, that group is isolated from facilities and services within the nearest service centres and villages, which are reached via unlit country lanes with no public footway. Therefore, while nearby settlements could satisfy some every-day needs and provide access to wider public transport links, it is clear that getting to them either on foot or by bicycle would not be practical or safe options. In light of this, even relatively short trips would most likely be undertaken by private car, the least sustainable mode of travel. Consequently, the nature of the appeal scheme would be contrary to the environmental dimension of sustainable development as set out in the Framework.
7. I have taken into consideration the appellant's contention that the use of the building as a holiday let is no longer viable. However, as the Council points out, the holiday letting use was considered to be viable to the extent that the appellant was minded to invest further in the accommodation at the time the 2013 planning application was made. It is also not clear whether any specific locational circumstances have arisen, such as the site's proximity to RAF Brize Norton or its isolated location, which now contribute to the alleged unviability of the permitted use to the extent that they had not done in 2013. In the absence of any substantive evidence, for example trading accounts from the past three to four years, I am not persuaded to allow the appeal on the basis that the holiday-let use is no longer viable.

8. Without the occupancy conditions in place, the appeal scheme would result in an isolated home in the countryside. The provision of a single open-market dwelling would not satisfy any exceptional circumstances established in Policy H10 of the West Oxfordshire Local Plan 2011, adopted 2006 (the Local Plan), or essential operation or agricultural need that would justify a new isolated home in the countryside as set out in Local Plan Policy H4 and paragraph 55 of the Framework. The appeals scheme would also run contrary to Local Plan Policy TLC2 and to emerging Policy H2 of the West Oxfordshire Local Plan 2011 – 31(the ELP), albeit this policy carries lesser weight than if it were fully adopted, to the extent that these policies support economic growth in rural areas, making provisions for the use of a building for short-term holiday lets outside of existing towns and that would otherwise be contrary to the objectives and housing policies of the development plan. Without substantive evidence to support the removal of a rural enterprise, the appeal proposal would also fail to enhance or maintain the vitality of a rural community and be counter to aims of paragraph 28 of the Framework to support a vibrant and prosperous rural economy. As such, the removal of the disputed conditions to permit the unrestricted occupation of the appeal building would conflict with the policies within the development plan and the Framework taken as a whole.

Planning balance

9. The Council does not dispute that it cannot currently demonstrate a five-year supply of housing land. It follows that Policies H10, H4 of the Local Plan and Policy H2 of the ELP, which are relevant for the supply of housing, should not be considered up-to-date. There is therefore a presumption in favour of granting planning permission, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
10. In this case, the benefit of one additional open-market dwelling in an area with an under-supply of housing land is a benefit, and, despite the very small contribution to the current deficit, does add weight to the merits of the proposal. There would consequently be some benefit to the local economy and social benefits associated with providing an additional home. However, there is no convincing evidence before me that establishes that an open market dwelling would have economic or social benefits that would materially outweigh those already generated by a holiday let. I accept that the use of the building as a permanent dwelling would not have a harmful impact on the character and appearance of the building or rural surroundings, or on the living conditions of neighbouring residents, but that does not justify the harm that would result from a car-reliant development. The fact that there would be no requirement for any additional parking and that water, electrical, drainage, access and refuse arrangements are already established are neutral factors, which do not any weight to the planning merits of the appeal.
11. On the other hand, by reason of the site's location in the open countryside, the appeal proposal would not support the environmental role of sustainable development. Moreover, the loss of a potential source of employment and tourist accommodation would counter any modest benefit that would arise from the provision of an additional dwelling. Consequently, the adverse impacts of the removal of the conditions would significantly and demonstrably outweigh the benefits when assessed against the Framework. Hence the scheme could not be considered sustainable development for which the presumption in favour should apply.

Conclusion

12. For the above reasons, I conclude that the conditions restricting the use of the dwelling to holiday accommodation to be reasonable and necessary, having regard to the principles of sustainable development. The appeal is dismissed.

H Porter

INSPECTOR