
Appeal Decision

Site visit made on 3 May 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 19th May 2017

Appeal Ref: APP/F1040/W/17/3169776

Springwood Fisheries, Melbourne, Derby, DE73 8BJ.

- 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 Springwood Fisheries against the decision of South Derbyshire District Council.
- The application Ref. 9/2016/1245, dated 30 November 2016, was refused by notice dated 25 January 2017.
- The application sought planning permission for the siting of five holiday chalets without complying with a condition attached to planning permission Ref. 9/2013/0952, dated 17 January 2014.
- The condition in dispute is No. 7 which states that:

Notwithstanding the provisions of Part C, Class 3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or any Order revoking or re-enacting that Order), the mobile homes hereby permitted shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order without the prior grant of planning permission by the Local Planning Authority, and:

- i. the log cabins shall only be occupied for 11 months in any calendar year and in particular shall not be occupied between 14 January and 14 February in any calendar year;
 - ii. the log cabins shall be used for holiday purposes only;
 - iii. the log cabins shall not be occupied as a person's sole, or main place of residence; and
 - iv. the site operators shall maintain an up-to-date register of the names of all owners and make best endeavours to maintain an up-to-date register of the names of all occupiers of individual log cabins on the site, and of their main home addresses, and shall make that information available at all reasonable times to the local planning authority.
- The reason given for the condition is: The Local Planning Authority is only prepared to grant permission for holiday accommodation (in accordance with Saved Local Plan Recreation and Tourism Policy 1) because another dwellinghouse in this location would be contrary to the development plan and the NPPF objectives of sustainable development.
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Decision

1. The appeal is allowed and planning permission is granted for the siting of five holiday chalets at Springwood Fisheries, Melbourne, Derby, DE73 8BJ, in accordance with the application Ref. 9/2016/1245 dated 30 November 2016,
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without compliance with condition number 7 previously imposed on planning permission Ref. 9/2013/0952, dated 17 January 2014, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new condition 7 set out in the attached Schedule.

Main Issues

2. The main issue is whether the restriction on occupancy still serves a proper planning purpose and whether its lifting to facilitate the full time residential occupation of 'The Outlook' is justified by the functional needs of the fishery and its tourism use, notwithstanding the loss of one unit of holiday accommodation that would result.

Reasons

Background

3. The appeal site is located in open countryside and comprises a day ticket course fishery with two ponds in extensive landscaped grounds together with an office/café and an area of parking. There is also overnight accommodation for guests in either caravans or chalets as shown in the planning history of the site where planning permission was granted in 2010 for touring caravan pitches and in 2013 permission was granted for five holiday chalets. It is a condition on the latter permission that the applicant seeks to vary to enable one of the chalets (named the Outlook) to be used as residential accommodation for a site manager all year round as opposed to holiday accommodation for a limited period per year.
4. At the time of my visit I noted that there were 5 touring caravans sited on the grassed area around the ponds and static units in the form of timber 'pods' and a larger static mobile home, and there were in the region of 10 people fishing at numbered pegs around the ponds.

Policy context

5. The development plan includes: saved policies in the Council's South Derbyshire Local Plan (1998); the provisions of the South Derbyshire Local Plan Part 1 adopted in 2016; and the emerging Local Plan Part 2 - Submission Document. The weight to be attached to the 'saved' and emerging policies depends on their degree of consistency with the National Planning Policy Framework (the Framework).
6. Overall it appears to me that the relevant policies seek to strictly control new residential development in the countryside away from any defined settlement but policies such as INF10 also support tourist development in appropriate locations. Further, the Council says that the site lies in the National Forest and that this is an area which has an established need for overnight tourist accommodation.
7. In terms of the National Planning Policy Framework (the Framework) this encourages sustainable development and recognises the need to support a prosperous rural economy and achieve sustainable growth through the expansion of all types of business and enterprises in rural areas both through the conversion of existing buildings and well designed new buildings

(paragraph 28). However, isolated new homes in the countryside should be avoided unless there is special justification (paragraph 55).

Whether generally an essential restriction

8. Given the policy basis set out above it is clear to me that permanent new residential development, even in the form of caravans, mobile homes or chalets, should not be permitted in this location away from settlements, services, and facilities unless there is special justification. As such, condition 7 imposed on the development involving the use as holiday chalets should not be generally lifted as it continues to fulfil a proper planning purpose.

Functional need

9. The appellant's case is that there is a functional need for a manager to live on site in the larger of the chalet units and the condition should be amended to reflect this. The agent says that the presence of a manager is needed on site all of the time because of the need to welcome and manage guests who can arrive late in the evening; the site is open to visitors 24 hours a day and 7 days a week; and to provide a degree of security to prevent theft, particularly of equipment and the poaching of fish.
10. The Council questions the functional need for accommodation on site and considers that the concerns about security could be overcome by for example a CCTV system, and also question the timing and extent of the 'turnround' of guests.
11. While a detailed business case and breakdown of the turnover and number of guest arrivals and departures has not been submitted, it appeared to me at the site visit that there had been a significant investment made in the enterprise with the formation of the lakes, the stocking of the fish and the provision of a café/office. This was supplemented by the number of 'hook-ups' for touring caravans that I observed together with the holiday chalet /pods which overlooked one of the lakes. The overall site appeared attractive and well managed.
12. With touring caravans staying overnight and the arrival of customers staying at the 'pods' at any time, I do not consider it unusual in a specialist tourism facility such as this to require the presence of some day to day supervision on site and for that supervision to be present in the evening in normal circumstances. Although a live CCTV system may improve some aspects of security it is unlikely to be a practical alternative for greeting new customers and allocating a pitch or other accommodation.
13. Overall I am satisfied that the extent and nature of the enterprise gives rise to a functional need for manager's accommodation on site.

Loss of tourist accommodation

14. The Council is also concerned that the use of one chalet for a manager's unit would result in the loss of a tourist unit which would act against the local economic benefit of tourism. However, I do not consider that this change of a single unit would significantly damage such wider public benefit or the strategy advanced in Policy E1 of the Part 1 Local Plan and the change is put forward in order to better manage the other overnight accommodation provided in the first place. If the loss of this unit was critical to the business itself, it appeared

to me that there was adequate space around the fishery for replacement accommodation. I conclude on this issue that the proposal would not materially harm wider tourism interests or conflict with relevant policies in the development plan.

Planning balance

15. Bringing together my conclusions on the main issues, I have found that while condition No.7 imposed on permission 9/2013/0952, fulfils a clear planning purpose and should generally be retained, the scale and nature of the recreational and tourist facilities on site are such that there is a functional need for day to day accommodation on site for a manager. Further, the widening of the scope of occupation of the unit known as the Outlook would not harm the wider tourism industry locally or its prospects for growth.
16. The proposal would make use of a residential chalet already on site, and which is of a low key design appropriate to its rural surroundings. Therefore, I am satisfied that the proposal is an exceptional case for a residential use consistent with the general provisions of saved Policy H8 and emerging Policy H25 and paragraph 55 of the Framework. I will therefore allow the appeal. However, although the permission for the holiday accommodation is a permanent one, as the residential needs stemming from the tourist accommodation and the fishery is a relatively recent one and not been proved in the longer term, I will restrict the occupation of the Outlook as manager's accommodation to a temporary period of three years which accords with the general stance in part D of emerging Policy H25
17. This decision is only in respect of condition No. 7 imposed on permission 9/2013/0952 and the other conditions imposed on this still apply where subsisting and capable of taking effect. I will also impose a new condition No. 7 to restate the restrictions on the occupancy of the remaining four log cabins and a further clause applying only to the occupation of The Outlook to restrict the occupation of this chalet to tourist accommodation as per the remainder of condition 7 or to person(s) currently employed in the management of the enterprise currently known as Springwood Fisheries (and dependants) to reflect the special circumstances put forward in the case and to prevent the establishment of a general residential use.

Conclusion

18. For the reasons given above I conclude that the appeal should be allowed.

David Murray

INSPECTOR

Schedule containing new condition No.7

- 7 .Notwithstanding the provisions of Part C, Class 3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or any Order revoking or re-enacting that Order), the mobile homes hereby permitted, other than the chalet known as The Outlook, shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order without the prior grant of planning permission by the Local Planning Authority, and:
- i. the log cabins shall only be occupied for 11 months in any calendar year and in particular shall not be occupied between 14 January and 14 February in any calendar year;
 - ii. the log cabins shall be used for holiday purposes only;
 - iii. the log cabins shall not be occupied as a person's sole, or main place of residence; and
 - iv. the site operators shall maintain an up-to-date register of the names of all owners and make best endeavours to maintain an up-to-date register of the names of all occupiers of individual log cabins on the site, and of their main home addresses, and shall make that information available at all reasonable times to the local planning authority.

The chalet known as The Outlook shall only be used for tourist accommodation as set out above or as residential accommodation by person(s) employed in the management and operation of the enterprise currently known as Springwood Fisheries (and dependants of such a person) for a limited period of three years starting from the date of this decision. Thereafter the occupation of the chalet shall revert to tourist accommodation, as regulated by sections i) to iv) above, unless otherwise permitted by the Council or the Secretary of State on appeal.