
Appeal Decision

Site visit made on 11 July 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 4 August 2017

Appeal Ref: APP/C3810/W/16/3155230

Crab Apple, Russett, Bramley and Pippin Holiday Cottages, Highground Orchards, Highground Lane, Barnham, West Sussex PO22 0BT

- 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 & Mrs R Holden against the decision of Arun District Council.
 - The application Ref BN/10/16/PL, dated 12 February 2016, was refused by notice dated 19 May 2016.
 - The application sought planning permission for replacement of former agricultural buildings with four holiday cottages and associated office without complying with a condition attached to planning permission Ref BN/67/06, dated 10 January 2007.
 - The condition in dispute is No 2 which states that: *The proposed buildings shall be used as holiday accommodation only and for no other purpose.*
 - The reason given for the condition is: *In the interests of amenity in accordance with policies DEV1 of West Sussex Structure Plan and policy GEN7 of Arun District Local Plan.*
 - This decision supersedes that issued on 10 January 2017. That decision on the appeal was quashed by order of the High Court.
-

Decision

1. The appeal is allowed and planning permission is granted for replacement of former agricultural buildings with four holiday cottages and associated office at Crab Apple, Russett, Bramley and Pippin Holiday Cottages, Highground Orchards, Highground Lane, Barnham, West Sussex PO22 0BT in accordance with the application Ref BN/10/16/PL dated 12 February 2016, without compliance with condition number 2 previously imposed on planning permission Ref BN/67/06 dated 10 January 2007.

Procedural Matter

2. The application form refers to condition no. 3 that relates to the materials and finishes of the proposed buildings. However, it is clear that the appellants' case relates to condition no. 2 that requires the buildings be used as holiday accommodation. I have considered the appeal on that basis.

Background and Main Issues

3. The cottages are currently used to provide holiday accommodation, which in planning terms is a form of residential use, although the original planning permission for the cottages limited their occupation by condition. It was clear that it was the intention of the applicant in applying for the original planning

- permission to use the cottages to provide holiday accommodation as a business, including an office building to support the use. The cottages have since been run as a holiday letting business. Consequently, the removal of this condition would result in a material change of use of the buildings from that business use to allow their occupation as independent residential dwellings.
4. The reason for the condition refers to Policy DEV1 of the West Sussex Structure Plan, which has since been superseded, and Policy GEN7 of the Arun District Local Plan (LP). Policy GEN7 of the LP seeks a high quality design and layout of development, and promotes sustainable development, including reducing the need to travel, particularly by private car.
 5. Policies DEV2(i) and GEN3 of the LP are referred to in the decision notice relating to removal of the condition. Policy GEN3 seeks to protect the countryside for its own sake, with development not to be permitted except for certain purposes, such as the diversification of the rural economy. Policy DEV2 relates to the conversion of rural buildings for residential use, the relevant part of criteria (i) requiring reasonable attempts have been made to market and use the premises for business purposes. The Council indicate that the other criteria are either not relevant or satisfied in this instance, and I see no reason to disagree with their conclusion in this regard.
 6. Paragraph 28 of the National Planning Policy Framework (the Framework) supports sustainable rural tourism that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. Although my attention has been drawn to Paragraph 51, this refers to the change of use of commercial buildings in B use classes, but is not relevant as the buildings are not in class B uses.
 7. Policies H DM3(4) and TOU DM1(a) of the draft Arun Local Plan (draft LP) have been referred to in the reason for refusal, which relate to the conversion of rural buildings to residential use and tourism related development. The draft LP has been submitted for examination and I note that there have been comments on these policies. I am not aware of the exact stage the draft LP has reached or whether the policies concerned will be considered as consistent with the Framework. Consequently, I am only able to give it limited weight in my decision.
 8. As a result, the main issue is the effect of the proposal on the supply of tourist accommodation in the area.

Reasons

Loss of tourist accommodation

9. The holiday cottages are advertised through English Country Cottages (formerly part of Hoseasons) and their own website, with two of the cottages also advertised on Facebook and Trip Advisor, the first two having been advertised since 2009 and the remaining two from 2012. I understand that the reviews of the cottages are excellent. The occupancy rate of the cottages is around 30%, with considerable demand during Goodwood events and good demand during school holidays, but little demand outside these times. The accounts supplied show losses in every year from the use to date.
10. I note reference to the Arun District Tourism Impact Study that uses 2014 data to suggest demand for self-catering, caravans and camping accommodation is

strong. However, this is now some years old and it does not distinguish between the different forms of accommodation, nor their location (whether seaside or countryside). Consequently, I do not consider it is possible to draw meaningful conclusions from that study in relation to the use of these cottages, so I attach little weight to it.

11. The Council suggest that the maintenance costs for the cottages are high taking account of the age and apparent condition of the cottages. However, some maintenance costs are inevitable and I see no reason to consider that the accounts would be exaggerated in this regard. I sympathise with the appellants concern as to how the capital loan may be repaid, but it is a well-founded principle that the planning system does not exist to protect private interests such as the personal finances of individuals. As a result I place limited weight on this factor.
12. Nevertheless, the low occupancy rate does indicate a lack of demand for these holiday cottages despite substantial efforts to market them for this use, such that the business has not been as successful as the appellants would have initially hoped. Consequently, it has been demonstrated that the cottages as a holiday accommodation business is not viable and would not be capable of providing any significant income for the appellants. The properties have not been marketed for sale, which may be the best way of marketing for certain uses, but that is not a requirement of the policy and, in the context of this business, would not be necessary to demonstrate a lack of viability. I am convinced that the marketing of the cottages as holiday accommodation has been reasonable and genuine.
13. I note that the offices that support the current use have been granted prior approval under the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for use as a dwelling. Amendments to the GPDO in 2016 extended the time in which it is possible to carry out the change of use. Whilst that has not yet taken place, it may yet do so. Loss of the offices to support the business would further affect its viability, supporting my conclusions in this regard.
14. On balance, therefore, I conclude that the appellants have made reasonable efforts to market and use the premises as holiday accommodation, but it has not been a viable business. As such, the removal of the condition would comply with Policies GEN3 and DEV2, in particular criteria (i), of the LP. They would also comply with Policies H DM3 and TOU DM1 of the draft LP that seek to protect business uses of rural buildings, particularly visitor accommodation, unless the use is no longer required and this is demonstrated by marketing of the property for business purposes.
15. My attention has been drawn to Policy EE7 of the Barnham and Eastergate Neighbourhood Development Plan that supports and promotes tourism activities. However, whilst that policy would support new tourism facilities, it does not seek to protect or retain existing tourist accommodation, so is not relevant to the change of use of these holiday cottages.

Other matters

16. My attention has been drawn to Policy GEN7 of the LP, in particular whether the proposed development would comprise sustainable development with regard to the need to travel by private car. However, that policy relates to new

buildings and whilst it was relevant to the reason for imposing that condition, the removal of the condition would result in the re-use of these buildings rather than new buildings. Consequently, this policy is not directly relevant to the proposed development.

17. The cottages are located within a group of dwellings and the adjacent offices, nevertheless this is an isolated location away from the closest services and facilities that would support their residential use, such that residents would be reliant on the private car to access them. The National Planning Policy Framework (the Framework) states that isolated dwellings should be avoided unless there are special circumstances, including the re-use of redundant or disused buildings where it would lead to an enhancement to the immediate setting.
18. The re-use of these buildings as dwellings other than in accordance with this condition would enable their use throughout the year that would lead to a minor enhancement of their setting.
19. I have been provided with another appeal decision¹ relating to the change of use of holiday cottages to open residential use. The circumstances in that case were substantially different from this; in particular the limited amount of marketing that had been carried out with those cottages. As such, I need to consider this case on its own merits.
20. Reference is made in the appeal documents to the presumption in favour of sustainable development set out in the Framework. This refers to three strands of sustainability, being economic, social and environmental. In this case, there would be limited economic benefits as residents would support local services once the dwellings are permanently occupied, increase Council Tax receipts and contribute a small amount of new homes bonus. The provision of four dwellings would have a positive social impact in contributing to the need for homes in the area where, I note, there is no five year supply of deliverable housing sites. There would be some environmental harm arising from the increased travel by private car, although the holiday cottages are also accessed by private car such that this harm would be minimal. As a result, this would not significantly and demonstrably outweigh the positive economic and social benefits.

Conclusion

21. For the above reasons and taking into account all other matters raised, I conclude that the proposed development would accord with the development plan and the Framework such that the appeal should succeed. As a result, I will issue a new planning permission without the disputed condition.

Conditions

22. In allowing the appeal and granting planning permission I have considered those conditions imposed on the original planning permission. As the building work is complete, no conditions are necessary to limit the period for commencement of the permission, relating to external finishes of the development, landscaping details or demolition of the previous buildings. Given the removal of this condition, that linking the use of the office to the holiday accommodation is no longer necessary.

¹ Appeal reference APP/C3810/W/15/3005380

23. The Council have suggested additional conditions listing the approved plans and removing permitted development rights for windows in the flank elevations and extensions to the cottages. As no alterations are proposed to the existing buildings I do not consider that a condition listing the approved plans is necessary. Neither do I consider conditions removing permitted development rights to be necessary. Such rights should be removed only in instances of specific and precise justification. I find no exceptional circumstances in this case such as to warrant the removal of these rights, especially as they would apply to the buildings in their existing use.

AJ Steen

INSPECTOR