
Appeal Decision

Site visit made on 23 January 2018

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 15th February 2018

Appeal Ref: APP/P1615/W/17/3180487

Brookfield Cottage, Sterrys Lane, Gorsley HR9 7SP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Higgins against the decision of Forest of Dean District Council.
 - The application Ref P0552/17/FUL, dated 4 April 2017, was refused by notice dated 2 June 2017.
 - The development proposed is the completion of conversion to dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the completion of conversion to dwelling at Brookfield Cottage, Sterrys Lane, Gorsley HR9 7SP in accordance with the terms of the application, Ref P0552/17/FUL, dated 4 April 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) Unless modified under the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: location plan, 4375/001, 4375/002 and 4375.
 - 3) The dwelling hereby permitted shall not be occupied until full details of space within the site for cars to access, be parked and for vehicles to turn so that they may enter and leave the site in forward gear have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented with 6 months from the date of their written approval and thereafter be kept available at all times for those purposes.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development within Classes A-C and E of Schedule 2, Part 1 of the Order shall be carried out other than those expressly authorised by this permission, without planning permission first being obtained from the Local Planning Authority.
 - 5) No external lighting or flood lighting shall be installed at the site.

Preliminary Matters

2. Planning permission was granted in 2002 on the appeal site for the conversion of a storage building to holiday let subject to a condition that restricts the occupancy of the appeal building. A planning application to remove the

occupancy condition was refused in 2016. Whilst there is no dispute that the physical works of conversion have been implemented the appellant asserts that the use as a holiday let has not occurred.

3. Whether the residential use of the appeal building as a holiday let has occurred is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. The Council dealt with the planning application as the conversion of a former storage building to a dwelling and so shall I.
4. The Council have referred to Policy AP.1 of the emerging Allocations Plan (AP) within its reason for refusal. It is incumbent on me to take into account the most relevant and up to date information in reaching a decision. The AP appears to be at an advanced stage of preparation and I have no evidence to indicate that there are any outstanding objections to this policy. Having regard to paragraph 216 of the National Planning Policy Framework (the Framework) I consider that considerable weight can be given to this policy.
5. I gave both parties the chance to comment on the Judgment¹ of 15 November 2017, concerning the interpretation of the term "isolated homes in the countryside" within paragraph 55 of the Framework.

Main Issue

6. The main issue is whether the proposal would provide a suitable site for a dwelling, having particular regard to relevant development plan policies, the Framework and any other material considerations.

Reasons

7. The appeal site is located adjacent to an existing dwelling and within close proximity to the nearby road junction at Sterrys Corner. There are a number of other buildings that are located around this road junction. There is no dispute that the appeal site is not within a defined settlement boundary and as such it is to be treated as being within the open countryside for planning policy purposes.
8. Policy CSP.4 of the Forest of Dean Core Strategy (CS) explains that most development is expected to take place within existing settlement boundaries, with exceptions being made for affordable housing, building conversions and some employment developments. CS Policy CSP.1 seeks to ensure the efficient use of resources and Policy CSP.7 relates to economic development including tourism. AP Policy AP 1 states that the primary consideration will be whether or not the development proposed is sustainable with the overall aim of improving the economic, social and environmental conditions of the area.
9. Paragraph 55 of the Framework advises that to promote sustainable development in rural areas, housing should be located where it would enhance or maintain the vitality of rural communities and that (with certain identified exceptions) local planning authorities should avoid new isolated homes in the countryside. Taking into account, the Judgement cited above and the proximity of other buildings I do not consider that the appeal building is far away from other places, buildings or people and as such it is not in an isolated location.

¹ Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)

10. The appeal site comprises a small stone and slate 2-storey and single storey building and an associated grassed area and overgrown access drive. The building did not appear to be in use at the time of my site visit. The kitchen and bathroom facilities provided are rudimentary and there are signs of damp penetration and structural cracking within the building. In my experience, the signs of damp penetration present in the building indicate that it has not been actively used for a considerable period of time.
11. The Council is concerned that the appellant's submitted evidence in relation to the viability of the holiday let is not conclusive due to assumptions that have been made about the cost of the proposed works. A holiday let could provide a modest amount of economic and social benefits through the support of local tourism and other facilities. However, there is no specific requirement for the viability of a building conversion or an economic use or any associated marketing to be demonstrated within CS Policies CSP.1, CSP.4 or CSP.7. Furthermore, it is highly likely that the occupiers of the dwelling would use local services and facilities and therefore they would help to maintain the vitality of the surrounding rural community.
12. I have very little evidence before me in relation to public transport provision or the services and facilities within the area. However, I am also mindful that the proposal is only for a single dwelling and therefore traffic generation and greenhouse gas emissions attributed to its use would be limited. Moreover, the use as a holiday let would be likely to require the use of a car to visit local attractions and to utilise services and facilities. As a permanent residence, the building is quite small and thus possibly not attractive for a large household with multiple daily trips. On balance, I consider that permanent residential use would be unlikely to generate materially more journeys than its approved use as a holiday let.
13. The Council refers to the three dimensions of sustainable development set out in the Framework: economic, social and environmental. There would be economic benefits associated with the proposal including some additional local spend. However, these benefits would be limited and have to be balanced against the loss of the potential income and local spend that could be associated with the holiday let. Nevertheless, it is highly likely that the dwelling would be occupied all year round whereas the holiday let could be empty especially in the winter months. As a result, I consider that the proposal would have a neutral impact in relation to the economic role.
14. The Council have stated that it considers that it can demonstrate a 5 year supply of housing land (HLS) due to the advanced state of the AP. Whilst the Council may have a HLS, the Framework does not suggest that this should be treated as a cap or an upper limit. Government policy, as expressed in paragraph 47 of the Framework, is to significantly boost the supply of housing. The proposal would provide a new dwelling which would make a small contribution to housing supply. I have little evidence to indicate that additional infrastructure would be required to meet the needs of any future occupiers. In addition prospective occupiers would provide some support for local services. However, as stated above the contribution one new dwelling would make to the vitality of the rural community would be modest. The development would therefore have some limited social benefits.
15. In environmental terms the proposal would not involve any physical changes to the exterior building and there would be little change in terms of the character

and appearance of the site. I have found that permanent residential use would be unlikely to generate materially more journeys than its approved use as a holiday let. Its reuse would ensure that the resource, the building, would be used as efficiently as a holiday let. As such I consider that the proposal would be neutral in environmental terms.

16. Taking into account all of the above, I consider that the proposal would comply with CS Policies CSP.1, CSP.4 and CSP.7 and AP Policy AP.1. As such, the proposal would provide a suitable site for a dwelling.

Other matters

17. Both parties have referred to a number of appeal decisions² and development that has been approved in the surrounding area. Whilst, these cases have some parallels to the case before me they were all determined before the Judgement cited above. As such, they do not represent a direct parallel to the appeal proposal and I have given them limited weight. In any case, I am required to determine the appeal on its own merits.

Conditions

18. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. In the interests of conciseness and enforceability the wording of some of the conditions has been amended.
19. In order to provide certainty as to what has been permitted I have imposed a condition specifying the relevant drawings. In the interests of highway safety and character and appearance it is necessary to impose a condition on access, parking and turning areas. In the interests of light pollution and nature conservation it is necessary to impose a condition on external lighting.
20. The Framework advises that conditions should restrict national permitted development rights only where there is clear justification to do so. I am not satisfied that the removal of permitted development rights to the extent that the Council recommends to be removed from the dwelling is reasonable or necessary.
21. As the site is within the open countryside and is of a restricted size a condition restricting permitted development rights in relation to classes A, B, C and E³ is justified, in the interests of visual amenity. Consequently, the suggested removal of permitted development rights in this respect is reasonable and necessary to make the development acceptable in the particular circumstances of the site and its surroundings.
22. However, in relation to condition 04 of the Council's suggested conditions and classes D, F and G⁴ and class A⁵, I find there to be no exceptional circumstances, in accordance with the PPG, that would justify the removal of permitted development rights in this respect. Consequently, I have not included a condition restricting permitted development rights in these respects.
23. The PPG advises that care should be taken when using conditions which prevent any development authorised by the planning permission from beginning until the condition has been complied with. In the case of the pre-

² APP/P1615/W/15/3137902, APP/P1615/W/15/3049368, APP/P1615/W/15/3004056 and APP/P1615/A/13/2209569.

³ Schedule 2 Part 1 of the Town & Country Planning (General Permitted Development) (England) Order 2015

⁴ As 3 above.

⁵ Schedule 2 Part 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015

commencement condition, I consider that resolution of the matter specified to be so fundamental to the development that it would otherwise be necessary to refuse the application.

Conclusion

24. For the above reasons, and taking account of all other matters raised, I conclude that the appeal should be allowed.

D. Boffin

INSPECTOR