The Planning Inspectorate

Appeal Decision

Site visit made on 6 November 2018

by Eileen Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 11 December 2018

Appeal Ref: APP/J1860/W/18/3209115
Huntsman Inn, Kempsey WR5 3QB

- 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 P Harris and Ms S Mason against the decision of Malvern Hills District Council.
- The application Ref 18/00883/FUL dated 14 June 2018 was refused by notice dated 31 July 2018.
- The development proposed is change of use of building (barn 1) to holiday let connected to The Huntsman Inn Public House and change of use of building (barn 2) to dwelling and land to garden (part retrospective).

Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the amended description agreed between the appellants and the Council in the interests of consistency and clarity. The holiday accommodation proposed in barn 1 is an intrinsic element of the appeal scheme before me, which must be considered as a whole.

Background and Main Issue

3. The appeal building has the benefit of a certificate of lawful development that confirms that it has been in place for more than 4 years but the certificate did not deal with the use of the building. I am however informed that the entire building has been occupied as a dwelling since 2011.

4. The appeal proposal would subdivide the existing single dwelling into 2 units by locking an internal door. The appellants would continue to occupy approximately 70% of the appeal building as a manager's dwelling (barn 2) and the remaining 30% would be limited to occupation as holiday accommodation (barn 1).

5. The Council has indicated that holiday accommodation in barn 1 would be the most suitable use for that part of the dwelling given the previous approval for two holiday homes at the appeal site (Council Ref 09/01151/FUL) .The Council does however, object to the manager's accommodation proposed in barn 2 as it considers that there is no essential need for it.

6. Thus, in light of the foregoing, the main issue in this appeal is whether the use of 'Barn 2' as a dwelling would be appropriate, with particular reference to whether there is an essential need for a rural worker to live permanently at or near their place of work.

Reasons

7. The development plan includes the South Worcestershire Development Plan (SWDP) and this outlines the development strategy and settlement hierarchy for the area which includes strictly controlling development in open countryside in order to locate development where it safeguards the countryside and where it can be focussed on urban areas where housing needs and accessibility to services is greatest.

8. Policy SWDP 2 ('Policy 2') sets out the settlement strategy to control and distribute development and seeks to direct development to locations which are most sustainable. The dwelling is located outside a settlement boundary and is therefore considered in policy terms to be open countryside.

9. Policy 2 part C of the SWDP states that open countryside is defined as land beyond the settlement boundary and development in the open countryside will be strictly controlled and will be limited to a number of exceptions permitted by other policies in the plan. Examples include replacement dwellings, rural exceptions sites and dwellings for rural workers.

10. I have not been directed to any local policy that directly deals with dwellings for rural workers. Instead, the appellant has sought to rely upon the exceptions set out in paragraph 79 of the National Planning Policy Framework (the Framework) that relates to the essential need for a rural worker, including those taking a majority control of a farm business, to live in the countryside. Paragraph 79 is only engaged where the development is isolated. The appellants contend that they fall within the exceptions as there is an essential need for a rural worker to live permanently at or near their place of work.

11. The appellants' planning statement indicates that in June 2018, the public house accommodation was occupied by a barmaid. However, the intention is that the couple who have run the public house kitchen as a separate business for the past year will live above the public house. There are essentially two businesses operating from the public house, the pub itself and the kitchen side of the business.

12. The appellants refer to the success of the public house relying upon the ability of the premises to have some flexibility and accommodation on site to ensure the food business continues to operate. However, I have been given limited information about how the businesses operate in terms of staffing requirements, the opening hours of the public house or where the couple operating the food business now reside. Moreover, alternative accommodation in the vicinity of the appeal site may be suitable for the appellants or the kitchen operators. The existing manager's accommodation may be too small for both couples but it is unclear why both couples need to be living on site to aid the proper functioning of the businesses. Accordingly, I am not satisfied that it is essential that the appellants have to live next door to the Huntsman.

13. Even if I were to accept that long hours and the nature of the work means that a permanent on site presence was required, the evidence before me does not

explain why the existing living accommodation above the pub and a separate dwelling are essential. The evidence before me indicates that it is the appellants' personal circumstances that necessitate the additional accommodation rather than an essential business need. However, the personal needs of the appellant could be met in other ways, such as accommodation away from the public house.

14. The appeal site is located in a hamlet with some limited facilities and therefore it is debatable whether the appeal site is isolated and Paragraph 79 engaged. However, in this instance, even if I were to find that the location was isolated, the requirements of the exception which refers specifically to essential need have not been met.

15. In conclusion, the proposal, namely the use of barn 2 as a manager's dwelling, would not be in an appropriate location because it would be contrary to, and harmfully undermine, the development plan as it would be residential development outside the settlement boundary and no policy exceptions apply. I therefore conclude that the proposal is contrary to Policy 2C of the SDWP which seeks amongst other things to locate housing in the most sustainable location.

Other Matters

16. The appellants believe that the enforcement history influenced the Council's decisions to refuse the application. However, whilst I am aware of the enforcement history as background information it does not weigh in favour or against the proposal.

17. The appellants have referred to the lack of neighbour objections to the appeal proposal but a lack of objections does not overcome the harm I have identified from the policy conflict.

18. Whilst the appellant has referred to conditions or the submission of a section 106 agreement to deal with elements of occupation of both barns , in view of my finding that the residential use of Barn 2 is not essential, neither would overcome the issues that I have identified.

19. The appellant refers to the holiday let part having Framework support particularly paragraphs 80,83 and 84 which refer, amongst other things ,to supporting sustainable rural tourism.

20. Whilst, I accept that there may be some benefits to the holiday let part, such benefits are limited and do not outweigh the conflict that I have found with the development plan.

Conclusion

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. The proposed development would not accord with the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal is dismissed.

Eileen Griffin

INSPECTOR