The Planning Inspectorate

Appeal Decision

Site visit made on 25 June 2019

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 04 July 2019

Appeal Ref: APP/H1840/W/19/3224268
Hayloft, Low Hill, Hartlebury DY10 4HT

- 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 A Jones against the decision of Wychavon District Council.
- The application Ref 18/02660/CU, dated 19 December 2018, was refused by notice dated 14 February 2019.
- The application sought planning permission for change of use of the Hay Loft into holiday let accommodation and installation of septic tank without complying with conditions attached to planning permission Ref W/07/00569/CU, dated 25 September 2007.
- The conditions in dispute are Nos 3 and 4 which state that:
  "3. The change of use to holiday let shall be used for the purpose of holiday let accommodation and shall not be used for permanent residential occupancy or as a sole main residence for independent occupier/occupiers."
  "4. The holiday let hereby approved shall remain as holiday let accommodation, which restricts periods of occupancy to a maximum of four weeks per letting period."
- The reasons given for the conditions are:
  "3. The Council considers the building to be unsuitable for permanent private residential use."
  "4. The Council considers the building to be unsuitable for permanent private residential use."

Decision

1. The appeal is dismissed.

Procedural Matters

2. The revised National Planning Policy Framework (the Framework) was published in February 2019. As such, references to the Framework in this decision therefore reflect the revised Framework as published in February 2019.

Background and Main Issue

3. Planning permission was granted in September 2007 for the change of use of an agricultural barn to a holiday let. That permission was subject to conditions which restricted the use as holiday let only and further restricted occupancy to a maximum of four weeks per letting period. These conditions restrict the occupation of the converted building to holiday accommodation and consequently their removal would provide an unrestricted residence.

4. The appeal site is located within the Green Belt. In this regard, the Council acknowledges that the proposal would not be considered to be inappropriate development within the context of the Framework and that the proposal would harm the openness of the Green Belt. Form the evidence before and from my observations made on my site visit, I have no reason to disagree with that assessment.

5. The main issue of this appeal is whether the disputed conditions are reasonable and necessary having particular regard to whether the appeal site is in a suitable location for an unrestricted permanent dwelling and in respect of national and local policies and other material considerations.

Reasons

6. The primacy of the development plan is established at Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and confirmed at paragraph 12 of the Framework. Paragraph 12 of the Framework states that proposed development that conflicts with an up-to-date Local Plan should not usually be granted and that local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations indicate that the plan should not be followed.

7. Policy SWDP2 of the South Worcestershire Development Plan (2016) (the DP) sets out the development strategy and settlement hierarchy. It is apparent from the submissions made that the main parties do not dispute that the appeal site is not located within any defined development boundary and, consequently, the site is considered to be located within the open countryside. Section C of Policy SWDP2 of the DP provides that development within the open countryside will be strictly controlled and limited to certain forms of development that are specifically permitted by policies contained within the DP.

8. The evidence before me indicates that the proposal would not be required to meet the needs of rural workers and would not provide affordable housing. However, the evidence maintains that, whilst located within the open countryside, the site is not isolated and that the proposal would provide social, environmental and economic benefits.

9. The appeal site is located within approximately 350 metres of a bus stop and reasonably close to the settlement of Summerfield which provides access to a very limited number of services and facilities. The settlement of Hartlebury is located approximately 2km from the site and provides access to a wider range of services and facilities including a train station. Furthermore, additional services and facilities are located approximately 1.5km from the site and within the southern outskirts of Kidderminster.

10. Access to the site from the public highway of the A442 is via an unmade and unlit track. Due to the nature of this access track, I consider that this may deter some occupants of the appeal site from accessing any nearby services on foot. However, the site is located close to a bus stop which provides regular services to nearby urban areas and would be within an acceptable distance from services and facilities for access by bicycle.

11. In this regard I would concur with the findings of the Inspector in the previous appeal[1] concerning the appeal site, in that whilst not being isolated, the

[1] APP/H1840/W/16/3164922

location of the site would mean that it would be likely that some residents would continue to use private motor vehicles for most trips, as a matter of time saving and convenience. In my view, the nature of the unmade and unlit access track would also be a factor in whether residents would choose to walk to the nearest services or would use motor vehicles. In this respect and particularly in the evenings and during the winter months, in my view residents would be more likely to rely on private motor vehicles.

12. Notwithstanding the above, I acknowledge that the proposed unrestricted residential use of the site would not be likely to generate significantly more trips than its approved use as holiday accommodation. By reason of this and given that dependence upon motor vehicles may be expected in rural locations, the proposal would broadly accord with the aims and objectives of Policy SWDP4 of the DP and the provisions of the Framework.

13. In support of the appeal, it has been put to me that the proposed unrestricted dwelling would provide some benefits in terms of the three dimensions of sustainable development as set out in the Framework.

14. In this regard, it is maintained that the proposal would provide economic benefits in the form of support of local services and I acknowledge that the proposal, by reason of its likely occupation throughout the entire year, may provide some small benefits in supporting the vitality of nearby settlements. Furthermore, I acknowledge that the proposal would provide an additional unit of flexible housing to local supply. However, whilst these benefits are positive in nature, the weight attached to them is limited as the proposal concerns a single dwelling.

15. In addition to the above, it has been put to me that there would be environmental benefits to the proposal, as the removal of the conditions would not subsequently result in any further construction works and that it would allow for the use of an existing building. However, I consider these to be neutral factors in the overall balance of considerations as these potential benefits would equally apply to accommodation which remained restricted to a holiday occupancy condition.

Conclusions

16. In summary of the above, by reason of the location of the site outside of the settlement boundary where development is strictly controlled and restricted to certain forms of developments such as meeting the needs of rural workers, the removal of the disputed conditions would result in conflict with Policy SWDP2 of the Local Plan.

17. As noted above, determination of this matter must be made in accordance with the up to date development plan unless material considerations indicate otherwise. In this instance, there are no material considerations before me which are of sufficient weight that, in my view, would lead me to conclude that the appeal proposal should be determined other than in accordance with the development plan. Consequently, the conditions which restrict occupancy of the appeal property to holiday accommodation continue to be necessary and reasonable.

18. For the above reasons, I conclude that the appeal should be dismissed.

A Spencer-Peet

INSPECTOR