



Appeal Decision

Site visit made on 17 June 2019

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2019

Appeal Ref: APP/U1105/W/18/3214117

Blossom Hill Park, Louis Way, Dunkeswell, Honiton, Devon EX14 4XW

- 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 Mrs Suzanne Bradley against the decision of East Devon District Council.
 - The application Ref 18/0048/VAR, dated 21 December 2017, was refused by notice dated 17 April 2018.
 - The application sought planning permission for removal of time limiting occupancy conditions without complying with a condition attached to planning permission Ref 02/P0948, dated 3 September 2002.
 - The condition in dispute is No 1 which states that: The units of holiday accommodation the subject of this application shall be for holiday accommodation only.
 - The reason given for the condition is: To ensure that the caravans are not used permanently for residential purposes.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is made in the name of the lead appellant, Mrs Suzanne Bradley of No 17 Blossom Hill Park but also relates to Nos 1A, 25, 30, 31, 36, 42 and 51. The other parties affected by the appeal have been served notice of the appeal application and appeal.

Main Issues

3. The main issues are:
 - whether the disputed holiday occupancy condition is reasonable and necessary with respect to the suitability of the site for permanent residential use having particular regard to the accessibility of the location as well as relevant policies for residential development.

Reasons

Location of development

4. Paragraph 55 of the National Planning Policy Framework (the Framework) tells us that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The main issue to be considered here is whether condition (1) meets those tests.

5. From the evidence, the original grant of planning permission for Blossom Hill Park dates back to 1987. It is evident that in granting a variation of planning conditions in 2002 the Council considered that the units should not be used for permanent residential occupation in order to comply with the then development plan.
6. The current development plan for the area includes the East Devon Local Plan¹ (Local Plan) and Dunkeswell Neighbourhood Plan² (DNP). Under the Local Plan and its relevant policies maps, Dunkeswell does not have a Built Up Area Boundary (BUAB). It is not disputed by the appellant that Blossom Hill Park is therefore considered to be in the countryside. Strategy 7 of the Local Plan sets out the type of development permissible in the open countryside, and states that *"development will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located"*.
7. Strategy 33 of the Local Plan provides support for high quality tourism proposals across the district that promotes a year-round industry. Local Plan Strategy 35 sets out the relevant considerations in respect of 'exceptions' mixed market and affordable homes in rural areas, stating that in areas without a BUAB, schemes should be physically very well related to the built form of the village and that sufficient evidence should be provided to demonstrate the housing need.
8. Policy HP1 of the DNP sets out that proposals for new dwellings should demonstrate how the proposal responds positively to identified local housing market needs and the needs of local residents, in terms of the housing type and tenure to be accommodated on site. The policy is framed in such a way in recognition of the countryside location of Dunkeswell and the general acceptance that there may be a small amount of growth over the plan period to provide for local housing needs on an 'exceptions' basis.
9. A general purpose market housing scheme on the site would draw no support from the development plan, and neither, for that matter, would the use of the units as permanent places of residence, as sought by the appeal before me.
10. The argument put forward as to why the condition should no longer apply to the specified units has a number of facets. First, in simple terms, the point is made that the site is in an accessible location with numerous facilities nearby and that use of the specified units as permanent residences would not be harmful. I do not accept that. The site might well be relatively accessible with a range of facilities nearby but the reason why the development plan policies focus on local needs housing is that it is not accepted as an area where general housing growth will be supported. This is due to its countryside location and the limited nature of the facilities which results in a reliance on private vehicles. Conversely, the support for tourist accommodation in the countryside or in an area with at least a degree of facilities is largely based around the obvious economic benefits visitors bring to the area.
11. Those economic benefits played a significant role in the original grant of planning permission for the proposal. Those benefits would not manifest

¹ East Devon Local Plan 2013 to 2031 (adopted January 2016)

² Dunkeswell Neighbourhood Plan 2014 – 2031 (made December 2017)

- themselves in the same way if the specified units were to be used as permanent places of residence.
12. I accept that the Framework offers substantial support for the provision of housing. However, the Framework is very clear in its approach to building a strong, competitive economy too. Paragraph 83 indicates that planning policies and decisions should enable sustainable rural tourism and leisure developments that respect the character of the countryside.
 13. I acknowledge that the proposal would not result in the creation of 'isolated' homes in the countryside and nor would the removal of the condition result in harm to the distinctive landscape, amenity or environmental qualities of the surrounding area given that the units already exist. However, I consider that the use of the units for unrestricted residential use would be materially different from a holiday use and would conflict with the Development Plan and in particular, policies Local Plan Policies 7, 33, 35 and DNP Policy HP1.
 14. Whilst there is an adequate five year supply of housing land in the area, the 'Parish of Dunkeswell Housing Needs Report' (2018) has been drawn to my attention. It suggests that there is a need for a small range of affordable and open market units with two bedrooms for people aged 55 years or over. Despite that the proposal would release five units for permanent residential use, each with two bedrooms, I consider it unlikely that the proposal would help meet the general need identified by the Report. The appeal proposal appears to be related to the appellant's and others' more direct need for housing. Indeed, should their respective housing needs be factored in, there may be a greater need than evidenced in the Report. As such, I attribute this matter moderate weight.
 15. The relevance of Local Plan Policy E18, concerning the loss of holiday accommodation, is in dispute between the parties. The removal of the condition would result in the loss of units of holiday accommodation or their potential to be used as such. However, even if it did apply it would not alter my conclusion that the condition is reasonable and necessary for reasons based on the conflict with the other aforementioned Development Plan policies in any event.
 16. Notwithstanding the existence of Policy E18, I acknowledge that there is no specific policy in the Local Plan relating to the removal of holiday occupancy conditions. It is for this reason that the appellant cites that the 'tilted balance' as set out in the Framework is engaged. The up-to-date Development Plan is clear in setting the relevant policies in relation to development in the countryside which are to be considered holistically despite the absence of a specific policy. As such, the tilted balance is not considered to be engaged.
 17. In the absence of condition (1), the accommodation could be used for permanent residential purposes. As such, in this overall context, it is clear that condition (1) is a necessary imposition to ensure that the accommodation is used for its intended tourism-related purpose and ensure the development complies with the development plan. Consequently, condition (1) is an obvious necessity and it therefore meets the tests of paragraph 55 of the Framework. Therefore, in view of this main issue, the holiday occupancy condition is reasonable and necessary with respect to the suitability of the site for permanent residential accommodation having regard to Local Plan Strategies 7, 33 and 35 and DNP Policy HP1 and the provisions of the Framework.

Other Matters

18. The appellant has provided an example of a recent permission given for a mixed tenure bungalow scheme in close proximity of the appeal site. This indicates that the 'exceptions' policy approach is being followed and that incremental housing growth is taking place in order to meet identified local housing needs, such as that highlighted by the aforementioned Report.
19. Both the appellant and the Council have referred to other Council decisions, and appeal decisions, in support of their cases. These pull in different directions for what appear to me to be reasons specific to the respective sites, proposals and prevailing policy conditions. On that basis, I have dealt with the proposal before me on its own merits and have formed my conclusions accordingly.
20. I note that the units are the sole residences of the affected owners. Whilst I am not unsympathetic to the situation that they may face in the event that the appeal is dismissed, the planning system is primarily concerned with the public rather than private interests. As such, I can only attribute limited weight to this consideration.

Conclusion

21. Condition (1) is considered to be reasonable and necessary in order to restrict residential development in the countryside to that which is supported by the relevant Development Plan policies. The identified need for housing in the area and limited weight attributed to the personal circumstances of the appellant and other affected owners does not override the need for the planning system to operate more generally in the public interest and any benefit from the use of the units as permanent residences would not outweigh the identified harm or conflict with the Development Plan as a whole.
22. As such, and having regard to all other matters raised, the appeal is dismissed.

Hollie Nicholls

INSPECTOR