



Appeal Decision

Site visit made on 10 September 2019

by Mr C J Tivey BSc (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th September 2019

Appeal Ref: APP/W1145/W/19/3220910

The Stone Barn, Lane Past Old South Beer Farm, Clawton EX22 6PF

- 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 R & Mrs E Green against the decision of Torridge District Council.
 - The application Ref 1/0727/2018/FUL, dated 12 July 2018, was refused by notice dated 12 September 2018.
 - The application sought planning permission for the conversion of farm buildings for holiday use – amendment to existing permission and solar panels without complying with a condition attached to planning permission Ref 1/1799/2006/FUL, dated 4 October 2006.
 - The condition in dispute is No 2 which states that: "*The premises shall be used for holiday accommodation only and for no other purpose (including any purpose in Class C3 of the Schedule to The Town and Country Planning (Use Classes) Order 2005, or in any provision equivalent to that Class in any statutory instrument for revoking or re-enacting that Order).*"
 - The reason given for the condition is: "*Other residential use would be contrary to Policy DVT2C of the Torridge District Local Plan.*"
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal site comprises a range of stone former agricultural buildings that were converted into a 5 bedroom holiday let within an area of open countryside to the south east of the village of Clawton around 2008, pursuant to planning permission Ref. 1/1799/2006/FUL.
3. The barn conversion has been carried out to a high standard and has the ability to accommodate up to 12no guests, it has an ample curtilage and access to nature trails on neighbouring land within the ownership and control of the appellants.
4. In 2016 an application (Ref. 1/0776/2016/FUL) for the variation of condition 2 of planning permission Ref. 1/1799/2006/FUL to allow for residential domestic use was refused planning permission for two reasons, summarised thus:
 1. The location was deemed unsustainable for an unrestricted residential use;
 - and 2. The building was not considered to consist of historic or architectural

- merit worthy of retention through a residential conversion, with no evidence being provided to demonstrate that the property had been marketed for an appropriate length of time for sale or rent, either as holiday accommodation or for an alternative business use.
5. Therefore, in order to set about addressing these reasons for refusal, the appellants commissioned an independent report and valuation and subsequent marketing campaign from two reputable firms of Chartered Surveyors. It is understood that the marketing campaign commenced on 8 February 2017 at an initial guide price of £325,000 for sale; which was subsequently reduced to £310,000 in January 2018. It is not clear though from the submissions before me as to whether this marketing activity is ongoing.
 6. Since that previous decision was made, and indeed the decision on the planning application the subject of this appeal, the Torridge District Local Plan has been superseded by the adoption of the North Devon and Torridge Local Plan 2011 – 2031 (NDTLP) in October 2018.
 7. Policy DM18 of the NDTLP is concerned with tourism accommodation and specifically paragraph (3), as set out therein, states that applications for the removal of occupancy conditions on holiday accommodation will only be permitted where: (a) It is capable of being occupied permanently without need for major extension or alteration; and (b) There is compelling evidence to demonstrate that such a restriction is no longer justified. The Council have acknowledged that the subject building is capable of being occupied permanently without the need for alterations, but the crux of this case is that the submitted evidence does not demonstrate a lack of demand for the holiday let.
 8. Therefore the main issue is whether condition no2 imposed upon 1/11799/2006/FUL is necessary to meet the tourism needs of north Devon's rural area.

Main Issue

9. The National Planning Policy Framework (the 'Framework') seeks to support a prosperous rural economy with its paragraph 83, stipulating that decisions should enable sustainable rural tourism and leisure development which respect the character of the countryside. This general tenet is supported by the aforementioned NDTLP Policy DM18, which stipulates that tourism and leisure attractions form an important part of northern Devon's economy and tourism offer. Where concerning tourism accommodation, NDTLP paragraph 13.107 highlights that although there has been a decline in bed space capacity in some resort areas, a continuing long-term trend for growth in short breaks and special interest activity holidays has helped to stabilise the sector, and place a strong emphasis on improving the overall quality of accommodation, including barn conversions.
10. Critically NDTLP paragraph 13.109 states that proposals for the removal of holiday occupancy restrictions will only be supported when it can be demonstrated that the accommodation is no longer required to meet the tourism needs of the locality. It goes on to state that the local planning authority will require applications for the removal of occupancy conditions to demonstrate there is no demand for the property in the locality. Marketing will be considered to be appropriate when the property has been presented to the

market at a reasonable price, with appropriate conditions identified and for a period of at least 12 months prior to the application's submission.

11. At the request of the Council, the appellants submitted a set of accounts for the years ending April 2017 and 2018 which provide an income and expenditure account for The Stone Barn. Income from customers was very consistent for both of these financial years and quite clearly the premises have been in reasonable demand by visitors to the area. I note that net profit for both years was very modest, and as highlighted within the appellant's submissions, the enterprise has effectively been propped up by RPA payments. However, whilst a breakdown of outgoing costs to The Stone Barn holiday business has been provided, some of the items of expenditure appear to be on the high side, particularly those appertaining to the nature trails.
12. Whilst I acknowledge that the nature trails may be a unique selling point for the holiday let business, I am not convinced that they are the sole reason why individuals would book barn for their holiday accommodation. It's also not clear whether access to these trails would continue in the event that the appellants sold the barn. In addition, although I acknowledge the need to adhere to relevant Health & Safety legislation, a lot of works such as fencing repairs, hedge laying and woodland management would provide benefits to the wider farm holding within the ownership and control of the appellants. I therefore consider that these works lead to disproportionate running costs associated with letting of the barn itself, which clearly has a knock-on effect on profitability and therefore could deter future operators/purchasers of the holiday let as a going concern.
13. Therefore, whilst I sympathise with the appellants who are reaching a time of their lives where they no longer wish to continue running the holiday let business, I am not convinced that all options have been explored, including ways of maximising profitability, in order to render it as a more attractive business to purchase by third parties. I note that no one in the appellant's family wishes to continue the work of running and managing the property as a holiday let business, but nonetheless that does not demonstrate that is the only option, the use of the services of a holiday letting agent could be one.
14. Further, I must stress that planning permission goes with land and buildings, as opposed to ownership, and taking into account that the evidence before me demonstrates that there remains a viable business, I cannot agree with the reason set out within section 5 on the planning application form, that the barn is no longer needed to meet the tourism needs of the locality.
15. Turning to the marketing campaign, the submitted report and valuation highlights that they were not fully aware of the details relating to the shared access and parking provision to the immediate front of the property and adjoining wildlife centre, and the existence of this building and its close proximity to the barn was considered a potential drawback with regard to privacy and marketing. No clarification has been provided on these matters, but I opine that they would leave a number of other uncertainties within the minds of prospective purchasers. I note that the restrictive condition put off all but one prospective purchaser of the barn, but that just demonstrates that they had no serious intention to purchase the subject building as a holiday let business.

16. I fully acknowledge that if the owners/operators no longer wish to or are unable to make the offer of the property as a holiday letting and do not advertise, then the demand would disappear for it. However that does not mean that the tourism needs of the locality would decrease, only that prospective holiday makers would have to seek other accommodation.
17. Therefore I consider, with respect, that it has been not been demonstrated by the appeal submissions that the accommodation is no longer required to meet the tourism needs of the locality. Consequently, the proposal is in conflict with paragraph (3) (b) of NDTLP Policy DM18 in that the evidence submitted does not demonstrate that the occupancy restriction is no longer justified.

Conclusion

18. I therefore find that condition 2 of planning permission 1/1799/2006/FUL is necessary in maintain a supply of high quality tourism accommodation within north Devon. The proposal is contrary to NDTLP Policy DM18 and the Framework.
19. Having regard to the above and all other matters raised by the appellants, I hereby dismiss the appeal.

C J Tivey

INSPECTOR