



Appeal Decision

Site visit made on 20 September 2019

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2019

Appeal Ref: APP/E3525/W/19/3226292

Pembroke House, Hill Road, Westley, Bury St Edmunds IP33 3TN

- 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 W Grimwood against the decision of St Edmundsbury Borough Council.
 - The application Ref DC/18/1798/VAR, dated 5 September 2018, was refused by notice dated 15 November 2018.
 - The application sought planning permission for (i) change of use from ancillary accommodation (C3) to holiday accommodation (C1) and (ii) conversion of garage bay to bedroom (retrospective) (iii) changes to fenestration without complying with a condition attached to planning permission Ref DC/18/1009/FUL, dated 24 July 2018.
 - The condition in dispute is No 4 which states that: *"The holiday let unit hereby permitted shall be occupied only as holiday letting accommodation and for no other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning Use Classes Order 1987 as amended or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order). At no time shall the unit be occupied as a permanent dwelling. Each letting as holiday accommodation shall not exceed a period of 3 weeks nor shall the unit be let or occupied to any one individual or party for a period exceeding 4 weeks in total within any 12 month period. On commencement of the holiday let use hereby permitted, the owners/operators of the holiday let unit shall keep at all times an up-to-date Register of all lettings which shall include the name and address of the person or party occupying the accommodation during each individual letting. The Register shall be made available for inspection on demand by the Local Planning Authority."*
 - The reason given for the condition is: *"The site is in an area where new dwellings are not normally permitted other than in special circumstances."*
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Decision

1. The appeal is allowed and planning permission is granted for (i) change of use from ancillary accommodation (C3) to holiday accommodation (C1) and (ii) conversion of garage bay to bedroom (retrospective) (iii) changes to fenestration at Pembroke House, Hill Road, Westley, Bury St Edmunds IP33 3TN in accordance with the application Ref DC/18/1798/VAR made on the 5 September 2018 without complying with condition No 4 set out in planning permission Ref DC/18/1009/FUL granted on 24 July 2018 by the St Edmundsbury Borough Council, but otherwise subject to the conditions set out in the attached schedule.

Background

2. The application concerns a building which is within the garden of Pembroke House. This has three bays on the ground floor with accommodation above. The central bay forms part of a unit of holiday accommodation together with the first floor. The remaining two bays at ground floor level are garages.
3. Planning permission Ref DC/18/1009/FUL was granted retrospectively and authorises the holiday accommodation. Condition 4 restricts the use as such, with each letting to be a maximum of 3 weeks and the maximum occupation by any party to be 4 weeks in any 12-month period.
4. The appellant seeks to remove the restrictions on maximum length of stay and maximum periods of occupation by any party within a 12-month period. He requests that the condition is varied to allow for holiday occupation during a defined 11-month period.

Main Issue

5. The main issue in the appeal is whether or not the proposed condition would effectively control the use of the unit as holiday accommodation.

Reasons

6. The suggested condition would restrict occupation of the unit to a defined 11-month period only, with the vacancy being between 5 January and 5 February in any year. The requirement of the existing condition that occupation by any party for a maximum of 4 weeks in any 12-month period may be difficult to monitor, as it does not refer to the calendar year. In my view the suggested condition would be more straightforward to monitor and enforce than the existing condition.
7. While the Council wishes to restrict the accommodation to short-term lets, no specific justification for the periods specified in the condition has been put forward. Policy DM34 of the Development Management Policies (DMP)¹ requires restriction to tourist use and not permanent residential occupation but does not specify maximum periods of occupation. The appellant has pointed out that people may reasonably expect to stay for longer than 3 weeks at a time or may wish to return within a year. For these reasons the existing condition could unduly restrict the occupation of the unit.
8. The appellant has referred to appeals² which concerned holiday lodges and cabins in which the Inspectors imposed similar conditions to that suggested. While the nature of the developments in those cases differ from the appeal scheme, the principle of limiting occupation to a defined period in order to control the use as holiday accommodation remains the same. It was clearly not the intention in those appeals to allow permanent occupation. For these reasons the suggested condition would effectively control the use of the unit as holiday accommodation.
9. I note the Council's concern that, if the unit were to be occupied as a permanent dwelling the internal floorspace would be inadequate and the lack of a defined external garden space would be unacceptable. I saw that the unit has a living room/dining room/kitchen space and double bedroom with

¹ West Suffolk Joint Development Management Policies Document (February 2015)

² APP/W3520/W/16/3148952 and APP/J3530/W/17/3187178

bathroom on the first floor with a double bedroom and en-suite shower room on the ground floor. It has access to the rear onto a patio and garden area which is shared with Pembroke House.

10. The Council has not referred to any standard for internal floorspace, but I note that the Council's Public Health and Housing Officer has no objection to the proposal. I find no reason to conclude that the accommodation is unsuitable for occupation for up to 11 months of the year. As the proposal is for holiday accommodation, Policy DM34 of the DMP is relevant and the proposal would accord with that policy. Policy CS3 of the Core Strategy (CS)³ and Policies DM2 and DM22 of the DMP require a high-quality environment and high standards of design. I find no conflict with those policies.
11. It is not necessary to include conditions 1 and 2 of the existing permission as the development has taken place. I have included a condition requiring the car parking areas to be retained, as in the existing condition 3, in the interest of highway safety.

Conclusion

12. For the reasons given I conclude that the appeal should be allowed.

Nick Palmer

INSPECTOR

³ St Edmundsbury Core Strategy (December 2010)

Schedule of Conditions

- 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) the floorspace shown on the submitted plans for the purpose of garaging and/or car parking shall be retained solely for the garaging and/or parking of private motor vehicles and for ancillary domestic storage incidental to the enjoyment of the associated dwelling and shall be used for no other purpose.
- 2) The holiday accommodation shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main residence. The hereby approved holiday accommodation shall not be occupied between 05 January and 05 February in any calendar year. The owners/occupiers shall maintain an up-to-date register of all occupiers and of their main home addresses and shall make this information available to the local planning authority upon request.