



Appeal Decision

Site visit made on 22 October 2019

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th November 2019

Appeal Ref: APP/H1840/W/19/3233905
128 Weston Road, Bretforton WR11 7HW

- 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 & Mrs Townsend against the decision of Wychavon District Council.
 - The application Ref 19/01078/CU, dated 7 May 2019, was refused by notice dated 3 July 2019.
 - The development proposed is a full planning application for the change of use of ancillary residential accommodation approved under ref: W/16/2377/CU to holiday let (retrospective), resubmission of application ref: 18/02498/FUL.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellants' description of the development, set out above, refers to it being "retrospective" and includes references to planning applications. However, as these matters are not themselves acts of development within the meaning of S55 of the 1990 Act¹, I have used the following description for the development proposed: "change of use of ancillary residential accommodation to a holiday let". I have therefore dealt with the appeal based on this description and the development shown on the plans referenced: 3163-ES1 Rev A, 3163-ES-P1 and 3163-ES P2.

Main Issue

3. The main issue is whether the building and its location would be appropriate for visitor accommodation.

Reasons

4. The appeal relates to a building situated alongside 128 Weston Road and is served by its vehicular access. For the purposes of planning policy, the site is located within open countryside as defined by Part C of policy SWDP 2 of the South Worcestershire Development Plan, Adopted February 2016 (SWDP). This establishes the development strategy for the district and suggests that development will be strictly controlled and limited to the categories permitted by other SWDP policies. As the appeal scheme before me is for visitor accommodation outside a development boundary, Part B of policy SWDP 35 is

¹ Town and Country Planning Act 1990

of most relevance. This identifies several categories where visitor accommodation is acceptable in the open countryside. The category most applicable to the appeal proposal is whether it involves the reuse of a redundant rural building of permanent and substantial construction.

5. The Council has not disputed that the appeal building is rural and, given its location within the open countryside, I have no reason to dispute this. Similarly, the building is of permanent and substantial construction and is physically in good condition having been converted from a showroom to ancillary accommodation in 2016². The point of contention is therefore whether the building is redundant.
6. The building was originally converted to ancillary residential accommodation for family members. However, due to a change in personal circumstances and the extent of existing accommodation available within No 128, I note that the building is no longer in use for its intended purpose.
7. I have been referred to a relatively recent appeal for a development of visitor accommodation at Martley³, within the Malvern Hills District Council administrative area. Whilst the building in that appeal was not in use for ancillary living accommodation, it was ancillary to the main dwelling and the Inspector found against the same policies of the SWDP. That decision is therefore a material consideration of moderate weight in my determination of the appeal before me.
8. Policy SWDP 35 does not define what is considered 'redundant' but I note that the appellants have provided their own interpretation, supported by a legal opinion and witness statements. Nonetheless, from the evidence before me, it does not appear that the planning permission for the appeal building to be used for ancillary residential accommodation amounts to a personal planning permission. Accordingly, that permission remains with the land and would not be solely for the benefit of the appellants.
9. In light of the above, I have determined this appeal in a similar way to the Inspector for the appeal at Martley. Moreover, the ability for the appeal building to continue to be used for its intended purpose would establish if it is redundant. I have not been provided with any substantive evidence that would demonstrate that the appellants, or other future occupants of No 128, would be precluded from using the building for ancillary residential accommodation in the future. However, even if I considered that the building has been underused, that is not the policy test outlined in Policy SWDP 35. In addition, despite the enclosure of the space in front of its entrance, the building has retained an unencumbered close physical and visual relationship with No 128, which would ensure it remains ancillary to No 128.
10. I have been referred to several decisions made by the Council in respect of other developments for visitor accommodation in the District. Given that the full circumstances behind each decision is not before me, I am not able to determine the relevance of the decisions to this appeal. I have therefore afforded the decisions limited weight and have, in any case, determined the appeal before me on its individual merits.

² Ref W/16/2377/CU

³ Appeal Ref: APP/J1860/W/18/3204695 - Penny Patch, Hillside, Martley WR6 6QN, 'change of use from 3 car garage with storage over to holiday accommodation'.

11. For the reasons outlined above, despite my findings in relation to the rural nature of the appeal building and its permanency and construction, the present requirement for the building for ancillary residential accommodation would not amount to it being redundant for the purposes of planning policy. Therefore, I conclude that the building and its location would not be appropriate for visitor accommodation. Hence the proposal would not accord with Policies SWDP 2 and SWDP 35 of the SWDP.

Other Matters

12. I note that the proposal would be viable due to Bretforton being a location beneficial to visitors to the District. However, this would not outweigh the conflict of the proposal with the development plan. Furthermore, the absence of harm in respect of all matters other than the location and use of the building is of neutral weight.

Conclusion

13. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Paul Thompson

INSPECTOR