



Appeal Decision

Site visit made on 8 January 2020

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2020

Appeal Ref: APP/D1265/W/19/3235780

The Dairy, Knights In The Bottom, Chickerell DT3 4EA

- 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 Carl Cropper, Zephen Properties Limited against the decision of Dorset Council.
 - The application Ref WD/D/19/001140, dated 26 April 2019, was refused by notice dated 18 July 2019.
 - The development proposed is for a change of use, from holiday to residential use, with the creation of a new footpath and installation of a new electric car charging point.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use, from holiday to residential use, with the creation of a new footpath and installation of a new electric car charging point at The Dairy, Knights In The Bottom, Chickerell DT3 4EA in accordance with the terms of the application, Ref WD/D/19/001140, dated 26 April 2019, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0001; 0002; 0010; 0011; 0100; and 0101.
 - 3) Prior to occupation of the development hereby permitted, the proposed footpath to the bus stop, as shown on plans 0002 and 0011, shall be provided and thereafter retained for so long as the use hereby permitted continues.

Procedural Matters

2. On 1 April 2019, West Dorset District Council merged with a number of other to district and borough councils to become a Unitary Authority, Dorset Council. The development plans for the merged local planning authorities remain in place for the area within the Dorset authority which they relate to, until such time as they are revoked or replaced. It is therefore necessary to determine this appeal with reference to policies set out in the plans produced by the now dissolved district council.

Main Issue

3. The main issue is whether the proposed development would be in an appropriate location.

Reasons

4. The appeal site is located outside of the development boundary of Chickerell as defined by the West Dorset, Weymouth & Portland Local Plan 2015 (LP). It contains an existing single-storey building used for holiday accommodation and associated garden, vehicular access and driveway. The site also includes part of an agricultural field where a new path is proposed to the nearby bus stops. The existing building lies adjacent to Meadow Bungalow and backs on to the sheds of that property. There is other development in the surrounding area, including various buildings and structures on the other side of the highway and, in the other direction, The Victoria Inn. Accordingly, although the site is in a relatively rural location, it cannot reasonably be described as isolated¹.
5. LP Policy SUS2 covers the distribution of development according to a settlement hierarchy, with the priority being within larger settlements and defined development boundaries. Outside of these, it sets out that development will be strictly controlled and restricted to, amongst other aspects, open market housing through the re-use of existing rural buildings. LP Policy SUS3 sets out that the adaption and re-use of rural buildings will be permitted subject to various circumstances and where the development would be for certain defined uses.
6. Given the appeal proposal would provide an open market house by re-using an existing rural building, there is no direct conflict with LP Policy SUS2. However, the proposed development does not fall into any of the uses listed in LP Policy SUS3 and is therefore contrary to it.

Other matters

7. The Council alleges that the site is within the Dorset Area of Outstanding Natural Beauty (AONB) and World Heritage Coast (WHS). However, the evidence before me indicates that the site is not within the AONB or WHS, whose boundaries fall on the other side of the highway. The development would re-use an existing building and involve only minor external works, such as the provision of an electric car charging point and a new path. These aspects would be outside of the AONB and WHS and would be screened from them by soft landscaping. It seems to me that a permanent residential use would also not result in a significant change to the amount of residential paraphernalia and demand for parking compared to the current use as holiday accommodation, and no additional parking is proposed. Accordingly, the development would not harm the AONB, the WHS or the character and appearance of the countryside and surrounding area in general.
8. Given its location outside of a defined settlement and adjacent to a relatively busy highway with no separate footway, the development would not be particularly accessible by walking and cycling. It is therefore likely that occupiers of the development would use the private car to serve much of their day-to-day needs. However, Chickerell and Weymouth are not significant distances away, and the National Planning Policy Framework (Framework) recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Furthermore, the proposed path would mean

¹ The Framework does not define the word 'isolated', but in *Braintree District Council v SSCLG & Ors* [2017] EWHC 2743 (Admin), the judge found 'isolated' should be given its ordinary objective meaning of 'far away from other places, buildings or people; remote'. That judgement was subsequently upheld at the Court of Appeal, *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610.

that the occupiers would be able to get to the nearby bus stops without having to walk on the highway. The evidence before me indicates that the bus routes that serve those stops are relatively frequent and go to Chickerell and Weymouth. Accordingly, the occupiers would also be able to use public transport to access the site and nearby services and facilities. With the proposed path providing access to The Victoria Inn, the development would also help to support local services and facilities and would thus help maintain the vitality of the rural community.

Planning Balance

9. The Council accepts that it cannot currently demonstrate a five year housing land supply. Therefore, in accordance with paragraph 11d) of the Framework, as this is an application for the provision of housing, the development policies which are most important for determining the application are considered out-of-date. With the site being outside the AONB and WHS and not harming them, the application of policies in the Framework that protect areas or assets of particular importance – as per paragraph 11d)i – do not provide a clear reason for refusing the development proposed. Accordingly, and in line with paragraph 11d)ii, I am required to consider if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
10. The site is not particularly accessible by walking and cycling, and occupiers of the proposed development would be likely to use the private car to serve much of their day-to-day needs. However, the proposed path to the nearby bus stops would mean that the occupiers would also be able to use public transport to access the site and the services and facilities in surrounding settlements. The appeal proposal would not harm the AONB or WHS. Although in a relatively rural location, it would also not result in the development of an isolated home in the countryside.
11. As a single dwelling and involving limited external works, the development would only provide limited benefits in relation to construction-related employment, adding to local housing supply, supporting local services and facilities and maintaining the vitality of the rural community. Nevertheless, and despite the conflict with LP Policy SUS3, the appeal proposal would not give rise to any significant harm. Consequently, when assessed against the policies in the Framework taken as a whole, the adverse impacts would not significantly and demonstrably outweigh the benefits of the development proposed.
12. The appeal proposal conflicts with LP Policy SUS3. However, the development plan policies which are most important for determining the application are considered out-of-date due to the Council's insufficient housing land supply. Accordingly, LP Policy INT1 – which broadly echoes paragraph 11d) of the Framework – is engaged and I place limited weight on LP Policy SUS3 and the appeal proposal's conflict with it.
13. The evidence before me indicates that the proposed development would contribute positively to the strategic objectives of the LP, in accordance with Policy INT1. Consequently, and despite the conflict with LP Policy SUS3, the appeal should be allowed in-line with LP Policy INT1 and paragraph 11d) of the Framework.

Conditions

14. The Council have not suggested any conditions. However, I have imposed the standard time limit condition and a condition requiring that the development is carried out in accordance with the approved plans is necessary in the interests of certainty. I have also imposed a condition requiring the proposed new path to be provided prior to occupation of the development and thereafter retained for so long as the use hereby permitted continues. This condition is necessary and reasonable because the path would provide occupiers of the development with access to public transport as an alternative to use of the private car, as supported and sought by the development plan.

Conclusion

15. For the above reasons, the appeal is allowed.

Tobias Gethin

INSPECTOR