
Appeal Decision

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 May 2020

Appeal Ref: APP/D3125/W/19/3242055

Cotswolds Hotel and Spa, Southcombe, Chipping Norton OX7 5QH

- 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 Glucka Wijisuriya against the decision of West Oxfordshire District Council.
 - The application Ref 19/00087/FUL, dated 8 January 2019, was refused by notice dated 28 May 2019.
 - The development proposed is the siting of four mobile homes for temporary staff accommodation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In my heading above I have used the description of development given in the decision notice and appeal form. Although the appellant indicates the Council were insistent on the description being altered from that given on the planning application form, he does not suggest that he did not agree to the revision. Notwithstanding the revised description, it is reasonably clear from the Appellant's Appeal Statement that the proposal is not made on a temporary basis, rather permanent permission is sought for the four mobile homes even though it might be that future occupants would occupy them for short term periods.
3. In response to travel restrictions currently in place due to the COVID-19 pandemic I consider that this appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available. Both parties were given the opportunity to comment on the appeal proceeding on this basis.
4. The submitted information indicates the development for four mobile homes was completed in July 2018¹. I have determined the appeal on that basis.
5. The appellant indicates that the proposed mobile homes would not be used as permanent family homes due to the nature of the intended occupancy, which would be by employees who are unlikely to use the accommodation as their principal dwelling and that such use is a matter which might be secured by way of a planning condition. On this basis, he suggests the proposal is ancillary

¹ Question 5, Planning application form

development to the hotel and golf course². Therefore, it is firstly appropriate to establish whether the proposal should be assessed as residential development or economic development. Irrespective of the direct or indirect links with the operation of the hotel and golf course at the site, which I shall consider further below, based on the evidence submitted, the mobile homes are primarily intended for residential occupation. Consequently, even though they may be intended to support the hotel and golf use, it is appropriate to assess them as residential development. Accordingly, I have determined the appeal on this basis.

Main Issue

6. The decision notice contains a single reason for refusal. However, the appellant suggests³ that the Council attempts to raise additional reasons for refusal in their appeal statement regarding the visual prominence of the development and concerns regarding the living conditions provided by the mobile homes, even though these were not mentioned in the reason for refusal on the decision notice and no such concerns appeared in the Council's delegated report.
7. Notwithstanding some of the descriptive observations made by the Council in their appeal statement, taking the document as a whole, there is limited evidence to support the view that additional reasons for refusal are raised in a meaningful way. In particular, the central section of the statement, which amplifies the case for the Council, does not refer to such matters and it is expressly stated⁴ that the main issue is the principle of the development. This accords with the reason for refusal on the decision notice.
8. Therefore, the main issue is whether the site is in a suitable location for housing having regard to local and national planning policies.

Reasons

9. Policy OS2 of the West Oxfordshire Local Plan 2031, September 2018 (LP) sets out a district wide strategy that seeks to locate most development in identified main service centres, rural service centres and villages. Outside of those areas development in the small villages, hamlets and open countryside will be limited to that which requires, and is appropriate for, a rural location. The appeal site is outside of any identified settlement in the LP strategy. Consequently, it constitutes open countryside for the purposes of the LP.
10. Policy H2 of the LP sets out how residential development will be accommodated in accordance with the overall strategy in policy OS2. This restricts new dwellings in the open countryside save for specified exceptions, one of which are circumstances where there is an essential operational or other specific local need for the dwelling that cannot be met in any other way, including the use of existing buildings.
11. This is broadly consistent with paragraph 79 of the National Planning Policy Framework (the Framework) which states that planning decisions should avoid the development of isolated homes in the countryside unless specific circumstances apply. This includes at subparagraph 79 a) where there is an

² Page 4, Final Comments dated 31 March 2020

³ Page 1, Final Comments dated 31 March 2020

⁴ Paragraph 8.1, Council's Appeal Statement

essential need for a rural worker to live permanently at or near their place of work in the countryside.

12. The proposal is for four mobile homes located some distance from the hotel building. The surrounding area is predominantly comprised of a golf course and agricultural land, with built form generally dispersed. Consequently, the development comprises four isolated homes in the countryside and I have seen little evidence to suggest otherwise. It is the appellant's view that the proposal falls within the exceptions in policy H2 of the LP and paragraph 79 a) of the Framework, but the Council disagree.
13. The exception permitted for rural workers dwellings in both local and national policies refer to an essential need, which sets a high threshold. Further specific and recent advice is given in the Planning Practice Guidance⁵ (PPG) as to how to assess such a need. Amongst other things, it refers to the consideration of whether the need to live at or near to the place of work is necessary to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise, for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products. It further clarifies that employment on an assembly or food packing line, or the need to accommodate seasonal workers, will generally not be sufficient to justify building isolated rural dwellings.
14. It follows that in order to meet the essential need threshold there should normally be an operational or functional requirement to live at or near the place of work and that in addition, if this were not the case serious consequences or risk would result to the business. The examples given in the PPG cite health risks or emergencies reinforcing the stringent test for the exception to apply.
15. The appellant states that the business operation requires a minimum of 8 members of staff to be on site and lists these as including a night porter, receptionist, greenkeepers, chefs and food and beverage assistant⁶ with job information on those posts included in the Employee and Job Information Report⁷. Some of these posts may involve early starts and/or late finishes as part of the services provided at the hotel and golf course. However, it is not shown why, as a consequence of that, it is essential for those postholders to live at their place of work. Accordingly, there appears to be little operational reason that would prevent such workers from living elsewhere. I accept that the public transport options for travelling to and from the Cotswolds Hotel site may be limited and therefore, in some cases, inconvenient. However, this is not dissimilar to many businesses in rural locations that require early starts or late finishes. The evidence does not fully explain why suitable alternative travel arrangements cannot be made if such circumstances arise.
16. Nor is it shown that there would be a serious risk to human or animal welfare or major operational business consequences if the postholders listed were not

⁵ Paragraph 010 Reference ID: 67-010-20190722 Revision date 22 07 2019

⁶ Paragraph 4.13 Appellant's Appeal Statement

⁷ Appendix 5 Appellant's Appeal Statement

living nearby when their shift had ended to deal with an emergency quickly. Moreover, such shift work patterns suggest that replacement workers for at least the minimum posts listed would be present to deal with the operational needs of the business, rather than relying on an 'on call' system for off-duty staff.

17. In support of his case, the appellant refers to difficulties in recruiting and retaining staff due to the competition for staff and the high cost of local housing. Reference is made to the provision of accommodation as an essential component of the business' recruitment strategy and therefore, its business plan⁸. He asserts that an inability to secure the four units will severely undermine the viability of the business. However, I am provided with little substantive evidence to demonstrate that unless the proposal is granted, the impact on the overall viability of the business would be so severe as to threaten its long-term survival. Moreover, it is not explained how the business plan⁹ that has been provided reflects this as an essential component, although I acknowledge this was prepared some time ago and primarily in relation to a separate planning application for self-catering units.
18. Concerns regarding the affordability of housing costs relative to gross income occur frequently in many rural areas of the country. Whilst I accept that the provision of on-site staff living accommodation is beneficial to the business in terms of staff recruitment and retention, this does not necessarily equate to an essential need. To find otherwise on the evidence provided would mean that the high threshold exception test would be too readily overcome and would undermine the deliberately restrictive approach in paragraph 79 a) of the Framework and policy H2 of the LP. Moreover, although reference is made to other local hotels that compete for hospitality staff, it is not shown that all of them provide on-site staff accommodation in order to function, which suggests that such provision is not operationally essential.
19. Given that I have not found that there is an essential operational or other specific local need that would accord with the requirements of policy H2 of the LP, it follows that there is no requirement to consider further whether such a need could be met in any other way, such as the consideration of the use of existing buildings.
20. I am referred to a previous planning permission¹⁰ that gave temporary two year consent for two mobile homes on the basis that they were required to accommodate greenkeepers. It appears from the associated delegated report that the Council gave weight to the early start and affordability of housing in the area. Nevertheless, I note that the recommendation was made 'on balance'. Furthermore, reference is made to the need to '*review the situation as there will be an opportunity for permanent accommodation to be provided within the hotel building*'. This implies that the Council found the need to be short term. Therefore, it is not clearly the case that the temporary permission was to allow for a trial run to test the impact of the development or the viability of a new enterprise as a precursor to it being acceptable permanently. Moreover, there have been changes to the development plan and national policy and guidance since the decision was made such that overall, the

⁸ Page 8, Covering letter, Appendix 4 Appellant's Appeal Statement

⁹ Appendix 8 Appellant's Appeal Statement

¹⁰ Reference 14/02349/FUL dated 19 March 2015

temporary permission, which has now expired, is of limited weight in my determination.

21. I have had regard to the email communications¹¹ between the parties provided but their content does not lead me to a different view. The Council have provided copies of the West Oxfordshire Design Guide 2016, the West Oxfordshire Landscape Assessment 1998 and the Chipping Norton Neighbourhood Plan, 1 January 2015-31 March 2031. However, neither party makes significant reference to these documents as part of their case. I have had general regard to their content but do not consider them to have a significant bearing on my decision. Similarly, although the Council has provided extensive information regarding the Housing Land Supply position, this is not a matter expressly relied upon as part of the Appellant's case.
22. Accordingly, I find that the proposal fails to show an essential need for rural workers to live permanently at or near their place of work. Neither is it shown that the proposal falls within any of the other exceptions listed in policy H2 of the LP. As such, the proposal represents unjustified isolated rural homes in the open countryside. Therefore, the site does not provide a suitable location for housing and is contrary to policies OS2 and H2 of the LP and paragraph 79 of the Framework.

Planning Balance and Conclusion

23. There are economic benefits arising from the growth and diversification of the appellant's business and the proposal would assist in supporting this. Additionally, the reduction in staff travel movements would have some limited environmental benefits. However, given the relatively modest scale of the proposal this would limit the resulting benefits. Therefore, taken together these factors weigh moderately in favour of the proposal. Nevertheless, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹². The benefits do not outweigh the significant weight given to the conflict with the development plan policies that set out the locational strategy for the district. Accordingly, they do not justify my determining the development other than in accordance with the adopted development plan and Framework.
24. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

¹¹ Appendix 9 Appellant's Appeal Statement

¹² Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.