



Appeal Decision

Site visit made on 26 January 2020

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th May 2020

Appeal Ref: APP/H3320/W/19/3236050

Nos 11, 12, 14 & 15 Doniford Meadow, Doniford, Watchet TA23 0TL

- 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 Dr David Jenkins against the decision of West Somerset Council.
 - The application Ref 3/39/18/017, dated 5 June 2018, was refused by notice dated 18 March 2019.
 - The application sought planning permission for erection of two pairs of holiday chalets without complying with a condition attached to planning permission Ref 66604/1, dated 14 October 1964.
 - The condition in dispute is No 1 which states that: The buildings hereby permitted shall be used as holiday accommodation only to provide accommodation for persons for the time being bona fide on holiday in the area and they shall not be occupied for permanent residential purposes.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the time the application and decision were made, the Local Planning Authority was West Somerset Council. However, West Somerset Council has since merged with the former Taunton Deane Borough Council to form Somerset West and Taunton Council. Nevertheless, the relevant adopted Development Plan in this case still includes the West Somerset Local Plan to 2032, November 2016 and saved policies contained within the West Somerset District Local Plan, April 2006.

Background and Main Issue

3. The appeal site, Nos 11, 12, 14 and 15 Doniford Meadow, comprises four bungalows. Though the bungalows may currently be unoccupied, their current lawful use is as holiday lets. A temporary permission was granted in December 2000 which allowed a change to residential use including holiday use for a limited period. An application, and subsequent appeal, to remove the condition which imposed the temporary restriction were made and dismissed in 2003 due to the effect on the character and appearance of the area and the inappropriate location of the properties.
4. The current proposal is for the removal of a restrictive occupancy condition attached to the original 1964 planning permission which would allow the properties to be occupied as permanent residential dwellings. The Decision Notice does not give details explaining the reason for the imposition of the original 1964 condition.

However, the Council refused the application and consider the condition remains necessary, citing that the site is not considered to be an appropriate location for four permanent dwellings due to its position in the open countryside and within flood zone 3.

5. Following submission of a Flood Risk Assessment (FRA) by the appellant dated August 2019 the Environment Agency withdrew their previous objection in respect of flood risk by a submission dated 6 January 2020. The Local Planning Authority have also confirmed in writing that they no longer wish to sustain their second reason for refusal which was predicated on the absence of a detailed FRA. I agree with this approach.
6. Consequently, the main issue is whether the condition restricting the use of the buildings to holiday accommodation is necessary and reasonable having regard to whether or not the development occupies an acceptable location for permanent residential dwellings with particular regard to the availability of nearby services and any implications for the surrounding countryside .

Reasons

7. The appeal site is situated within a rural location in Doniford, a small scattered settlement with no defined development boundary. There is some sporadic development in the vicinity of the appeal site; some limited residential properties, holiday accommodation (including caravans) and a farm shop. There is also a small shop which forms part of the Haven Holiday site nearby.
8. Policy SC1 of the West Somerset Local Plan to 2032, November 2016 (LP) sets out the settlement hierarchy for the area and identifies existing settlements as well as setting guidelines for development which is acceptable within 50m of a settlement. Policy OC1 of the LP: Open Countryside Development, sets out that the open countryside includes all land outside of existing settlements where development is not generally appropriate.
9. The appeal site is outside of an existing settlement and is beyond the 50m limit, it is therefore, in policy terms, within the open countryside. LP Policy OC1 sets out exceptions where development will be permitted. The proposal does not fall within any of the exceptions which would make the principle of permanent residential dwellings in this location acceptable.
10. The appeal site is some distance from any facilities or local services. The nearby Doniford Farm farm shop has a restaurant area and a limited variety of products for sale. The second shop is sited within a Haven Holidays site and is therefore less likely to be utilised by those living within the area. Those living within the area, therefore, are highly likely to rely upon facilities and services within other larger settlements.
11. Transport links within the vicinity of the appeal site are also poor. Furthermore, the roads in the area do not have regular, accessible or continuous pavements and these characteristics are likely to discourage pedestrians and cyclists thus further increasing the reliance on private motor vehicles.
12. I note that there is a bus stop a short walk away from the site; however, sections of the route do not have any pavements and, in my view, the bus service cannot, therefore be considered as a viable means of transport which would be readily accessible to potential future residents. Residents in the area would, consequently, be heavily reliant on the private car to travel.

13. For the reasons set out above, I consider that the site is physically separated and remote from nearby settlements and as such it can properly be described as isolated and would not, therefore, represent an appropriate location for permanent residential dwellings.
14. I recognise that those staying on the site as holiday makers still have to travel to visit attractions and purchase supplies amongst other things. However, this kind of travel is a fundamental part of rural tourism which is an essential contributor to the rural economy and the balance of factors to be considered under these circumstances is different to those present in this case. The requirements and travel patterns of permanent residents are also different to those of tourists. Permanent residents, for example, would have a general reliance on local services such as schools and health care services which are some distance away from the site and not readily accessible via walking, cycling or public transport.
15. I acknowledge that there are a number of other residential properties nearby. However, I have been provided with few specific details of the circumstances in which these were allowed. Many may have been approved under a different planning context. The properties at 1- 10 Doniford Meadows were, for example, allowed to change to residential use under a Certificate of Lawful Use granted over ten years ago. In any event, each case must be treated on its own merits and the existence of other examples is not sufficient reason to justify a development which I consider in itself to be inappropriate.
16. I therefore conclude that the condition restricting the use of the buildings to holiday accommodation is necessary and reasonable as the buildings do not occupy an acceptable location for permanent residential dwellings with particular regard to the availability of nearby services and with regard to the implications for the surrounding countryside. Accordingly, the proposal would conflict with the aims of Policies SC1 and OC1 of the LP which set out the settlement hierarchy and the criteria which must be met in order for development within the open countryside to be permitted.
17. The proposal would also be at odds with saved Policy H/6 of the West Somerset District Local Plan, April 2006 which sets out that the Council will permit the change of use of existing buildings to permanent residential accommodation provided that, amongst other things, the site has satisfactory accessibility.
18. The development would also fall short of the expectations of The National Planning Policy Framework which seeks to prevent the development of isolated homes in the countryside unless they meet certain specific exceptions which are not met in this appeal.

Other Matters

19. Whilst the buildings have already been built, the removal of the condition to allow permanent residential occupation of the properties would be a change of use which would alter their current use to such an extent so as to warrant careful consideration of any implications.
20. I acknowledge the appellant's suggestion, supported by a letter from an accountant, that the holiday lets are no longer financially viable. However, the area has a number of other seemingly successful holiday complexes in close proximity to the appeal site and, in my view, as the properties are in a scenic coastal location, I consider they are in a location which would be likely to attract significant numbers of tourists.

21. I note the appellant's observation that other holiday accommodation in the area benefits from facilities such as swimming pools and on-site activities which are not present at the appeal site. I also recognise that the area has changed since the bungalows were built and some of the facilities associated with a holiday park are no longer present on site. However, I have not been provided with detailed evidence which substantiates this as a reason for the apparent shortfall in rental income.
22. Furthermore, as mentioned in the appellant's submission, the bungalows are in need of upgrading and, in my view, this could be a further factor constraining their letting. Whilst I recognise the appellant's concerns regarding the financial burden of undertaking the required works, as a business it is reasonable to expect a level of financial commitment to maintain the long-term viability of the holiday lets.
23. The appellant has advised that the holiday lets are advertised via their website, a visit Somerset website and the Lady, but argues that despite this their customers are returning holiday makers who are ageing and thus their customer base is decreasing. In my view, the details within the appellant's submissions do not amount to sufficient substantive information to evidence that the holiday bungalows have been robustly marketed such that I may be able to reasonably conclude that such use is not viable.
24. Moreover, based on the evidence before me, I am not persuaded that there is no longer a demand for this kind of accommodation in the area and I have not been provided with a degree of detail to enable me to conclude that the business as a whole is no longer viable. Consequently, I afford the financial viability of the holiday lets limited weight in the planning balance.
25. I recognise that effective re-use of existing buildings is actively encouraged. I also note the benefits of the scheme in respect of striving to meet the Government's aim to significantly boost the supply of housing. I particularly acknowledge the potential future need for housing in the area, for instance for workers at Hinkley Point. However, as outlined above, I do not consider that the site is an appropriate location for permanent residential dwellings and as such these factors do not outweigh the harm I have identified.
26. I have noted the issues raised regarding the effect on highway safety. However, as this proposal is going to be dismissed for other reasons and the other concerns expressed do not have a direct bearing on the main issue, it is not necessary for these to be explored further as part of this appeal.
27. I have given careful regard to all of the above considerations. However, none are sufficient to dissuade me from the conclusions I have reached that the condition restricting the use of the buildings to holiday accommodation is necessary and reasonable as the buildings do not occupy an acceptable location for permanent residential dwellings. The other considerations presented by the appellant do not outweigh the conflict with the development plan I have found in this instance.

Conclusion

28. For the reasons given above I dismiss the appeal.

L J O'Brien

INSPECTOR