



Appeal Decision

Site visit made on 13 July 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 August 2020

Appeal Ref: APP/V3310/W/20/3249803

**Old Durston Station Yard, Durston Station Road, Outwood, Taunton
TA3 5AN**

- 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 KTPT Ltd against the decision of Sedgemoor District Council.
 - The application Ref 32/19/00008, dated 11 September 2019, was refused by notice dated 5 November 2019.
 - The application sought planning permission for the change of use of land to site 5 holiday lodges and formation of parking, access and amenity area without complying with a condition attached to planning permission Ref 32/19/00002, dated 21 May 2019.
 - The condition in dispute is No.3 which states that: The accommodation hereby permitted shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main residence. The applicant, or their successor(s) in title, shall maintain a comprehensive up-to-date register listing occupiers of the accommodation hereby approved, evidence of their main home addresses and the dates of occupation of the accommodation. The said register shall be made available for inspection by the Local Planning Authority at reasonable notice.
 - The reason given for the condition is: The development is not considered suitable for a full residential development and in accordance with Policies CO1 and D17 of the Sedgemoor Local Plan.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The disputed condition seeks to limit occupation of the lodges to holiday accommodation only. The proposal is to grant permission without that condition and impose, instead, a condition relating to the age of occupants.
3. The main issue is whether the disputed condition is necessary, precise enforceable, and reasonable.

Reasons

4. Policy CO1 of the Sedgemoor Local Plan – Adoption Version 2019 (the 'LP') sets out principles for the control of development outside identified settlements. Only development allowed by other development plan policies is appropriate, unless it is clear that a countryside location is necessary. Therefore, a condition restricting occupancy to a form that would help to support a prosperous rural economy is necessary. I have no reason to disagree with the Council that

tourism uses can bring an ongoing economic benefit and are appropriate in that regard.

5. While a change in occupancy restriction as proposed may have little, if any effect on the living conditions of nearby residents, and could lead to some reduction in traffic movements, the restriction would still result in permanently occupied housing. There is no substantive evidence to support the appellant's claims that there is a particular lack of rural housing for the intended demographic, or that new rural housing is required to support local businesses who may depend upon older people.
6. It has not been demonstrated, therefore, that the proposal would support a prosperous rural economy, maintain or enhance the vitality of rural communities, or that a countryside location is essential. Accordingly, even if the proposal were considered to result in an efficient use of brownfield land, the alternative condition would result in a development that conflicted with LP Policy CO1 and the disputed condition remains necessary.
7. The disputed condition contains no clause to restrict the length of occupation of any one party. In this regard, it differs from an occupancy condition imposed on a previous permission at the site for the same development.
8. However, the condition states that the accommodation cannot be occupied as a person's sole or main residence. That is precise. The effect is that an occupier must be able to demonstrate that they mainly live elsewhere and so could not be on holiday indefinitely. Whilst consideration of any evidence of compliance may require some judgement on behalf of the enforcing authority there is no substantive evidence that it cannot be adequately enforced. The requirement to keep a register would assist in monitoring that the accommodation was not being occupied permanently, which is reasonable given the unspecified occupancy lengths. Read as a whole, the condition clearly sets out how the accommodation must, and must not be occupied. The condition is, therefore, complete.
9. With regard to the above, I find that the disputed condition is necessary, precise, enforceable and reasonable. Therefore, the appeal is dismissed.

M Bale

INSPECTOR