

Appeal Decision

Hearing Held on 12 January 2021

Site visit made on 13 January 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2021

Appeal Ref: APP/R0335/W/20/3246003

Fishing Lakes, Yateley Road, Sandhurst GU47 8HW

- 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 Thorney Farm Developments against the decision of Bracknell Forest Borough Council.
 - The application Ref 18/01076/T, dated 1 November 2018, was refused by notice dated 17 September 2019.
 - The development proposed is rural worker's dwelling associated with approved fishery (temporary three-year permission).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address and description of proposed development from the planning application form although I note these are expressed differently on other documents.

Main Issue

3. The main issue is whether there is a need for on-site living accommodation connected to the diversified business approved under planning permission reference 15/00518/FUL.

Reasons

4. Policies H5 and EN8 of the Bracknell Forest Local Plan (the Local Plan) are constraining policies that restrict housing outside settlement boundaries. The Local Plan dates from 2002 but weight to be attributed to it does not hinge on its age. The Council explained at the hearing that these policies set an 'in principle' restriction to creating a dwelling at the proposed location. Development in rural areas is not precluded but the National Planning Policy Framework (the Framework) indicates that great weight should be given to the benefits of using suitable sites within settlements for homes and therefore supports the general thrust of the Local Plan in terms of the location of housing. Significant weight can, therefore, be attributed to these policies as their aims are largely in line with the Framework.
5. The Local Plan text relating to Policy H5 sets out the Borough Council's commitment to maintain the open, rural and undeveloped character of the land

outside settlements. I consider this aim and purpose of Policy H5 is to protect the countryside. Similarly, Policy EN8 is a countryside protection policy that resists development that would adversely affect the character, appearance or function of the land. Whilst these policies do not hold full weight, they carry significant weight given their aims are broadly in line with the environmental objectives of the Framework to protect the natural environment.

6. Policy H5 sets out that outside the defined settlement boundaries the erection of a new dwelling will not be permitted unless there is a need for it. Whilst Policy EN5 limits this to development required for agriculture and forestry, the Framework recognises that there can be rural enterprises where there is an essential need for a rural worker in connection with a countryside business.
7. The appellant is unable, at this point in time, to demonstrate the existence of a viable rural enterprise, as the business is not yet functional, and I saw at my visit that the pontoons and yurts have yet to be erected. Therefore, permission is sought for a temporary period to allow the business to become established and to demonstrate viability. However, viability need not necessarily be tested through active operations. There is no evidence that a business plan for the diversified yurt enterprise at the lakes has been undertaken. At present there is no evidence of a theoretically viable business. As I see it, it is reasonable to expect some evidence concerning the financial soundness of the business and its potential ability to endure. It would be difficult to conclude that there is a need for managers accommodation in relation to a business that had little or no prospect of being sustained. With this in mind at this point in time the evidence does not indicate that the diversified business would be a profitable venue as a result of providing managers accommodation at the site.
8. The Council has referred to Planning Policy Statement 7 (PPS7) 'Sustainable Development in Rural Areas' that was revoked by the Framework. As such, the tests for assessing essential need, including the financial test, set out in PPS7 Annex A no longer have the weight of Government policy and can no longer be directly relevant to the appeal outcome. However, despite its lack of status, it is my view that Annex A is still a potentially useful tool in assessing whether an on-site dwelling would be justified.
9. The appellant suggests that the lack of any specific reference to any financial or viability within the Council's reason for refusal indicates that there is no requirement for a temporary permission. As I see it this runs contrary to the appellant's position that temporary permission is necessary to allow the business to prove its viability over a three-year period. To be an acceptable proposal the dwelling must be connected to a viable business venture.
10. Turning to the functional need to have a year-round 24-hours a day 7 days a week presence on-site, the site has operated as a fishing enterprise for a number of years without the requirement for on-site residential accommodation. The appellant has put forward a list of those functions that an on-site warden would carry out but conceded at the hearing that some could be done off site or by a visiting warden. Indeed, I consider a substantial number of those activities listed, such as, bookings, checking in and out guests, marketing, stipulating a code of guest conduct, amongst others, are activities that do not necessarily have to take place at the site. It is becoming more commonplace for some of these activities to be undertaken online, whilst others could be provided within an information booklet/welcome pack as part of

the yurt accommodation. General maintenance, cleaning yurts and facilities blocks and changing bed linen would predominantly take place during the daytime and would not be activities that would require a night-time presence. Furthermore, key safes or code entry systems would allow guest flexibility to come and go.

11. The Council considers that the managers accommodation is a desirable element of the diversification. It became clear at the hearing that the appellant has a vision for the business and the experience for the customer. It was advocated that there would be a customer expectation of manager support as part of the package the customer pays and an on-site managers presence would provide personal customer service whenever required. However, given the basic nature of the accommodation I must question whether guests would necessarily expect an on-site manager presence 24-hours a day all year round.
12. Notwithstanding the customer expectation, at the hearing the appellant conceded that the essential elements that require a warden presence relate primarily to security and safety. The diversification business incorporating the fishing yurts would result in the installation of more expensive equipment on site with personal belongings of guests. There is no evidence that security has been an issue historically. I was not directed to any incidents of theft of fishermen's equipment or fish stock. The yurts would not be lockable, therefore, those using the yurts are unlikely to bring valuables other than their fishing equipment. Whilst I accept that it may not be practical to install CCTV throughout the entire fishing lakes site, I see no substantive reason why CCTV could not be installed to cover the carpark area and yurts whilst maintaining privacy for the users.
13. The fishermen would be able to fish all year round 24-hours a day. It is intended that the yurts would similarly be used all year round by single fishermen or families. Most of the yurts would be some distance from the managers accommodation. In terms of the security, health and safety the applicant contends that a warden is best placed to deal with any incidents that may arise, particularly at night for those unfamiliar with the lakes.
14. The appellant at the hearing discussed the possibilities as to how the site management would function but at this point in time it has not been decided whether a single warden would be present 24-hours a day 7 days a week or whether there would be a series of wardens operating shifts. It was also commented that the warden's accommodation may not be the principal dwelling of that person. There is no clear indication that there will be an available manager present 24-hours a day or that the manager would be appropriately health and safety trained to deal with emergencies. Nonetheless, it appears to me that it would be more likely that the emergency services would be relied upon by those fishing at the lakes, rather than the warden, if an emergency arose. Furthermore, there does not appear to have been history of significant security, health and safety problems at the fishing lakes that might demonstrate a requirement for a warden.
15. I was made aware that there have been some complaints from neighbouring residents relating to talking and headlight disturbance from fishermen leaving the site late at night. A warden presence would improve supervision of the carpark area. Notwithstanding this, Mr Cutt an existing neighbouring occupier and bailiff at the lakes advised that there are already policies in place that aim

- to prevent such nuisance from arising. There is no clear evidence that noise and disturbance to existing residents would occur as a result of fishing at the yurts.
16. The lakes require restocking and water quality management. However, this is something that would be required as part of the existing fishery. I have not been directed to any historic problems or difficulties with these matters and it is not clear why that requirement would fall under the responsibilities of a future site manager. Even if it did, there is nothing before me that would suggest that these activities would require management during the night.
 17. My attention has been drawn to potential insurance issues, however the appellant's agent at the hearing advised that he has spoken to a broker and established that the proposed activities at the site are potentially insurable without an on-site management presence.
 18. The 2015 permission included a reception block. Whilst this theoretically could provide 24-hour accommodation it would not provide a level of comfort likely to attract a resident warden to the role. Nonetheless it could provide a 24-hour facility to wardens for an interim period until the business establishes. It was explained at the hearing that bailiffs patrol the lakes, however their role has a separate function to that of a site manager and will carry on separate to this appeal.
 19. The appellant has provided information relating to possible alternative property options within the vicinity of the appeal site to buy or rent that could provide potential accommodation for a manager. The appellant has however discounted these due to the costs involved. The appellant also advises that the salary relating to a site manager would be much less than that of shift staff. It may be that the appellant is correct on these financial matters, however without some form of financial appraisal the evidence does not demonstrate that this indeed would be the case.
 20. I have been referred to three appeal decisions by the appellant that relate to on-site accommodation connected to fishery businesses, one of which relates to Bracknell Forest Borough Council's administrative area. All three of those decisions were made some time ago and predated the Framework. Notwithstanding this, it should be noted that the accommodation proposed in those cases related to established fishery businesses where there was certainty around the operational issues connected to the businesses. Furthermore, none of those examples appeared to host overnight accommodation for fishermen. In those cases, predation, poaching and aeration were identified problems at the fisheries, which have not been identified to be of concern at the appeal site.
 21. Another example at Whitlingham Broad Campsite on the Norfolk Broads has also been drawn to my attention. I do not have the full details relating to that case but from the information provided it appears that the campsite may have already been established. I have also been referred to a planning permission relating to an existing fishery at Wrexham. A manager's lodge was considered as part of a new visitor accommodation complex and the construction of a new fishing lake. Although more recent case examples, these proposals relate to different proposals and administrative areas where different development policies will have applied.

22. In this case the operations and business relating to the yurt accommodation have yet to be established, therefore the circumstances pertaining to the consideration of the appeal before me are quite different. This appeal can and should, therefore, be considered on its own merits.
23. The Bracknell Forest Core Strategy and the Framework are supportive of rural enterprises and a prosperous rural economy, but the proposal needs to be considered in the context of all relevant policies within the development plan. Whilst the appellant contests that the Council has not attributed due consideration to this policy support, it cannot be drawn from such policies that there would be support for a rural dwelling even though it is part of a rural business venture. The appellant has also referred to emerging plan Policy LP4 that relates to a potential urban expansion at land north of the appeal site. However, given the early stage in that plans preparation no material weight can be afforded to that policy at this present time.
24. Virtually all of the those listed functions that an on-site warden would carry out could be achieved without a residential dwelling on site. It could be possible to have staff on site 24-hours a day 7 days a week without them living there. It could also be possible to have appropriate security systems in place to monitor the site. I consider that the day-to-day operation of the diversified business could operate without a dwelling on-site connected to the business at this stage. Having considered all the evidence before me I am not persuaded that a need for a site manager to live at the site has been demonstrated. Although stays at the yurts would support local shops, public houses and restaurants, overall, the benefit to the local economy would be limited. Whilst Policies H5 and EN8 of the Local Plan are not wholly consistent with the Framework, they remain the relevant policy basis to assess the context of the appeal. As such, neither the age nor phrasing of these Council policies would engage Paragraph 11 of the Framework.
25. For the above reasons, I do not consider that the need for on-site living accommodation has either been evidenced or justified in connection with the diversified business approved under planning permission reference 15/00518/FUL. The proposed development would, therefore, be contrary to Policies H5 and EN8 of the Local Plan and the provisions of the Framework.

Conclusion

26. The proposal fails to accord with the relevant Development Plan policies and the Framework and there are no substantive material considerations before me that would indicate the proposal should be determined otherwise than in accordance with the Development Plan.
27. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies
INSPECTOR

ATTENDANCE

FOR THE APPELLANT:

Mr Paul Woodbridge
Mr Mark Berry

FOR THE LOCAL PLANNING AUTHORITY:

Ms Sarah Horwood
Ms Bosia Polnik
Ms Sarah Fryer
Ms Martina Mackin
Ms Sandra Chapman

INTERESTED PERSONS:

Mr Mark Campbell
Mr Brian Cutts

DOCUMENTS SUBMITTED AT THE HEARING

Approved plans pursuant to planning permission reference 15/00518/FUL