
Appeal Decision

Site visit made on 10 November 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2021

Appeal Ref: APP/J3720/W/20/3254315

Sandfields Barns, Luddington Road, Luddington CV37 9SW

- 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 Mr Philip Trim against the decision of Stratford on Avon District Council.
 - The application Ref 20/00974/VARY, dated 7 April 2020, was refused by notice dated 3 June 2020.
 - The application sought planning permission for conversion of existing single-storey stone barn; re-building of original, single storey brick barn and new glazed single-storey link to create one holiday let with associated car parking, existing vehicular access repositioned and landscaping without complying with a condition attached to planning permission Ref 11/02281/FUL, dated 13 December 2011.
 - The condition in dispute is No 3 which states that: The use of the development hereby permitted shall be restricted to short term holiday purposes only and shall not be occupied at any time as permanent residential accommodation.
 - The reason given for the condition is: To prevent permanent residential occupation of the site, which would be contrary to Local Plan policies for this area.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of existing single-storey stone barn; re-building of original, single storey brick barn and new glazed single-storey link to create one holiday let with associated car parking, existing vehicular access repositioned and landscaping without complying with a condition attached to planning permission Ref 11/02281/FUL, dated 13 December 2011 at Sandfields Barns, Luddington Road, Luddington CV37 9SW in accordance with the application Ref 20/00974/VARY dated 7 April 2020 without compliance with condition number 3 previously imposed on planning permission Ref 11/002281/FUL dated 13 December 2011, but subject to the other conditions imposed therein.

Preliminary Matters

2. The appeal is seeking the removal of the disputed condition in order that the appeal property can be used as a permanent residential dwelling as opposed to a holiday let.

Main Issue

3. The main issue in this appeal is whether Condition 3 is reasonable and necessary having regard to national guidance and local planning policies in relation to new housing in the countryside.

Reasons

4. The National Planning Policy Framework (the Framework), at Paragraph 55, identifies planning conditions should only be applied to a planning permission where they are necessary, relevant to planning and to the development, enforceable, precise and reasonable in all other aspects.
5. The appeal site lies in a rural location, outside of any identified settlement boundary and therefore within the open countryside. The Development Plan and the Framework contains policies which are aimed at conserving and enhancing the countryside and seek to direct new development towards urban areas. To encourage the use of alternative modes of transport and to deliver sustainable development, policies also seek to focus new housing to identified settlements. Development in the countryside is therefore generally restricted, unless it meets a number of specific exceptions.
6. From the evidence before me, the proposal does not meet any of the identified exceptions within the development plan or the Framework. However, in this instance, the condition, whilst referring to the use as a short term let, does not precisely define this period. Therefore, the appeal property could be continually occupied.
7. The proposal involves no external alterations to the building, or the surrounding outside space. Therefore, the overall appearance of the building and its surroundings would remain generally unchanged and the building would not appear to be materially different from the existing use.
8. The appellant has indicated that the holiday let is no longer viable and is currently vacant following a recent flood. Further evidence is also submitted by the appellant to demonstrate that an alternative business use would not be viable on the site, with the only realistic alternative use being residential. This evidence is disputed by the Council, on the basis that no marketing has been carried out by the appellant to establish if an alternative use would be viable. However, on the basis of the evidence before me, I am not persuaded that such an exercise would yield anything different. I have therefore attached weight to this evidence.
9. In terms of travel patterns, it is submitted by the appellant that the proposal would generate similar levels of traffic to that generated from the holiday use. Furthermore, my attention is drawn to the proximity of the site to the local services and facilities which are available in nearby Welford and, to a lesser degree at Luddington. Whilst I accept the location of these services, I consider that there would be some difference in the type of trips made by future permanent residents, when compared with holiday makers, with the latter unlikely to need to access local schools or employment. However, I consider that a permanent residential use would not generate materially more vehicular traffic than the existing holiday use. Furthermore, I note that Paragraph 103 of the Framework identifies that, in rural areas, the potential to provide for alternative means of transport is often limited.

10. In this instance, I therefore consider that the proposal would be no less sustainable than the existing use. This, along with other benefits, which include the re-use of an existing building and the provision of a new dwelling, albeit a modest contribution, tips the planning balance in favour of the appeal scheme. The proposal would therefore not materially conflict with relevant development plan policy and the Framework.

Conditions

11. The suggested conditions from the Council have been considered in light of the advice contained within the Framework and the National Planning Practice Guidance. Having reviewed these conditions and had regard to the original planning permission for the change of use of the building to residential, I consider that, as all suggested conditions are already imposed by the original planning permission, there is no requirement to reimpose these conditions.

Conclusion

12. For the reasons given above and, having regard to all matters, I conclude that the appeal should be allowed. As the proposal relates to Condition 3 only, planning permission is effectively varied by removing Condition 3 that prohibits the permanent residential use of the appeal property.

Adrian Hunter

INSPECTOR