
Appeal Decision

Site visit made on 18 May 2021

by J P Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2021

Appeal Ref: APP/P1615/W/21/3268871

Mutlow Cottage, Barrel Lane, Longhope, GL17 0LR

- 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 Henry Andrews against the decision of Forest of Dean District Council.
 - The application Ref P1579/20/FUL, dated 7 September 2020, was refused by notice dated 14 December 2020.
 - The application sought planning permission for the erection of a detached dwelling. Construction of new vehicular access. Alterations and extensions. (Revision to planning permission P0970/08/FUL). Change of use of agricultural land to additional residential curtilage. Retention of Mutlow Cottage Grade II listed building as a holiday let, without complying with a condition attached to planning permission Ref P0970/08/FUL, dated 10 September 2008.
 - The condition in dispute is No 9 which states that: Prior to the occupation of the new dwelling hereby permitted, the dwelling known as Mutlow Cottage shall be used for holiday purposes only and shall not be used as any individuals main or sole dwelling and shall thereafter be retained as a holiday cottage unless planning permission is granted to change its use. It shall not be occupied for a period exceeding 4 weeks for any single letting, and there shall be no return within 4 weeks by the same household. A register of all occupiers, detailing dates, names and usual addresses shall be maintained by the owner and shall be kept up to date and available for inspection at all reasonable hours by officers of the Council.
 - The reason given for the condition is : The proposal has been permitted on the basis that it complies with the District Local Plan Policy (R)FH.15 regarding replacement dwellings and as such the existing property, Mutlow Cottage, cannot be used as an unrestricted dwelling house as the policy requires the removal of the existing dwelling when permitting a replacement.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The above description of the application is an amalgamation from the appeal form and decision notice to comprehensively cover the proposal.
3. There was a discrepancy between the application details and appeal submissions, and whether the particular condition was No 9 of P0970/08/FUL or No 5 of P0487/12/FUL. It has been agreed by e-mails that the above

description should tally with the Council's decision notice, namely it concerns condition No 9 of P0970/08/FUL.

Main Issues

4. The main issues are:

- whether an unrestricted dwelling in this location would be justified and;
- the effect of the proposal on highway safety bearing in mind the parking and turning facilities.

Reasons

Whether an unrestricted dwelling in this location would be justified

5. An application was submitted in 2008 for the demolition of Mutlow Cottage and its replacement with a new dwelling. However, during the course of the application, it became listed. The replacement dwelling was then approved without the demolition of Mutlow Cottage, but with condition 8, which limited the Cottage to use as holiday accommodation only.
6. The appeal site lies within the countryside, outside any clearly definable designated settlement. The nearest main settlements are a considerable distance away.
7. The site is remote from everyday facilities and the occupants would have to travel to everyday facilities. Consequently, the occupants would be car dependent and an additional unrestricted new dwelling would lead to unwarranted carbon emissions which would be unjustifiable. However, as holiday accommodation, the impacts of such reliance upon car use would be countered by the benefits to the rural economy.
8. Planning policy at a national level has not significantly changed in broad strategy since the 2008 permission, and indeed is clearer with the National Planning Policy Framework (the Framework). The Local Plan policy quoted in the reason has the same intent as the current Plan. Additionally, the replacement house is still used as a dwelling and the nature of the site and the location of facilities are largely the same. Therefore, the circumstances at the time of imposing the condition are similar to now.
9. Paragraph 55 of the Framework and the Planning Practice Guidance (PPG) provide the tests for the imposition of conditions: they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Therefore, the condition would still meet these tests.
10. It has been suggested that the demand for holiday accommodation is non-existent. However, I have not been presented by any evidence of marketing confirming a lack of demand. Indeed, such a characterful cottage in pleasant countryside should be in demand, particularly being close to attractions in the Forest of Dean and the Wye Valley. Whilst the pandemic would have impaired the potential to hire out the Cottage, such prospects now should be more favourable.
11. I acknowledge the comments from the appellant that the limited ceiling heights and the accessing arrangements would discourage physically impaired visitors.

However, that could be said of many holiday properties and visitors could be forewarned. I also note that the Council officers responsible for tourism have not commented on this proposal but that does not necessarily indicate a nonchalance towards it.

12. The proposed use would not change the character of the listed building and the Council's specialist adviser had no objections in this regard. However, a use is essential to ensure upkeep of the listed building, but I do not find that there is conclusive evidence that holiday accommodation would not be economic.
13. Whilst it is desirable to boost housing land supply this one dwelling would not make a significant difference.
14. I have been made aware of an appeal decision¹ here which also sought the non-compliance with this condition. The Inspector concluded: 'Thus new house building in the countryside away from established settlements or designated areas should be strictly controlled. The circumstances of this case do not meet the necessary justification because two dwelling houses on this land would breach those policy objectives'. Consequently, that appeal was dismissed which supports my findings.
15. I therefore conclude that the condition is necessary to make the development acceptable.
16. Policies CSP.1, CSP.4, CSP.5 and CSP.16 of the Core Strategy seek to conserve the environment, locate new development in sustainable locations, promote thriving sustainable communities and target development to accessible settlements. Additionally, Policies AP.1 and AP.4 of the Allocations Plan promote sustainable development and accessible environments. Paragraph 8 of the Framework provides the overarching objectives for achieving sustainable development: economic, social and environmental. Policies H1a. and H1e. of the Longhope Neighbourhood Development Plan (NDP) seek to ensure housing meets local needs and is appropriate to the locality. The proposal would be in conflict with the above policies.

Highway safety

17. The appeal site is on a narrow country lane. Moreover, there is very limited parking by the site: a small gravel bay and another space approximately 50m away. Unsurprisingly, turning is impaired. These constraints were expressed as concerns for highway safety by the Council.
18. However, as the site is on a no through road, traffic speeds should be slow. Similarly, traffic volumes should also be low. Both these aspects lessen the significance of the site's constraints.
19. The decision notice does not state that the condition limits traffic generation, but this is asserted in the officer's report: holiday occupants would be more likely to pursue walking than overly use cars. However, I consider that they are likely to want to explore further afield. Additionally, servicing and supporting the holiday accommodation would also demand car use. Consequently, on the basis of the evidence submitted, I am not persuaded that car use would be significantly different.

¹ APP/P1615/A/09/2117653/WF

20. I note the concerns about the parking from the Council, but it is not conclusive that more spaces and/or better spaces would be essential with a permanent occupation.
21. I therefore conclude that the proposal would not significantly harm highway safety.
22. Paragraph 105 of the Framework requires parking to be commensurate with the use and accessibility of the location. Paragraph 109 of the Framework states that development should only be prevented or refused if there would be unacceptable impact on highway safety or the residual cumulative impacts would be severe. Paragraph 110 aims to create places that are safe which minimise the scope for conflicts between road users. Policy H2c. of the NDP requires adequate parking provision. The proposal would not be in conflict these policies in this respect.

Planning Balance

23. The appellant suggests that the Council is not meeting its housing land supply requirements in which case paragraph 11(d) of the Framework applies. Whilst a shortfall questions the housing delivery policies, however the broad strategy of preventing permanent residential dwellings outside settlements and locations with no facilities is still valid and complies with paragraph 8 of the Framework. The proposal would contribute an additional dwelling to the housing land supply, but this would not outweigh the harm that I have found.

Conclusion

24. I therefore conclude that the appeal should be dismissed.

John Longmuir

INSPECTOR