



Appeal Decision

Site Visit made on 15 June 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th July 2021

Appeal Ref: APP/E9505/W/21/3267755

39 Riverside Estate, Brundall, Norwich NR13 5PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Keith Wheeler against the decision of Broads Authority.
 - The application Ref BA/2020/0138/FUL, dated 4 August 2020, was approved on 14 August 2020 and planning permission was granted subject to conditions.
 - The development permitted is described as a “replacement riverside chalet”.
 - The condition in dispute is No 5 which states that: The replacement chalet hereby approved shall be for holiday use only and shall not be occupied as the sole or main residence of the occupiers. No person shall occupy any part of the accommodation for a period exceeding six weeks as a continuous period. Furthermore, no person shall occupy the accommodation within a period of two weeks following the end of a previous period of occupation by that same person. The owners/operators of the holiday accommodation shall maintain an up-to-date register of the names and main home addresses of all the individual holiday makers and shall make this information available for inspection at all reasonable times to the Local Planning Authority following prior written notification.
 - The reason given for the condition is: To enable the Local Planning Authority to retain control over the development which has been permitted, in accordance with Policy DM30 of the Local Plan for the Broads in respect of a specific use and where the occupation of the development as full-time residential accommodation would be unacceptable.
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Decision

1. The appeal is allowed and planning permission Ref BA/2020/0138/FUL for a replacement riverside chalet at 39 Riverside Estate, Brundall, Norwich NR13 5PU granted on 14 August 2020 by Broads Authority, is varied by deleting condition 5.

Main Issues

2. The main issue in this appeal is whether the restriction of the property for holiday use is reasonable.

Reasons

3. The appellant sought planning permission to replace the existing chalet on the appeal site with a new building. Although the Council agreed to its replacement, it imposed a condition restricting the use of the property for holiday use only. Furthermore, to ensure that the building is not occupied for a period exceeding six weeks, the condition also requires the appellant to keep a register of the names of the holiday makers that have used the building.
4. The Council has not provided a written statement in support of the appeal and I only have the officer’s delegated report (ODR) for details regarding the

imposition of the condition in dispute. From the ODR it is evident that the development was assessed as the replacement of a building which, whilst it had a lawful residential use, was restricted to holiday use. However, there is nothing before me, such as historic planning decisions or legal documentation to support that position.

5. The term holiday home can have many connotations, and could be dependent on the frequency or length of occupation of the home in question. The provision of a holiday home close to an occupier's main residence may result in its weekend use, whilst those that live further away or retired, or indeed on holiday, may take up residence for a longer period. Consequently, I am not persuaded that although the previous owner of the property chose to call the chalet a "holiday home", this is not in itself a reason to restrict the occupation of the property to just six weeks.
6. Moreover, the appellant has provided legal documentation, including the land registry title for the property, conveyancing documents, pre-application advice and historic planning permissions which did not reveal the property to be the subject of any occupational restrictions.
7. Thus, although I accept that Policy DM30 of the Broads Authority Local Plan 2019 (the Local Plan) seeks to protect existing tourism accommodation, prior to the submission of the planning application to replace the existing chalet, the property known as 39 Riverside Estate was not the subject of any restriction for holiday use only. Therefore, in the absence of any compelling evidence to the contrary, I find that the restriction of the property as a holiday let unreasonable.

Conclusion

8. I therefore conclude that the condition is not necessary to restrict the use of the property to holiday use only. As such the development would not be in conflict with Policy DM30 of the Local Plan which seeks, amongst other things, to protect existing tourism accommodation.
9. For the reasons given above, the appeal succeeds and I vary the planning permission by deleting the disputed condition.

Graham Wyatt

INSPECTOR