
Appeal Decision

Site Visit made on 26 October 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th November 2021

Appeal Ref: APP/P2114/W/21/3268000

Sheepwash Barn, Middleton, Freshwater, PO40 9NX

- 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 Mrs Julie Sisson against the decision of Isle of Wight Council.
 - The application Ref 20/01974/FUL, dated 12 November 2020, was refused by notice dated 14 January 2021.
 - The development proposed is change of use from holiday let to residential.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether the loss of tourism accommodation is justified;
 - ii) the effect of the proposal on the safe and convenient use of the highway;
 - iii) whether the appeal property is in an appropriate location for a permanent residential dwelling having regard to the accessibility of facilities and services.

Reasons

Loss of tourism accommodation

3. The appeal building is a Grade II listed former stable converted to a 2-bedroom holiday let in 2007 following grants of listed building consent and planning permission¹. The permission is subject to a condition restricting the use of the building to a holiday let.
4. Policy SP4 of the Island Plan Isle of Wight Core Strategy (2012) (the Island Plan) sets out the Council's target of improving and maintaining the quality of existing tourism accommodation. A loss of bedspaces through conversion to other uses will be permitted where it can be demonstrated that the use is no longer viable and that the premises have been marketed for at least 12 months at an appropriate market price.
5. The appellant refers to the costs of running the holiday let in a listed building, including insurance premiums, and of maintaining that building. However, the submitted accounts show profits in excess of £10,000 for 2019 and 2020. Even

¹ P/00352/05 and P/00353/05

with the cost of rethatching the building in 2020 and the uncertainties caused by the Covid-19 pandemic, from the evidence provided the business appears viable. Indeed, the appellant confirms that the building has let out well and is still being let successfully and that the proposal is driven by a desire to have choice in the use of the building with finances not being at question.

6. The property was put up for sale as a holiday let in 2019. The appellant subsequently reduced the asking price and changed agents twice but has been unsuccessful in selling the property. However, no evidence from the selling agents to demonstrate proof of marketing or that the market price was reasonable as set out in paragraph 5.166 of the supporting text to Policy SP4 has been put before me.
7. I therefore conclude that without a demonstration that the use is no longer viable and that the premises have been appropriately marketed the proposed development would result in the unjustified loss of 2 bed spaces. Accordingly, in this respect, the proposal conflicts with Policy SP4.

Safe and convenient use of the highway

8. The appeal property is accessed from an access road off Middleton, an unclassified public highway subject to a 30 mph speed limit at the point of access. The Manual for Streets / Manual for Streets 2 sets out that the access should have a minimum visibility splay of 2.4 m x 43.0 m. However, visibility to the west when exiting the access is restricted to approximately 13 m when measured from a point 2.4 m back from the edge of the carriageway due to a stone wall outside the appellant's ownership and a bend in Summers Lane. This inadequate visibility represents a hazard for vehicles exiting the access and other road users.
9. In addition, the existing access is gated, with the gates approximately 3 m back from the highway. Consequently, if the gates are closed, vehicles entering the access would have to stop partially on the highway whilst the gates were opened or, when exiting, to close the gates. This would be a danger to other highway users, particularly for users approaching from the west given the limited visibility of the access from this direction. From the evidence before me, the gates are not within the appellant's ownership and so a condition controlling the opening of the gates would be unenforceable and unreasonable. It would therefore fail the tests set out in paragraph 56 of the Framework.
10. The access also serves two existing dwellings and the highway authority has no recorded accidents in the recent past that are relevant to the proposal. However, the highway authority considers that the vehicle movements associated with the proposed dwelling would be greater than those generated by the existing holiday let use. Although disputing this, the appellant has not provided any evidence to demonstrate that there would not be an increase in vehicle movements.
11. Common sense suggests that the occupation of the building on a permanent basis would result in an intensification of the use of the access. Although permanent residents would be more familiar with the road this would not address the deficiencies with the access. Thus the proposal would increase the risk of an accident and have an unacceptable effect on highway safety.

12. The appellant draws my attention to the vehicle movements associated with a former MoT garage served by the access. Planning permission was granted for the replacement of the garage by 2 dwellings in 2013², one of which has been built. The Council explains that the permission was granted partly as it represented a reduction in vehicle movements associated with the business. As this previous use has now ceased it does not justify the proposal before me.
13. I therefore conclude that the proposed development would be harmful to the safe and convenient use of the highway. Accordingly, in this respect, it would conflict with Policy DM2 of the Island Plan which expects development proposals to provide a safe built environment. This policy is relevant as although the appeal building already exists, the proposed use is a new development in planning terms.

Location

14. Policy SP1 of the Island Plan sets out the spatial strategy for the Island. The policy states that unless a specific local need is identified, development proposals outside of or not immediately adjacent to settlements defined in the policy will not be supported.
15. The appeal property is located on the edge of Middleton, a group of dwellings between Freshwater and Totland. Freshwater and Totland are defined in Policy SP1 as the West Wight Smaller Regeneration Area (SRA). However, the appeal property lies outside of and not immediately adjacent to the SRA boundary. The Planning Officer's Report sets out that as the Council cannot demonstrate a 5-year supply of deliverable housing sites it is not necessary for the appellant to demonstrate a specific local need. Nevertheless, the appeal property technically conflicts with the Council's current adopted spatial strategy. I return to the matter of housing land supply below.
16. Walking or cycling to Freshwater village centre via the local road network would require a circuitous route via Middleton / Summers Lane and other narrow roads largely lacking in footways and street lighting. However, the village centre is within a reasonably short and convenient walking and cycling distance via a public bridleway that runs between Middleton immediately outside the appeal property and the centre. Although not lit, the path is free from motorised vehicles, partially metalled and has a level surface as I noted walking along it during my site visit. It therefore provides a suitable route to the village centre for all potential users, including the elderly and those with young children.
17. In addition, the appellant draws my attention to a minibus serving Freshwater, Totland and Yarmouth that passes the property several times a day and stops outside. Freshwater offers a range of day to day facilities and services as I saw during my site visit and there are bus services from the centre to elsewhere on the Island.
18. Consequently, whilst it is likely that the occupiers of the appeal property would use the car for some journeys, I find that there is reasonable access from the site to facilities and services by means other than the private car. The National Planning Policy Framework (the Framework) recognises that opportunities to maximise public transport solutions will vary between urban and rural areas.

² P/00131/13

19. I therefore conclude that the appeal property is in an appropriate location for a permanent residential dwelling having regard to the accessibility of facilities and services. Accordingly, in this respect, whilst in conflict with Policy SP1, the proposal accords with Policies SP7 and DM17 of the Island Plan which, amongst other things promote travel choice and alternatives to the private car.

Other Matters

Listed buildings

20. The appeal building dates from the 18th century. It is also within the setting of the Grade II listed Sheepwash Farmhouse, which is part 17th / part late 18th century with a late 19th century south wall. In assessing the effect of the proposal section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In addition, the Framework sets out that great weight should be given to the conservation of designated heritage assets and that development within the setting of a heritage asset can be harmful to its significance.
21. The significance of the appeal building and Sheepwash Farmhouse lies primarily in their historical interest. Listed building consent has previously been granted for the conversion of the appeal building to a holiday let with facilities for day to day living. Therefore both the building and its associated land have a domestic appearance. I noted during my site visit that the land to the south of the building has been fenced off from the garden of Sheepwash Farmhouse.
22. I have no indication that any physical alterations to the building or its surroundings are proposed. I am not persuaded that the permanent occupation of the building would result in significant further domestication of the outdoor area given its existing use as a holiday let. The proposed development would therefore have a neutral effect on these listed buildings and so preserve the appeal building and the setting of both it and of Sheepwash Farmhouse.

Affordable housing

23. The Council also refused permission due to the lack of a contribution towards affordable housing in accordance with Policy DM4 of the Island Plan. This sets out that development proposals will be expected to provide financial contributions towards affordable housing for developments of 1-9 units in rural areas. The Council's Affordable Housing Supplementary Planning Document 2017 sets out the justification for such a contribution, identifying the high overall housing requirement per annum from households requiring some form of affordable housing and the acute housing affordability issue on the Island.
24. Although the appellant has indicated a willingness to pay the required contribution, I have no evidence of this having been paid and have no undertaking before me for the payment. However, the approach of Policy DM4 is not consistent with the Framework which sets out that such contributions should not be sought for residential developments that are not major developments (10 houses or more). The Council has not provided any evidence other than the SPD to justify its requirement nor to demonstrate how the contributions are delivering affordable housing on the Island.

25. Therefore, on the basis of the evidence before me, I consider that the approach to affordable housing provision set out in the Framework is a material consideration that outweighs the requirements of the development plan in this case. The lack of any contribution to affordable housing or undertaking to pay such a contribution is therefore a neutral issue in my determination.

Other considerations

26. Although not reasons for the refusal of the planning application, the Planning Officer's Report expresses concerns about the limited outdoor space with the appeal property and the effect of the proposal on the street scene. The appeal site is small with the only practicable useable external space to the south of the building. At the time of my site visit this included a patio area with outdoor seating immediately adjacent to the building.
27. Although this is adjacent to the parking space for the property and is not private, being clearly visible from the public highway, it provides space for sitting out, has an open outlook and is south-facing. I therefore consider there is adequate outdoor space relative to the size of the dwelling for future permanent occupiers of the property. I am not persuaded that refuse and recycling facilities or other domestic paraphernalia would result in such a harmful effect on the street scene given the existing approved holiday let use as to justify withholding permission. These considerations have therefore not been determinative in this appeal.
28. I note the support for the proposal from a local Councillor and the concerns expressed by the occupiers of another dwelling served by the access of Middleton regarding the ownership of the access and the appellant's right of way over it. However, these considerations have also not been determinative in this appeal.

Planning Balance

29. The Planning Officer's Report sets out that the Council is unable to demonstrate a 5-year supply of deliverable housing land. Although the Report does not set out the extent of the shortfall, the 2020 Housing Delivery Test measurement of 54% shows that the delivery of housing on the Island is substantially below its housing requirement.
30. Paragraph 11 d) of the Framework is therefore engaged and Policies SP1, SP4 and DM2 are deemed to be out of date. Nevertheless, the aims and requirements of these policies in respect of sustainable travel, supporting the rural economy and highway safety are broadly consistent with the Framework. Therefore, in accordance with paragraph 219 of the Framework, the conflict with these policies attracts significant weight.
31. I have concluded above that the proposed development would not harm the significance of the designated heritage assets of the appeal building and Sheepwash Farmhouse. I have no evidence that the proposal would affect other areas or assets of particular importance. Accordingly, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole in accordance with paragraph 11 d) ii) of the Framework.

32. In failing to provide a safe and suitable access for all users and minimising the scope for conflicts between pedestrians, cyclists and vehicles the proposal would have an unacceptable impact on highway safety and not accord with paragraphs 110 b) and 112 c) of the Framework. In these circumstances paragraph 111 of the Framework indicates that planning permission should be refused. I therefore give substantial weight to this harm.
33. The proposal would result in the addition to the Island's housing stock. However, as a single dwelling this benefit would be minimal. No other benefits of the proposal have been put to me. The benefits of the proposal would therefore be limited and attract commensurate weight.
34. Although the appeal property lies within the countryside for policy purposes, I have found that it would have reasonable access to facilities and services by means other than the private car. I therefore find no conflict with the policies of the Framework promoting sustainable travel. However, accordance with these policies is not a benefit and therefore this has neutral weight in my determination.
35. The proposal would result in the replacement of tourist accommodation by a permanent dwelling. The accessibility of the site to the facilities and services in Freshwater would allow the occupiers of the dwelling to enhance or maintain the vitality of this rural community in accordance with paragraph 79 of the Framework. However, this also applies to visitors using the holiday let and I have no evidence of the comparative support for the local economy between the existing and proposed uses. I am therefore unable to conclude on whether or not the proposal accords with the Framework's policies on the rural economy and so have given this consideration neutral weight.
36. On balance, I find that the adverse impact of granting permission would significantly and demonstrably outweigh the benefit of an additional dwelling. The presumption in favour of sustainable development therefore does not apply in this case.

Conclusion

37. I have found above that the proposed development would result in conflict with the development plan. There are no considerations, including the provisions of the Framework, that indicate that a decision should be taken other than in accordance with the development plan.
38. For this reason, and having regard to the other matters raised, the appeal is dismissed.

Martin Small

INSPECTOR