



Appeal Decision

Site visit made on 12 July 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2022

Appeal Ref: APP/Y3940/W/21/3288276

Rohil, Lodge 10, Woodbridge Park Golf Club, Swindon Road, Brinkworth, SN15 5DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Roger Lindley against Wiltshire Council.
 - The application Ref PL/2021/05659 is dated 28 May 2021.
 - The application sought planning permission for erection of five holiday lodges without complying with a condition attached to planning permission Ref N/10/04655/FUL, dated 10 February 2011.
 - The condition in dispute is No 9 which states that: *The lodges hereby permitted shall not be occupied as a persons' sole or main place or residence.*
 - The reason given for the condition is: *This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit permanent residential accommodation.*
-

Decision

1. The appeal is dismissed, and planning permission is refused for the erection of 5 holiday lodges without complying with condition No 9 attached to planning permission Ref N/10/04655/FUL, dated 10 February 2011.

Preliminary Matter

2. The application form states that the application originally related to condition Nos 9 and 10 of planning permission Ref N/10/04655/FUL. The description of the proposal was subsequently varied, with the applicant's agreement, to: 'Variation/Removal of Condition 9 of N/10/04655/FUL (Erection of Five Holiday Lodges) to allow Rohil, Lodge 10 to be used as a main residence/sole dwelling'. At the time of the variation, the Council stated that whilst the application originally related to 5 dwellings, the application was only concerned with Rohil (Lodge 10). I have considered the appeal on this basis.

Background and Main Issue

3. Planning permission was granted in 2011 for the erection of 5 holiday lodges at Woodbridge Park Golf Club¹. The decision notice stated that, amongst other things, the development, by reason of its use, scale, design and siting, would be appropriate tourist development in this location. The appellant seeks to

¹ N/10/04655/FUL

remove condition No 9 of the permission, which is stated in the banner header (above).

4. Therefore, the main issue in this appeal is whether condition No 9 is necessary and reasonable having regard to reasonable standards of residential amenity, access, and planning policies pertaining to the area with particular regard to the settlement strategy and the accessibility of services and facilities.

Reasons

5. The appeal site comprises a lodge situated amongst other lodges within a golf course. The wider area is predominantly rural in nature, with large swathes of open fields and farms being commonplace.
6. In relation to residential amenity, in the context of the permission being for holiday lodges, the Council have referred to the style and nature of the accommodation permitted. However, whatever the intention may have been when the permission was granted, as the lodge exists it is reasonable to assess the proposal on the basis of what is currently present on site.
7. In this respect, the evidence before me convincingly demonstrates that the lodge has been built to a high standard of design and environmental sustainability (including energy efficiency). In particular, the lodge has been built to German Passivhaus standards, and incorporates solar panels, adequately-sized rooms likely suitable for family-living, 2 private gardens, a parking area, and a covered decking area. Whilst the overall design and style of the lodge is well-suited to holiday occupation, as the lodge is situated in a discrete location it has a minimal influence on its local context. Thus, on the basis of the evidence before me, condition No 9 would not currently be necessary on the basis of residential amenity alone.
8. In relation to access, the Council has not raised any concerns with respect to highway safety or parking. I observed that passing places exist on the access road to the site, allowing for vehicles to safely pass each other. As such, based on the evidence before me, condition No 9 would not currently be necessary on the basis of access alone.
9. Core Policies 1 and 2 of the Wiltshire Core Strategy (adopted 2015) (Core Strategy) set out the settlement and delivery strategy for Wiltshire. In this respect, Core Policy 13 of the Core Strategy lists the recognised settlements for planning purposes for the Malmesbury Community Area. The site is not found amongst the recognised settlements listed in Core Policy 13 and therefore it is outside the recognised limits of development.
10. Hence, the site is within the open countryside in planning terms where, other than in certain circumstances, development will not be permitted, as Core Policy 2 makes clear. Although the current Core Strategy had not been adopted when the permission for the lodges was granted, the decision notice makes clear that the development was granted permission partly because it constituted appropriate tourist development in this location.
11. In this context, I have not been referred to any 'exception policies' (listed at paragraph 4.25 of the Core Strategy) which might provide support for the proposed removal of condition No 9. In the light of this, as the removal of condition No 9 would provide authorisation for the lodge to be occupied on a permanent residential basis, the proposal would cause significant planning

harm by virtue of the proposal being in direct conflict with the Council's spatial aspirations for the area.

12. I now turn to the accessibility of the appeal site to services and facilities. Considering *Braintree*², as the site is not physically separate or remote from other development I consider that the site is not in an isolated location for the purposes of paragraph 80 of the National Planning Policy Framework (the Framework). Nevertheless, the nearby village centre of Brinkworth only contains a limited range of services and facilities, which based on the evidence before me includes a pub, a village hall, and a school. The evidence does not indicate that Brinkworth contains numerous employment opportunities.
13. Furthermore, whilst footpaths are available from the site to Brinkworth, the likely unlit and narrow nature of these means that they would be much less likely to be used at night and in the winter months. Although cycling routes are available to Brinkworth, I have not been referred to any cycle lanes in the vicinity. Considering the limited range of services and facilities at Brinkworth and the difficulties identified in accessing these, it is likely that any persons occupying the lodge on a permanent residential basis would often need to travel further afield to access places of employment, shopping and leisure.
14. In this regard, the distance between the site and larger settlements where a greater variety of shopping, health facilities, places of employment and education are found, and the common occurrence of a lack of footpaths and street lighting along routes to these, would in all likelihood make walking or cycling to them unattractive for any permanent residential occupiers of the lodge.
15. Bus services are available from near the main entrance to the golf club. I have been informed that these run approximately every hour and provide access to the major shopping and service centres of Royal Wootton Bassett and Malmesbury. Thus, the bus services would likely provide choice to any permanent residential occupiers of the lodge in deciding whether to use public transport or a private car to access the services and facilities at those places.
16. However, whilst I note that these bus services are used by people living nearby, I have not been provided with evidence which confirms that the bus services operate in the early morning or into the late evening, meaning that the bus services would be unlikely to be convenient for any permanent residential occupiers of the lodge in terms of accessing places of employment or evening entertainment.
17. Opportunities to maximise sustainable transport solutions vary between urban and rural areas, and the appellant has referred to planning permissions being granted for nearby residential properties for unrestricted residential occupation (including Seymore House and Hamford House), but the evidence, as summarised above, indicates that any permanent residential occupiers of the lodge would be likely to have a considerable reliance on private vehicles to access many services and facilities, including employment, health care, and leisure.
18. Without a private vehicle, these services and facilities would not be easily accessible, especially in the evening. Whilst I note that the public golf course

² *Braintree DC v SSCLG & Ors* [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

generates numerous vehicle movements, minimal specific evidence has been provided to substantiate the appellant's assertion that any change from holiday occupation to full residential would have no additional impacts on the volume of vehicle movements. In my view, in principle a lodge occupied on a permanent residential basis would be likely to generate substantially more vehicle movements throughout the year than a lodge occupied as a 2nd home, due to a lodge being occupied for most of the year, including during the winter months, which is much less likely for a 2nd home.

19. Hence, the proposal would be in conflict with the overarching objectives for the planning system in terms of achieving sustainable development, contained in the Framework, which seeks to promote sustainable transport and provide accessible services that reflect current and future needs and support communities' health, social and cultural well-being. The fact that the lodge may not have been used or rented out or sold as holiday accommodation, and that the lodge already exists and has been occupied for several years, does not change the aims and objectives of both the adopted planning policies and the Framework.
20. I note that condition No 9 is, in effect, a '2nd home' only restriction. It does not restrict occupancy of the lodge for any specific period of time. Therefore, there is no bar to the lodge being continuously occupied throughout the year.
21. Nevertheless, although the lodge exists and is occupied, the restriction that the lodge shall not be occupied as a persons' sole or main place of residence makes it far more likely that the lodge would be occupied as holiday accommodation or part-year accommodation over the long-term, particularly considering the countryside location of the lodge, its siting within a golf course, and the lack of a wide range of services and facilities nearby. Potentially, the Council could have imposed additional conditions to further secure the holiday usage of the lodge (which might then have had further consequences in terms of the saleability of the plot at that time), but that does not negate the necessity for condition No 9 itself.
22. Reference has been made to a planning permission at Oaksey Golf Course but neither a copy of that permission nor copies of any plans have been provided, which might enable me to independently assess the relevance of that permission to the appeal proposal. Considering this, and that the Council have stated that significant marketing information was provided in support of the removal of a condition, which is not the case here, on the basis of the evidence before me I find that this case is not directly comparable with the proposal before me.
23. Similarly, the permission and plans relating to Wiltshire Golf and Country Club (referred to by the Council as Wiltshire leisure village) have not been provided. The Council have stated that on that site permanent occupation is limited to retirement accommodation only. This is quite different from the proposal before me, which would allow unfettered permanent residential accommodation on site. Accordingly, that case is also not directly comparable with the proposal before me. As such, neither of these examples changes my findings.
24. I therefore find that condition No 9 is necessary and reasonable having regard to planning policies pertaining to the area with particular regard to the settlement strategy and the accessibility of services and facilities. For these reasons, and considering that my assessment is based on currently-adopted

planning policies, the proposal would conflict with Core Policies 1, 2, and 13 of the Core Strategy which collectively establish the development strategy for the area, including with respect to proposals outside the defined limits of development. The proposal would also fail to accord with the Framework, which seeks to promote sustainable transport.

Other Matters

25. For the avoidance of doubt, the conduct of the Council during the processing of the planning application is not a matter that I can assess in the context of a planning appeal.
26. Several interested parties have expressed their support for the proposal, and I have carefully considered all of the points raised. Nevertheless, on the main issue I have found that the proposal would cause significant planning harm by virtue of the proposal being in direct conflict with the Council's spatial aspirations for the area and that the proposal would fail to accord with the Framework's objectives in relation to sustainable transport, and this would remain the case notwithstanding the views of interested parties.
27. The appellant has stated that condition No 9 puts a severe restriction on the saleability of the lodge, to the financial detriment of the owners. I have no reason to doubt that this is the case, but as this is mainly a private financial matter, and considering that planning is concerned with land use in the public interest, this consideration can only be given limited weight in favour of the proposal.
28. The appellant has produced evidence relating to a potential lack of demand for holiday lodges in this location, noting that the site is close to popular holiday resorts such as Cotswold Water Park, and has referred to a high demand for residential properties which can be permanently occupied. However, whilst examples of potential sale prices have been given I have not been presented with evidence using a robust and transparent research methodology which assesses supply and demand over a specific period. This limits the weight which can be given to the appellant's evidence.
29. Moreover, although reference has been made to an alleged move away from approval of 2nd homes as opposed to main residences I have not been referred to any particular provisions within the relevant planning policies for Wiltshire that might indicate that a lack of commercial demand should directly influence the occupancy status of a holiday lodge. Consequently, I have given this matter limited weight in favour of the proposal.
30. The extract from the Marlborough Neighbourhood Plan Impact Summary provided states that, amongst other things, '2nd homes do not support the year round vitality of our community and therefore do not contribute to sustainable development'. I note that, according to the appellant, St Ives (Cornwall) adopted a similar policy in their Neighbourhood Plan. A quote from Cornwall Council's Cabinet Member for Planning has been provided, relating to a planning appeal, but as no copy of that planning appeal has been provided, the context in which the quote was made is not entirely clear, which limits the weight which can be afforded to that quote.
31. In relation to this, I recognise that permanent residential occupiers would be more likely to contribute to the local economy and services and the social life of

the area, than those occupying the lodge as a 2nd home. This would assist in enhancing the vitality of the local community and some local services.

32. The removal of condition No 9 would make an, albeit limited, contribution to the Government's objective of significantly boosting the supply of homes, in that the lodge would add to the local housing stock of properties authorised for permanent residential occupation. In this way, the proposal might also release an empty property in another area.
33. Taken together, all the benefits mentioned above offer modest support for the proposal, and collectively I have given them moderate weight.
34. Set against these benefits is the significant planning harm that the proposal would cause by virtue of the proposal being in direct conflict with the Council's spatial aspirations for the area, and the harm caused by the proposal failing to accord with the Framework's objectives in relation to sustainable transport. I therefore find that the matters advanced in support of the proposal, do not, either individually or collectively, outweigh the harm identified, nor the conflict with the development plan identified.

Conclusion

35. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR