



Appeal Decisions

Site visit made on 8 February 2023

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2023

Appeal A Ref: APP/F3545/W/22/3303861

Aspen Park (formerly Fornham Park), Fornham St Genevieve, IP28 6TT

- 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 Exclusive Luxury Lodges Ltd against the decision of West Suffolk Council.
 - The application Ref DC/21/2164/VAR, dated 28 October 2021, was refused by notice dated 16 March 2022.
 - The application sought planning permission for (i) Change of use of land to 9 hole pay and play golf course with changing room facilities and associated landscaping, (ii) erection of 26 timber lodges, manager's lodge and associated landscaping, (iii) non-compliance with condition 17 of planning permission E/89/2307/P and condition 20 of planning permission E/97/2470/P, relating to retention of existing vehicular access without compliance with condition 6 of SE/05/02293 to enable occupation of holiday lets without bringing the golf course into use without complying with a condition attached to planning permission Ref DC/15/0662/VAR, dated 26 August 2016.
 - The condition in dispute is No 5 which states that: The holiday lodges hereby permitted shall only be occupied for holiday use only and shall not be used for permanent residential accommodation. Each letting shall not exceed a period of three months and shall not be occupied by any one individual for a period exceeding three months within any twelve month period. The occupation of the managers' lodge shall be limited to a person, or persons, solely employed to manage the holiday lodges.
 - The reason given for the condition is: The site is in the countryside where new residential dwellings are not normally permitted.
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Appeal B Ref: APP/F3545/W/22/3303862

Aspen Park (formerly Fornham Park), Fornham St Genevieve, IP28 6TT

- 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 Exclusive Luxury Lodges Ltd against the decision of West Suffolk Council.
 - The application Ref DC/21/2166/VAR, dated 28 October 2021, was refused by notice dated 16 March 2022.
 - The application sought planning permission for an extension to permitted holiday lodge scheme: use of land for the siting of 26 additional timber lodges and associated landscaping without complying with a condition attached to planning permission Ref DC/16/2792/FUL allowed at appeal Ref APP/E3525/W/17/3185630, dated 10 May 2018.
 - The condition in dispute is No 9 which states that: The holiday lodges hereby permitted shall only be occupied for holiday use and shall not be used for permanent residential accommodation. No letting shall exceed a period of three months and no lodge shall be occupied by any one individual for a period exceeding three months within any twelve month period. The owners/operators shall maintain an up to date register of the names of all owners/occupiers of individual lodges on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.
 - The reason given for the condition is: to prevent permanent residence.
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Decision

Appeal A Ref: APP/F3545/W/22/3303861

1. The appeal is dismissed.

Appeal B Ref: APP/F3545/W/22/3303862

2. The appeal is dismissed.

Preliminary Matters

3. For ease of reference, I refer to the different cases as Appeal A and Appeal B, as set out in the headers. I have dealt with each appeal on its individual merits but to avoid duplication I have considered the proposals together in this decision.

Background and Main Issue

4. The appeals relate to adjoining parcels of land, depicted on the plans as Phase 1 and Phase 2. In relation to each, planning permission has been granted for holiday lodges. Those relating to Phase 1 have been constructed, and Phase 2 appeared to be under construction at the time of my visit. There was no visible boundary on the land between them and, on completion, the developments are likely to operate as a single entity.
5. Although there are some differences in the exact words used in the respective conditions in Appeals A and B, the subject of the appeals is essentially the same. The appellant seeks variations to remove the limitations on continuous occupation for more than 3 months, and for more than 3 months by the same individual in any calendar year. In relation to Appeal A, the appellant also proposes the addition of a clause requiring a register of owners/occupiers, as is the case in the existing condition relating to Phase 2.
6. The main issues for each appeal are:
 - whether the respective condition is reasonable and necessary in its current form, considering whether the proposed variation would permit use akin to permanent residential use, resulting in unsustainable development in the countryside; and if so
 - whether there are economic benefits which would outweigh any need for occupation period restrictions.

Reasons

Reasonableness and necessity:

7. The land, which lies west of the B1106, is former parkland once associated with Fornham House, a country house demolished in the 1950's. The nearest residential properties are located around 200m to the south, and beyond that the rural settlement of Fornham St Martin.
8. The appellant does not seek permanent residential use, but the nature of the holiday lodges is that they are residential uses limited to holiday use by planning condition. In order to prevent permanent residential use, the Council (in relation to Appeal A) and the previous Inspector (in relation to Appeal B), considered restrictions on the length of stay of individuals to be necessary, in addition to limiting the uses to holiday use, in order to prevent permanent residential use.

9. I have not seen compelling evidence of a particular need for long term *holiday* letting for periods exceeding 3 months, although I note that owners may wish to stay longer. The Council distinguishes between permanent residential dwellings, secondary homes, short term holiday letting, and other types of accommodation including holiday parks, each with their different characteristics.
10. A 3-month holiday stay is a generous period of time, and not unreasonable. The characteristics of a use where persons stayed longer would be likely to have more in common with permanent residential use than with short term letting, and may be difficult to distinguish from a permanent residential use. At Aspen Park the lodges are also large in size, with private external areas, and set in spacious parkland. They are therefore very similar in nature to permanent residential dwellings, and could easily be accommodated as such.
11. Holiday letting for periods longer than 3 months by any one individual is more likely to function like a permanent residential use than a traditional holiday use. Facilitating use in the winter months by owners who have already stayed for longer than 3 months at other times of the year could also be facilitated by increasing the total amount of time permissible, rather than by removing the restriction entirely.
12. The appellant refers to two appeal decisions related to the necessity and reasonableness of obligatory 'closed' periods, during which caravans were not to be occupied. APP/Q9495/W/21/3266349 related to very specific matters associated with character and appearance and light pollution. In APP/E2340/A/10/2137243 I note the Inspector's comments regarding the sufficiency of a register of occupation. However, I have not seen the details of the development, or the cases made by the parties, and the Council advises the mobile homes/caravans were small and sited in close proximity to each other, with no private amenity space. In any case, there is no 'closure' period relating to the appeals before me, and neither case is therefore comparable.
13. I have some sympathy with the view that owners may wish to stay for longer than 3 months in total in any calendar year. However, a very much longer period, or no maximum period at all, could facilitate long periods of use with minimal breaks between them, amounting to a use akin to a permanent use.
14. In the specific circumstances of the appeals before me, I therefore consider limitations on length of stay are necessary to maintain the nature of holiday use the Council and Inspector envisaged when granting planning permission. Clauses requiring a register of persons staying in the lodges would go some way towards enforcing holiday use only, but without restrictions on the duration of use it would be difficult to establish whether longer term stays were in fact a holiday use.
15. Not being located within a housing settlement boundary, the land is in the countryside, as defined by St Edmundsbury Core Strategy (2010) ("CS") Policy CS4. Despite the cycle link and relative proximity to the rural settlement of Fornham St Martin, and accessibility from that location to urban areas within a few kilometers, the appeal sites are clearly separate from settlements. Being located in an open area of countryside, they would be at the bottom of the settlement hierarchy, as defined by CS Policy CS4. Although tourist accommodation is often located in countryside locations, the sites would therefore be unsustainable for longer term residential use.
16. In conclusion, in relation to each appeal, the condition is reasonable and necessary in its current form, and the proposed variation would permit use akin

to permanent residential use, resulting in unsustainable development in the countryside. The proposed variations would therefore be contrary to CS Policies CS1 and CS4, Rural Vision 2031 (2014) ("RV") Policy RV3, and DMPD Policy DM5, which together seek sustainable development. I have not found conflict with RV Policy RV1, which applies a presumption in favour of sustainable development.

Economic Benefits:

17. The appellant considers the additional flexibility of use arising from variation of the conditions would bring economic benefits to local shops and services, and in turn, benefit their communities.
18. There is qualified support for tourism development in DMPD Policy DM34 and supporting paragraph 6.18, which seek to facilitate new and improved facilities, subject to non-permanent tourist use limitations. Other policies provide general support for business, but not at the expense of other policy requirements. Paragraph 81 of the National Planning Policy Framework (the Framework) expects planning decisions to help create the conditions in which businesses can invest, expand and adapt. Paragraph 85 of the Framework acknowledges that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.
19. The appellant's Report on Demand for Short Term Lets in Fornham St Genevieve ("Letting Report") acknowledges that short term rental properties normally provide more economic benefits to leisure and recreational activities than a longer-term use. It also states that these benefits would be reduced with high vacancy rates, and that there is an oversupply of short term privately let properties in the area, leading to high vacancy rates, a shortage of available rental properties, and direct negative impacts on hotel sales.
20. I find the evidence at a local level less convincing than that provided in relation to national and regional level. I also note the appellant is at the early stages of implementing the Phase 2 development for 26 additional holiday lodges. The Council also continues to support holiday accommodation, which is typically short-term. On balance, I am not persuaded that there is compelling evidence that holiday letting for periods up to 3 months in rural locations in the area has significant harmful effects.
21. With the information before me, it appears that significant additional benefits would only arise if vacancy periods were significantly reduced, and I have not seen information relating to vacancy rates on the completed phase of the development. The existing conditions do not require closure periods, and there is therefore no restriction on letting the premises throughout the year. The development before me is therefore distinguishable from that considered in appeal ref: APP/D1265/W/21/3284755, where the economic benefits of removing closure period restrictions were considered.
22. Reference in the appellant's Letting Report to the positive social and economic benefits of providing long term private rented accommodation also appear to apply to rented accommodation generally, rather than long term holiday accommodation. The appellant's proposed changes, limiting use to holiday occupation only, would not assist in meeting a shortage of general residential accommodation, even if it reduced competition for short term hotel stays.
23. With the information before me, the economic benefits of holiday letting for longer than 3 months to any individual would therefore be limited. Although there

may be benefits arising from winter stays by owners who have exceeded their 3 month permitted stay at other times of the year, more limited changes to conditions could accommodate such use.

24. In conclusion, the economic benefits arising from the proposals would not outweigh the need for the existing occupation period restrictions.

Other Matters

25. I note the concern of an interested party that lodge owners may be put at a commercial disadvantage to others in the locality, but I have not been referred to other comparable cases locally.

Conclusion

26. For the reasons given above, both proposals would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, that would indicate decisions otherwise. Appeal A and Appeal B are, therefore, dismissed.

Peter White

INSPECTOR