



Appeal Decision

Site visit made on 8 March 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 27th April 2023

Appeal Ref: APP/U1430/W/22/3292002

Partridge Farm, Starvecrow Lane, Peasmarsh TN31 6XN

- 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 Mr and Mrs Thomas against the decision of Rother District Council.
 - The application Ref RR/2021/2759/P, dated 12 November 2021, was refused by notice dated 10 January 2022.
 - The development proposed is change of use of the building and land from holiday let accommodation to permanent dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of this appeal are:
 - the effect of the proposed development on the supply of tourist accommodation; and,
 - whether the appeal site is an appropriate location for the proposed development having regard to the accessibility of services

Reasons

Supply of tourist accommodation

3. Rother District Council, Development and Site Allocations Local Plan (DASA), December 2019, Policy DCO1 requires proposals that involve the loss of sites of economic value, including tourist accommodation, to demonstrate that there is no reasonable prospect of a continued use. DASA Policy DCO1 requires evidence of a comprehensive and sustained marketing campaign which indicates there is a lack of demand for the existing use or evidence that clearly demonstrates the unit is not or is not capable of being financially viable, including alternative commercial or community facilities, where appropriate.
4. I have not been provided with comprehensive evidence that the appeal property has been subject to a sustained marketing campaign and indeed the appellant accepts one has not been undertaken. The appellant has engaged with agents who have expressed a view that there is a "very very limited market" for the accommodation and neighbouring host property together. However, this appears to be an assessment of its marketability for sale, not an assessment of its demand as a holiday let.

5. Likewise, I have not been provided with evidence that the property has been marketed for an alternative commercial or community use, though I accept that, given the nature and location of the accommodation it is unlikely to be suitable as an alternative commercial or community facility.
6. Regarding its viability, the appellant has provided evidence regarding viability of tourist accommodation generally and how demand has been affected by the coronavirus pandemic and its resultant effect on the economy. I understand, this accommodation couldn't be used for a period of time due to restrictions related to the coronavirus pandemic and therefore historic demand was suppressed. The cost of running this accommodation has increased, due to increased mortgage and insurance payments. However, I have not been provided with specific evidence on the future demand and running costs for this accommodation. I therefore cannot conclude that this accommodation is unviable.
7. It has been put to me that there is ample supply of tourist accommodation in the area and given the scale of the alternative accommodation the appeal property cannot compete due to it being a single unit. Whilst larger accommodation would benefit from economies of scale and therefore cheaper costs per unit, I have not been provided with specific evidence that the running costs of this tourist accommodation render it unviable.
8. It has also been put to me that the unit is made unviable by the restrictive S106 agreement attached to the previous planning permission, which restricts occupation to 56 days. I do not have evidence before me that suggest there is a specific demand for tourist accommodation for longer than 56 days in this location. Whilst it may restrict the number of mortgage lenders willing to lend money, I consider an occupancy restriction of 56 days to be commensurate to the building's use as tourist accommodation and is not uncommon. Moreover it is not unusual for units of holiday accommodation to be on their own plot and of this size and it is not clear how these factors make the property unviable.
9. Although I understand the Appellant is going through a period of financial hardship, based on the evidence before me I cannot conclude that the tourist accommodation is an unviable business.
10. There would be harm caused by the appeal proposal as it would lead to the loss of tourist accommodation which has an economic value and it hasn't been satisfactorily demonstrated that there is a lack of demand or that it is unviable. However, the harm caused by the loss of a unit with an economic value would be limited given it is a single holiday home.
11. I conclude that the proposed development would have a harmful effect on the supply of tourist accommodation. The appeal scheme would therefore be contrary to Rother Local Plan, Core Strategy (CS), September 2014, Policy EC6 which supports development where it does not involve the loss of tourism accommodation, unless there is no prospect of its continued use; and, DASA Policy DEC3 which indicates to secure the effective use of existing employment sites, land and premises currently in employment, including tourism use, will be retained unless it is demonstrated that there is no reasonable prospect of its continued use for employment. The proposed development is also contrary to DASA Policy DCO1 as set out above.

12. The appeal scheme would also be contrary to Paragraph 84 of the National Planning Policy Framework (the Framework) which indicates planning decisions should enable sustainable rural tourism developments.

Appropriate location

13. The appeal site is not isolated as it is located within a cluster of properties accessed from Starvecrow Lane. However, it is remote from the nearest settlement, Peasmarsh. Nevertheless, a site is not required to be isolated for the restrictive policies outlined in Paragraph 80 of the Framework to apply.
14. Starvecrow Lane is a narrow, winding road and does not benefit from street lighting. The nearest settlement is also a significant distance from the appeal site along roads similar in nature to Starvecrow Lane. Given the characteristics of the roads and the distance to services, it would be unappealing for residents to walk or cycle to the nearest settlement. As such, the appeal scheme would be heavily reliant on private vehicles.
15. The development strategy focuses development toward settlements as they are the most accessible locations. Whilst the existing tourist accommodation is heavily reliant on private vehicle use, the use of this accommodation would be temporary and likely to be seasonal. As such, the change in use to a private dwelling would significantly increase the number of vehicular trips. In this specific instance, the harm caused by the proposed dwelling being located outside of the settlement boundary and being heavily reliant on private vehicles is moderate.
16. I conclude that the appeal site would not be an appropriate location for the proposed development having regard to the development strategy and accessibility of services. The appeal scheme would therefore be contrary to CS Policy OSS3 and DASA Policy DIM2 which requires sites to accord with the spatial strategy and limits development outside of the settlement boundaries.

Other Matters

17. Partridge Farmhouse, on the opposite side of Starvecrow Lane, is a Grade II listed building and dates from the 17th century. I find that the setting of the building, to be primarily associated with fields which accommodate agricultural structures and sporadic residential development aligning Starvecrow Lane. This setting contributes significantly to the significance of the listed building. The appeal property makes a limited contribution to the setting of the listed building, as it is sited on the other side of Starvecrow Lane. When viewed from Partridge Farmhouse, the appeal property is viewed as one of the residential properties along the lane. I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
18. The appeal scheme does not include any external works. The appeal property is currently being used for residential purposes, albeit tourist accommodation. As such, the change in use to a private dwelling would not have a significant effect on the types of activity undertaken at the appeal site.
19. Given the above I conclude that, on balance, the proposal would preserve the special historic setting of the Grade II listed building. This would satisfy the requirements of the Act and Paragraph 199 of the Framework and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

20. The appeal scheme is also located within the High Weald Area of Outstanding Natural Beauty (AONB). The proposal does not include any external works and as described above, the effect of the change of use would be limited. Under my duty, as a relevant authority, I have had regard to the landscape and scenic beauty of the AONB and I conclude that the appeal proposal would not harm these objectives.

Planning Balance

21. The site is previously developed land and would be considered windfall development, of one dwelling. Whilst it is acknowledged within Paragraph 69 of the Framework that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, these benefits would be limited due to the modest scale of the development.
22. Similarly, the improvement to the tranquillity of the area due to the loss of tourist accommodation is also a benefit associated with the appeal scheme. However, the extent of this benefit is also limited given the minor scale of development.
23. The protection of neighbouring resident's living conditions, retention of high specification insulation and an electric vehicle charging point, provision of sufficient parking and a lack of an effect on the AONB and the setting of the Grade II listed Partridge Farmhouse are neutral factors.
24. As there are no policies in the development plan that positively favour development of this nature in this location and the appeal scheme is contrary to the policies listed above, there would be a conflict with the development plan when considered as a whole.
25. It is acknowledged by both parties that the Council cannot demonstrate a five year housing land supply of deliverable housing sites. In these circumstances footnote 8 of the Framework establishes that the policies which are most important for determining the application are out-of-date and paragraph 11d i) of the Framework states that planning permission should be granted unless the application of policies in the Framework that protect areas of special importance provide a clear reason for refusing the development. The site is within the AONB as such it is located within a protected area, detailed within footnote 7 of the Framework. However, no harm is caused to the AONB by the appeal scheme. It is then necessary to consider paragraph 11d ii) and assess if the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
26. The Framework does not restrict all development in the countryside. However, within Paragraph 174, it recognises the countryside's intrinsic character and beauty. Likewise, Paragraph 80 of the Framework limits residential development in the countryside, similar to the appeal scheme. Within Paragraph 84 of the Framework, it indicates planning decisions should enable sustainable rural development. CS policies OSS3 and EC6 and DASA policies DIM2, DEC3 and DCO1 are all in general accordance with the Framework. Given these policies are in accordance with the Framework and the appeal scheme is contrary to these policies, I give significant weight to the conflict with these policies.

27. Paragraph 69 of the Framework identifies that small and medium sites can make an important contribution to the meeting the housing requirement of the area. Paragraph 185 indicates that planning decision should ensure new development is appropriate for its location to into account the likely effects on living conditions, in doing so they should identify and protect tranquil areas. The benefits associated with the proposed development are addressing a shortfall in housing delivery and the improvement of the tranquillity of the area, which accords with the Framework. However, these benefits are only limited given the scale of the development.
28. In this instance the moderate harm caused by location of the proposed dwelling and the reliance of its residents on private vehicles and the limited harm caused by the loss of tourist accommodation, would significantly and demonstrably outweigh the benefits and therefore the presumption in favour of sustainable development does not apply.

Conclusion

29. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
30. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR