



Appeal Decision

Site visit made on 19 April 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2023

Appeal Ref: APP/W1145/W/22/3309492

Chasty House Barn Chasty, Holsworthy EX22 6NA

- 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 Mr Baginski and Mrs Adams against the decision of Torridge District Council.
 - The application Ref 1/1422/2021/FUL, dated 21 December 2021, was refused by notice dated 4 May 2022.
 - The application sought planning permission for the conversion of barn to holiday unit without complying with a condition attached to planning permission Ref 1/1994/2002, dated 12 May 2003.
 - The condition in dispute is No 10 which states that: *The premises shall be used for holiday accommodation only and for no other purposes (including purposes in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that class in any Statutory Instrument for revoking and re-enacting that Order).*
 - The reason given for the condition is: *Other residential use would be contrary to Policy DVT2 of the Revised Deposit Torridge District Local Plan.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal, the Council published an updated Five-Year Housing Land Supply Statement¹ identifying a 5.9-year supply of deliverable housing land. I have determined the appeal accordingly.

Background and Main Issue

3. Planning permission was granted for the conversion of a barn at Chasty House for use as holiday accommodation in 2003, subject to conditions. Following the Council's decision on the planning permission, North Devon and Torridge Local Plan 2011-2031 (the Local Plan) was adopted, superseding the Revised Deposit Torridge District Local Plan.
4. The appeal application form confirms that the development was completed in 2005 and, based on the information before me, the appeal property 'Chasty House Barn' has been used as holiday accommodation since 2007. The appellant now wishes to use the property for permanent residential use,

¹ Dated 28 April 2023

requiring the removal of the condition imposed on the original planning permission restricting its use to holiday accommodation only.

5. The main issue is therefore whether the condition is reasonable and necessary having regard to the location of the proposed development and its accessibility to services, employment, education, public transport and other facilities.

Reasons

6. As defined by the hierarchical spatial strategy set out in Policy ST07 of the Local Plan, the appeal site is located in the countryside, beyond a local centre, village or rural settlement, where development will be limited to that which is enabled to meet local economic and social needs or necessarily restricted to a countryside location. The proposed removal of the occupancy condition would create an open market dwelling in the countryside which, based on the evidence before me, would not meet local economic and social needs, nor would it be a use necessarily restricted to a countryside location. Therefore, irrespective of its location outside any areas protected by other designations, the proposed development would be contrary to Policy ST07.
7. Whilst paragraph 80 of the National Planning Policy Framework (the Framework) seeks to avoid the development of isolated homes in the countryside, as the existing holiday accommodation is located close to other places, buildings or people², it does not meet the ordinary objective meaning of the word. However, Policy ST07 also aims to control dispersed development, guarding against development in locations with an absence of services and facilities. This approach is consistent with the principles of sustainability set out in paragraph 79 of the Framework which states that housing should be located where it will enhance or maintain the vitality of rural communities. Given the nearest services, employment, education, public transport and other facilities are in Holsworthy, accessed via a narrow lane devoid of pavements or street lighting, permanent occupiers of the property would be likely to travel by car to meet their daily needs.
8. Relating to tourism accommodation, Policy DM18 of the Local Plan supports the removal of occupancy conditions on holiday accommodation where it can be demonstrated that: it can be occupied permanently without the need for major extension or alteration; and where there is compelling evidence to demonstrate that a restriction is no longer justified.
9. There is no dispute between the main parties regarding the property's ability to be occupied permanently, without the need for major works. Based on the evidence before me, I have no reason to conclude otherwise. Although what is meant as 'compelling evidence' is not defined by Policy DM18, the supporting text does refer to the need to demonstrate there is no demand for the property in the locality. Further, it stipulates that marketing will be considered to be appropriate when the property has been presented to the market at a reasonable price, with appropriate conditions identified and for at least 12 months before the application's submission.
10. Concerning the demand for the property as holiday accommodation, booking information has been provided in the updated Design and Access Statement submitted with the appeal. This demonstrates that Chasty House Barn has

² As found by the judge in *Braintree District Council v SSCLG & Ors* [2017] EWHC 2743 (Admin)

been occupied every year since 2014, despite its location away from the coast and what is considered to be a family-focused customer profile. Whilst well below the predicted occupancy rates indicated to the appellant by several holiday agents, nevertheless, there is a demand for the property, even if this is primarily during school holidays. Reference has been made to the saturation of holiday lets in the Holsworthy area with higher occupancy rates, but little evidence has been provided to demonstrate this assertion. Moreover, as the screenshots of holiday homes similar to the appeal property surrounding Holsworthy show only those available at the time of the search, excluding those already booked, the market analysis is incomplete.

11. Turning to the marketing of the property, a sales brochure³ has been evidenced which includes the occupancy condition restriction and an advertised price comparable to others in the area, relating to a campaign between April 2018 and September 2020. Whilst this covered a period more than the required 12 months, given the property has subsequently been extended and additional land purchased to enlarge the plot, the property is now substantially different. As shown by the valuation of the property in May 2021⁴, even without the alterations there has been a considerable increase in its value. Therefore, I have limited relevant compelling evidence before me confirming that the property was marketed appropriately for at least 12 months before the submission of the appeal application.
12. I have been referred to the accounts since 2014 when the appellant purchased the property. However, except for the expenditure during 2022-2023, little information is set out detailing how the overall expenditure and income figures, including the substantial investments in the property and significant mileage costs, have been derived. Notwithstanding this, the accounts do show that, during the financial year 2022-2023, the property returned a profit, irrespective of any offers, promotions or a rate lower than advised by a holiday letting agent. Whilst the property may not be considered financially viable by the appellant and falls short of the requirement to benefit from a furnished holiday let tax status, these are not reasons to permit development which would not meet local economic and social needs. Therefore, the evidence before me does not lead me to conclude that the existing holiday accommodation is no longer required to meet the tourism needs of the locality, irrespective of the lack of a time limit for guest stays within the condition.
13. The condition is therefore reasonable and necessary, and its removal would therefore be contrary to policies ST07, ST10 and DM18 of the Local Plan which require development to meet the needs of the local area and reduce the need to travel. The proposed development would also conflict with paragraph 79 of the Framework concerning the vitality of rural communities.

Other Matters

14. My attention has been drawn to a recently approved planning application for two open market dwellings at Chasty Prior⁵. I note that, at the time the Council made its decision on that case, it was unable to demonstrate a five-year supply of deliverable housing sites, engaging the titled balance. However, in this case the Council has provided uncontested evidence demonstrating a five-year

³ Bond Oxborough Phillips, undated

⁴ Valued by Bond Oxborough Phillips

⁵ Council ref: 1/0136/2022/OUT

supply and therefore, I have not applied the tilted balance. Furthermore, the full details of the approved planning application are not before me, and I have determined this appeal on its merits and on the basis of the detailed evidence provided.

Conclusion

15. Having considered all other relevant matters raised, I conclude that the condition is reasonable and necessary having regard to the location of the site and its accessibility to services, employment, education, public transport and other facilities. Therefore, the appeal is dismissed.

Juliet Rogers

INSPECTOR