



Appeal Decision

Site visit made on 23 May 2023

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2023

Appeal Ref: APP/D0840/W/22/3308553

Killiw House, Estate Offices, road from Killiw House to junction south east of Watergate Cottage, Killiw, Kea TR3 6AG

- 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 Killiw Estates against the decision of Cornwall Council.
 - The application Ref PA21/09786, dated 28 September 2021, was refused by notice dated 8 April 2022.
 - The application sought planning permission for the erection of twenty lodges and construction of touring park pitches and facilities building for golfing, recreational and additional needs, care and respite purposes without complying with a condition attached to planning permission Ref PA16/04275, dated 22 December 2016.
 - The condition in dispute is No 12 which states that: The development hereby permitted shall be used as holiday accommodation only and shall not be occupied as a person's sole or main place of residence. The owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of each individual unit 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 accord with development plan housing policies under which permanent residential accommodation would not normally be permitted on the site and the accommodation, by reason of its construction and/or design, is unsuitable for continuous occupation and in accordance with the aims and intentions of paragraphs 28 and 55 of the National Planning Policy Framework.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission was granted, under application PA15/04785, for a development that included the erection of twenty lodges and the construction of touring park pitches and various other supporting infrastructure. A subsequent application, PA16/04275, sought to amend various conditions attached to this original permission. This was approved and a new planning permission granted. This permission included condition 12 which required the development to be used as holiday accommodation only and that it should not be occupied as a person's sole or main place of residence.
3. It is this latter permission that is sought to be amended by this proposal. The application seeks to remove and replace condition 12 to allow the lodges to be used as unrestricted residential accommodation from the start of October to the end of the following March each year, with the holiday accommodation use

retained during the other 6 month period. If permitted, it is explained, that this would allow for 6 month tenancies for winter lets of the lodges.

4. While the permission allows twenty lodges to be provided, on the ground, there are ten units, although as the permission has been implemented there appears no planning reason why the other ten lodges could not be provided in the future. If a new permission was to be granted then the change in occupancy, as requested, would apply to all twenty lodges.

Main Issue

5. The main issue is whether or not the proposal to allow unrestricted occupation of the lodges for a six month period each year would accord with the development plan when considered as a whole and, if not, whether or not material considerations indicate that a decision should be made otherwise.

Reasons

6. The ten lodges are positioned around an access drive within a fairly sizeable and well-maintained grassed area. The lodges are generously spaced apart, are well constructed and appear to provide a high standard of accommodation with each having three bedrooms. They are located within a generally central area of this part of the Killiow Estate. This is predominantly a rural location with surrounding fields and woodland, and with a scattering of residential properties.
7. This part of the Estate until fairly recently included a golf course. The lodges were approved to help maintain the Killiow Estate and complement the golfing activities on the site. The golf course has now closed, with the land reverting to agricultural use, although the club house and driving range remain.
8. The proposal for the lodges to be occupied for six month short term lets would allow them to be used as unrestricted residential accommodation during that period. The lodges could, in these circumstances, be used as the occupant's sole or main home and they would effectively be open market dwellings during this six month period each year. The information supporting the application explains that there is a significant demand for short lets from locals who are between a sale and purchase, are having building works carried out, or are simply in need of temporary accommodation while waiting for a long term let to start.
9. Although the proposal would not involve physical works, it would, nevertheless, establish a new residential type of unit, for six months of the year, in place of the existing holiday accommodation. As the lodges, for this six month period, would be able to be used as open market dwellings, it is appropriate to consider the proposal against policies in the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan) which concern such residential occupation.
10. Policy 3 of the Local Plan seeks to direct most new housing to larger towns, with limited new residential development in smaller settlements. Notwithstanding that the lodges are all within the same field area, in planning policy terms, the location is outside a settlement in the countryside and, therefore, is not a location where Policy 3 would support the alteration of the condition to allow unrestricted residential occupation of the lodges during parts of each year.

11. Policy 7 of the Local Plan allows some housing in rural areas, including where it is limited to the replacement or subdivision of existing residential properties, reuse of suitably constructed redundant buildings and housing for rural workers. The appeal proposal would not fall within any of these categories of rural housing and, therefore, the proposal would not accord with Policy 7.
12. The site is located away from any settlement in a rural location. It is some way from the services and facilities of Playing Place, which could be accessed via an unlit drive which passes through fields and woodland. I do not consider that this would be a convenient and likely walk or cycling route for many residents of the lodges other than on an occasional basis. Furthermore, there is no readily convenient routes to access public transport from the site that could be used on a day to day basis.
13. Kea, which is a hamlet to the broadly north east, has a church and church hall but there appears to be no other facilities in that section of the hamlet this side of the A39. The general lack of footways, distance and the busy nature of the A39 would mean that walking or cycling to Truro would be unlikely or protracted if other routes were chosen.
14. Overall, the site is reasonably remote from services and facilities, in particular, from a range of higher level services such as schools, employment, health care and a wider range of retail and leisure. These services would be more important for longer stay occupiers of the lodges than for holiday residents. For instance, as the lodges have three bedrooms, they could be occupied by families with school age children who would need to access schools on a daily basis during term time.
15. It follows that, in all likelihood, occupiers of the lodges during the proposed six month period would be heavily dependent on the private vehicle to meet their living needs and they would be located away from those services and facilities that would often be required. This would lead to a different pattern of vehicle movements to a holiday maker who would not be so dependent on accessing similar local services.
16. As a consequence of this analysis, the proposed changes to the occupation of the lodges would not meet the National Planning Policy Framework (the Framework) objective to actively manage patterns of growth in support of the promotion of walking, cycling and public transport. Nor would the proposal meet the Framework requirement to promote sustainable development in rural areas by seeking to locate housing where it will enhance or maintain the vitality of rural communities.
17. Accordingly, the lodges would not be sustainably located for occupation that could be for a main or sole residence during the proposed six month period. As a consequence of this poor level of locational sustainability, the proposal would not accord with the approach for making the best use of land and existing buildings in terms of Policy 21 of the Local Plan.
18. In the light of the above assessment, I conclude that the proposal would not meet the requirements of Policies 3, 7 and 21 of the Local Plan. It follows that the proposed occupation of the lodges for the October to March period would not accord with the approach to the location of development within the spatial strategy in Policy 2 of the Local Plan. The conflict with these policies is such

that the proposal would not comply with the development plan when considered as a whole.

19. In terms of examining other material considerations to be taken into account, I appreciate that the lodges would provide pleasant accommodation, in verdant and spacious surroundings, such that the occupation of each lodge, as potentially someone's main home for the six month period, would provide high quality living conditions. This would be the case even with twenty lodges across the site.
20. The lodges were permitted as new units of holiday accommodation in the countryside to help support and maintain the Killiow Estate and to complement the golf course, although they could also be occupied as general holiday accommodation. With the closure of the course, the link and support of holiday makers for the golfing activities, particularly out of the summer months, has been lost. I appreciate the information from the appellant that the use of the lodges for short term letting during the proposed six month period would provide a more regular and viable income stream that could then support their continued use as holiday accommodation during the summer months.
21. The economic benefits would also be likely, in broad terms, to help to generally sustain the Estate as a whole, including the listed buildings and the historic parkland. It is argued in this respect the proposal would be enabling development to support designated heritage assets, although it is not clear the precise benefits that could be secured for the future conservation of the heritage assets such as to outweigh any disbenefits from departing from the policies of the development plan.
22. Furthermore, I have not been presented with detailed evidence regarding the occupancy levels that have or could reasonably be achieved out of the main season. At these times, other holiday accommodation elsewhere across Cornwall may also have higher vacancy levels and, therefore, in that respect the situation on the site may not be especially unusual. I also understand that the closure of the golf course has reduced the incentive for some potential holiday makers to stay in the lodges. However, not all holiday accommodation has an on-site attraction and I do not consider that this change is especially persuasive in justifying the proposed alteration to the occupancy of the lodges.
23. Also, there is little analysis of the potential overall benefits to the business if the permitted touring caravan use were to be added to the existing business use on the site and/or whether the provision of the remaining ten lodges would help with sustaining the holiday use more effectively across the site as a whole. These are matters which the Council has raised in its statement.
24. The commentary from both main parties reflects on the holiday market nationally, regionally and in the area and that holiday patterns appear to have changed to some extent because of the impact of the Covid pandemic. In terms of this site, the lodges are in a countryside location rather than a coastal one, but the site is pleasant, the accommodation constructed and presented to a high standard and, therefore, I am not satisfied that there are clear and convincing reasons why this accommodation should not be attractive to holiday makers, potentially on a year-round basis. Indeed, the loss of the potential year-round tourist accommodation is not a positive aspect of the proposal.

25. I have also taken into account the analysis of the local property letting market, its seasonality and that it appears that available letting accommodation has declined, especially in the Truro area. The evidence indicates that there would be local demand for the occupation of the lodges during the six month October to March period, and that this would assist with meeting some of the local housing needs. However, the need for such short term rental accommodation in the general area would not, in itself, justify the relaxation of the holiday restrictions for these particular lodges which would not be sustainably located for longer stay occupants.
26. There would be social and economic benefits to the general area if the lodges were occupied on a more regular basis over the October to March period. There would not be any material landscape impacts from the occupation of the lodges on an unrestricted basis for the 6 month period as proposed, even with twenty lodges across the site.
27. The appellant has also raised two other sites where permanent residential accommodation has been permitted as an alternative to the then existing holiday accommodation. I am familiar with the site at Carvynick Resort, Summercourt¹ because this was also an appeal that I determined. That site was in a fairly sustainable location enabling future permanent occupants to access local services and facilities by foot and bicycle and the scheme incorporated a footway to the settlement. Furthermore, there was also already 32 dwellings on the site without occupancy conditions. The planning circumstances with the Carvynick Resort are materially different to the present appeal where the location means that there would be a greater dependence on the private vehicle to access services and facilities for longer stay residents. I attribute the case at Carvynick Resort limited weight in support of the present proposal.
28. The other case that has been highlighted is at Hustyns². This is a site that is reasonably remotely located from any settlement. There appears, however, to be specific circumstances which led the Committee to permit the proposal. This includes the fairly significant off-site affordable housing contribution and that the reduction in competition between the lodges and the hotel would make the hotel more viable. This was argued would allow much needed investment in the site and support the viability of the business which, in turn, would safeguard jobs and avoid the abandonment of the site. It seems that these planning considerations outweighed the concerns in respect of the accessibility of the site. These are site specific planning circumstances which materially differ from the situation with this site at Killiow. Consequently, I consider that the case at Hustyns merits only limited weight in support of the present appeal.
29. Drawing these matters together, I have carefully considered all the planning considerations and benefits that are argued in favour of the scheme. These include the benefits with the support to the Killiow Estate with its designated heritage assets, the provision of short term letting accommodation meeting a local need for housing and the continued holiday accommodation supporting the visitor economy during the summer months. However, the matters in

¹ Appeal Ref: APP/D0840/W/18/3215936 - Carvynick Resort, Pencorse Lane From Pencawn Farm To Beacon Road, Summercourt TR8 5AF dated 3 June 2019.

² PA19/00470 - Proposed change of use of lodges 1-28 (inclusive) to allow unrestricted C3 (dwelling house) residential occupation at Hustyns, Burlawn, Wadebridge PL27 7LG – permitted 12 February 2021.

favour of the proposal would be fairly modest in extent and cumulatively I attach the benefits moderate weight in support of approval.

30. In conclusion, the proposed changes to the occupancy of the lodges would introduce longer stay occupants, for up to 6 months from October to March. These occupants could use the accommodation as their main home and would not have satisfactory access to services and facilities other than by the private vehicle. While acknowledging that holiday guests would also use a private vehicle, and even taking into account that the Framework advises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, I conclude that the scheme would introduce longer term residents to an unsatisfactory and less than sustainable location. The scheme would fail the approach to the location of housing in the Local Plan and, in particular, conflict with Policies 1, 2, 3, 7 and 21 of the Local Plan and Framework which seeks, amongst other things, to direct development based on the role and function of places. This policy conflict and related harm are matters to which I attribute substantial weight.
31. I do not consider that reference to Policy 5, concerning Business and Tourism development, materially assists the arguments in favour of the proposal, including because the original permission for the holiday accommodation was argued to be necessary in this location to support the wider Estate.
32. I therefore find that the collective benefits and considerations in favour of approval merit moderate weight and they would not outweigh the policy conflict and related harm that I have identified, and which should be attributed substantial weight. The existing planning condition is still necessary and reasonable and should not be amended as requested.
33. The appellant makes the point that there are now a range of permitted development rights that can allow the conversion of some buildings to dwellings, including farm buildings and for schemes in countryside areas. While that is acknowledged there appears to be no fallback option presented by permitted development rights in this case and, as planning permission is required for the appeal proposal, I have considered the scheme accordingly.
34. I am also satisfied that my concerns with the unsuitability of the site to accommodate unrestricted occupancy for residents, over the six month period sought, is consistent with the approach in the Chief Planning Officer's Advice Note – Lifting Holiday Occupancy Conditions (December 2017). This Advice Note includes, in terms of examining whether a location is acceptable, that consideration should be given to policies 3, 7 and 21 of the Local Plan, which is the approach I have taken in this decision.

Conclusion

35. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. For the reasons given above, the scheme would not comply with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

David Wyborn INSPECTOR