



Appeal Decision

Site visit made on 13 June 2023

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2023

Appeal Ref: APP/U2615/W/22/3310771

Caters Service Station, Black Street, Winterton on Sea NR29 4AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr James Colclough against the decision of Great Yarmouth Borough Council.
- The application Ref 06/22/0055/VCF, dated 19 January 2022, was approved on 1 September 2022 and planning permission was granted subject to conditions.
- The development permitted is "Variation of Condition 2 of PP 06/21/0410/F – Change to internal layout and removal of garage from one of the approved dwellings".
- The condition in dispute is No 5 which states that:

"The development hereby permitted shall not be occupied otherwise than by a person as his or her Only or Principal Home. For the avoidance of doubt the dwelling/s shall not be occupied either as a second home or as holiday letting accommodation."

The Occupant of the dwelling/s will supply to the Local Planning Authority (within 14 days of the Local Planning Authority's written request to do so) such information as the Authority may reasonably require in order to determine whether this condition is being complied with."

- The reason given for the condition is:

"To safeguard the sustainability of the settlements in the Winterton Neighbourhood Plan area, whose communities are being eroded through the amount of properties which are not occupied on a permanent basis and to ensure that the resulting accommodation is occupied by persons in compliance with Policy HO4 in the adopted Winterton-on-Sea Neighbourhood Plan 2020-30".

Decision

1. The appeal is allowed and the planning permission Ref 06/22/0055/VCF for "Variation of Condition 2 of PP 06/21/0410/F – Change to internal layout and removal of garage from one of the approved dwellings" at Caters Service Station, Winterton on Sea, NR29 4AP granted on 1 September 2022 by Great Yarmouth Borough Council, is varied by deleting Condition 5.

Background and Main Issue

2. Planning permission Ref 06/21/0410/VCF ('the original permission') was granted on 25 November 2021. Application Ref 06/22/0055/VCF ('the second permission') was submitted to the Council to vary Condition 2 of permission Ref 06/21/0410/F in order to amend the approved plans and omit an originally proposed integral garage. This application was subsequently approved subject to conditions on 1 September 2022.

3. Between the granting of the original permission, and the granting of the second permission, the Council adopted Part 2 of the Great Yarmouth Local Plan, and the Winterton-on-Sea Neighbourhood Plan was also made. These documents now form part of the development plan.
4. In granting the second permission, the Council revised a number of conditions as set out in the original decision, including the addition of Condition 5. This condition prevents the occupancy of the approved dwellings other than as an Only or Principal Home.
5. At the time of my visit, the dwellings were substantially complete. They were, however, not yet occupied.
6. The main issue is whether Condition 5 is necessary or reasonable having particular regard to the aims of Winterton-on-Sea Neighbourhood Plan ('the WNP') in respect of the housing mix of the settlement.

Reasons

7. Policy HO4 of the WNP states that proposals for new housing will only be supported where first and future occupation is restricted in perpetuity to ensure that it is occupied only as a Principle or Only Residence.
8. The unrestricted occupancy of the dwellings would have the potential to increase the number of second homes within the settlement, and in doing so would harm the housing mix within the village. Therefore, without any mechanism to secure the occupancy of the dwellings as Principle or Only Residences, such as the disputed condition, the proposal would be in conflict with WNP Policy HO4.
9. The appellant has indicated that such a restriction on occupation would affect the market value of the dwellings, and therefore the viability of the scheme. Whilst I acknowledge that the imposition of the condition could negatively affect the value of the dwellings, I also note that the revised internal configuration could also positively affect the market value of the scheme. As there is no substantive evidence is before me that would demonstrate that the development would now not be financially viable, I afford only minor weight to this concern.
10. The original permission remains extant. Although the development has been constructed without integral garages, it appears to me, having regard to both sets of approved plans, that the building work required to revert the dwellings to the configuration approved under the original permission would not be onerous, and would involve little more than inserting a garage door in place of current front elevation windows and carrying out some internal reconfiguration.
11. With this in mind, I consider that it is more than theoretically possible that the appellant could choose to revert to the first permission, and in such a situation, the dwellings could be occupied and sold without any restriction. This is a fallback position to which I afford significant weight.
12. Without the disputed condition, the development would harm the housing mix of the settlement. It would therefore be in conflict with WNP Policy HO4. However, the fallback position I have identified represents a material consideration which would outweigh this conflict. I therefore conclude that in

this case, that the imposition of the disputed condition is not reasonable in respect of the housing mix of the settlement.

Other Matters

13. Concerns have been raised by interested parties with regard to whether the proposal would have sufficient off-street parking provision. The provided plans indicate that off-street parking areas would be provided within the appeal site, and there is no substantive evidence before me that would lead me to disagree with the Council's view that this would be sufficient space within which park three vehicles.
14. Furthermore, on-street parking is available within the area, and although only a snapshot in time, at the time of my visit the demand for this parking was low. Whilst I accept this may not always be the case, there is no substantive evidence before me that would indicate that even if the proposed development would lead to demand for on-street parking, that this demand could not be acceptably accommodated or would result in harm to highway safety. Therefore, this matter is not a determinative factor in my decision.

Conclusion

15. For the reasons given above, I conclude that the planning permission should be varied as set out in the formal decision.

C Harding

INSPECTOR