
Appeal Decision

Site visit made on 7 June 2024

by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2024

Appeal Ref: APP/F0114/W/24/3341990

Homefield, Lower Shortwood Farm, Litton, Radstock BA3 4PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Justin Bernard May against the decision of Bath and North East Somerset Council.
 - The application Ref is 23/02984/REM.
 - The application sought planning permission for the change of use of existing barn for use as a holiday let without complying with a condition attached to planning permission Ref 12/03887/FUL (APP/F0114/A/12/2189770), dated 13 June 2013.
 - The condition in dispute is No 2 which states that: The development hereby approved shall be used for holiday accommodation only and for no other purpose in Class C3, Part C of the Schedule of the Town and Country Planning (Use Classes) Order 1987 as amended. The holiday accommodation shall not be let for more than ten months in any calendar year and to no visitors for more than 28 days in any calendar year, unless otherwise agreed in writing by the local planning authority. Written records of lettings shall be kept available for inspection on request by the local planning authority at all reasonable times.
 - The reasoning given for the condition related to the consideration of the proposal against the policy landscape and other material considerations relevant at the time.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of existing barn for use as a holiday let at Homefield, Lower Shortwood Farm, Litton, Radstock BA3 4PS in accordance with the application 23/02984/REM without compliance with condition 2 previously imposed on the planning permission Ref 12/03887/FUL (APP/F0114/A/12/2189770) dated 13 June 2013.

Application for costs

2. An application for costs has been made by the appellant against the Council. That costs application is subject to a separate decision.

Preliminary Matters

3. The original application, and therefore the subsequent planning permission was described as being for the change of use of a barn to a holiday let. There is no dispute between the parties that a holiday let is a dwellinghouse (use class C3), but with the nature of the occupation restricted by a planning condition. I have no powers to change the description of the original development and therefore the planning permission granted by this appeal must refer to a change of use to a holiday let. This however does not undermine the fact that

the building could be occupied as a dwellinghouse (use class C3), but now without any restricted occupation.

Main Issue

4. The main issue is whether the condition is necessary and reasonable having regard to the location of the site in respect of transport sustainability.

Reasons

5. The appeal site relates to a building which is currently used as a holiday let. It was created as the result of the conversion of a barn following the grant of planning permission in 2013. The building is set back from the road behind two other residential properties and adjoining some agricultural buildings.
6. Policies ST1 and ST7 of the Bath and North East Somerset Local Plan Partial Update (January 2023) seek to ensure that occupiers of a development benefit from a genuine choice in their mode of travel through opportunities to travel by sustainable modes and reduce travel distances.
7. The evidence indicates that the nearest bus service is located over two kilometres away and my observations on the site inspection confirmed that this appeared to be correct. Regular use of public transport would be unlikely. Public services and facilities are located such that most households would need to use a private vehicle, rather than walking or cycling, to utilise them.
8. The use of the building as a holiday let or as a main place of residence would both result in the use of private vehicles for most of the activities of the residents. However, the pattern of trips and the end location for each trip is likely to be quite different. I note that the use of the dwelling as a holiday let is limited to ten months and it is likely that full occupancy is not achieved on a consistent basis. The dwelling is large with a significant number of bed spaces. The submitted evidence indicates that it is sometimes occupied by large groups with multiple vehicles. This is likely greater than would be the case for the number of vehicles used by a single household on a regular basis. However, it is unclear how consistently the building is occupied by large groups with multiple vehicles.
9. No definitive evidence has been provided by either party to demonstrate that overall the volume of trips, in either nature of occupancy, would be different to any material degree. With the dwelling being occupied as a holiday let, it appears likely that lengths of journeys would be greater. This would be both in terms of travel to and from the building at the beginning and end of the holiday, but also travel to visit attractions in the wider local and regional area during the visit. Taking this all in the round, I consider that in terms of transport sustainability either option would likely be broadly comparable.
10. There would be some economic benefits associated with the use of the building as holiday accommodation, such as visits to the nearby public houses and other tourist attractions and facilities in the wider area. Occupation of the building as a main residence would also result in economic activity both very locally and in the wider area. I have no evidence that one form of occupation would be substantially more beneficial than the other. The use of the building as a main residence is likely to add demands to public services, such as schools and health care, that holiday occupation would not. But, there is no evidence that such public services in the local area could not accommodate an additional

single household. Indeed, the development plan includes the requirement to meet the need for new housing, all of which would place demand on public services. Overall, these matters are neutral in assessing any conflict with Policies ST1 and ST7.

11. The occupation of the dwelling as a main residence compared to its use as holiday accommodation would not result in any greater conflict with Policies ST1 and ST7 of the Bath and North East Somerset Local Plan Partial Update (January 2023). These Policies seek to ensure that occupiers of a development benefit from a genuine choice in their mode of travel through opportunities to travel by sustainable modes and reduce travel distances.

Other Matters

12. The appellant has referred to Policy RE6 of the Bath and North East Somerset Placemaking Plan (July 2017) in support of the proposal. This Policy relates to the re-use of rural buildings. It specifically refers to the conversion of buildings to a new use. A holiday let is a dwellinghouse (use class C3). Removing the restrictive condition that prevents the dwelling being occupied fulltime by a single household would not result in a new use (in planning terms) being created.
13. Since the original grant of planning permission, various new local plan documents have been adopted, resulting in the current development plan. Had an application been submitted under the current development plan, to convert this building from its previous agricultural use to a dwelling, Policy RE6 would have been a relevant policy of central importance, although not necessarily decisive on its own.
14. Given the building is currently in a residential use as a dwellinghouse, it is clear that many of the aspects of this Policy, such as those relating to design and ecology, would be satisfied. The most relevant part of the Policy would be subsection 5. This states:

“[Conversion of a building ... will only be permitted, provided] ... where the building is isolated from public services and community facilities and unrelated to an established group of buildings the benefits of re-using a redundant or disused building and any enhancement to its immediate setting outweighs the harm arising from the isolated location”.
15. It would be possible to walk to some facilities, such as the public house, village hall and church in the nearby village of Litton. Public services and community facilities that would serve a wider range of daily needs are more distant and so I consider that this dwelling is isolated from public services and community facilities. However, the Policy also requires that the building be unrelated to an established group of buildings for the planning balance element of the Policy to be engaged. The appeal building is in very close proximity to two other dwellings and a fairly substantial range of agricultural buildings, there is also another dwelling a little to the north west. Therefore, the dwelling is related to an established group of buildings and this part of the Policy would be complied with.
16. Policy RE6 is not directly relevant to the appeal. The building has been converted from a rural building in the relatively recent past and there is an apparent lack of any conflict with the Policy. Therefore, I consider that this is

capable of being a material consideration which could be taken into account in an overall planning balance. Notwithstanding this, given my general finding that there is no conflict with Policies ST1 and ST7, my conclusion on this matter is not decisive in this appeal.

Conditions

17. Other than the condition that is related to this appeal, the original planning permission was subject to only one other condition. This required that the development was commenced within 3 years of the decision date. As the development has commenced, and I have concluded that the disputed condition is not necessary, the imposition of any conditions on this grant of planning permission is not required.

Conclusion

18. For the reasons given above I conclude that the development, without the disputed condition, would accord with the development plan as a whole and that the appeal should succeed. I will grant a new planning permission without the disputed condition.

K Taylor

INSPECTOR