



Appeal Decision

Site visit made on 17 July 2024

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2024

Appeal Ref: APP/E3335/W/23/3330979

1-3 Uphams Barn, Griggs Hill, Stoke Road, Stoke St Gregory, Taunton, Somerset TA3 6JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for 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 Jonathan Coate against Somerset Council.
 - The application Ref is 36/23/0008.
 - The application sought planning permission for change of use and conversion of building to 3 key workers homes without complying with a condition attached to planning permission Ref 36/2007/015, dated 15 November 2007.
 - The condition in dispute is No 18 which states that: The occupation of the units shall be limited to persons solely or mainly employed in The Willows and Wetlands Centre.
 - The reason given for the condition is: The proposal is considered in line with Taunton Deane Local Plan Policy H7 because of its connection to a local rural business.
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Decision

1. The appeal is allowed and planning permission is granted for change of use and conversion of building to 3 key workers homes at 1-3 Uphams Barn, Griggs Hill, Stoke Road, Stoke St Gregory, Taunton, Somerset TA3 6JG in accordance with the application Ref 36/23/0008 without compliance with condition number 18 previously imposed on planning permission Ref 36/2007/015, dated 15 November 2007 and subject to the conditions in the attached Schedule.

Preliminary Matters

2. Following the submission of the appeal against non-determination, the Council has advised that if it had had the opportunity to make a decision, the application would have been refused for the following reason:

'Insufficient evidence has been provided to demonstrate that there is no demand for the rural workers dwellings at the Willow and Wetlands Centre, by persons who could lawfully occupy the properties in the foreseeable future. Additionally, it has not been demonstrated that the proposal meets the sequential test of policy DM2 of the adopted Taunton Deane Core Strategy. The scheme would therefore result in unjustified open market dwellings outside of settlement limits, in an unsustainable location that could, if allowed, lead to unsustainable travel patterns and reliance on a private motor vehicle. As such, the proposal is contrary to Policies CP1(a) (Climate Change), SP1 (Sustainable Development Locations), DM2 (Development in the Open Countryside) of the adopted Taunton Deane Core Strategy and its associated criteria and Policy

H1a (Permanent housing for rural workers) of the Taunton Deane adopted Site Allocations and Development Management Plan.'

Background and Main Issue

3. Planning permission (LPA ref. 36/07/0015) was granted in 2007 for the change of use and conversion of the building the subject of the appeal to three dwellings with a condition restricting their occupancy. Condition 18 of the permission stipulates that the dwellings should only be occupied by persons solely or mainly employed at the Willows and Wetlands Centre ('the Centre'), a commercial basket weaving enterprise, with a visitor centre, tearoom, museum and shop. This appeal seeks the removal of that condition.
4. The main issue in this appeal therefore is whether the condition is necessary or reasonable having regard to the development plan.

Reasons

5. Policy SP1 of the Taunton Deane Core Strategy 2011-2028, adopted September 2012 (CS) directs growth to the most sustainable and accessible locations, with Taunton being a focal point for development. It states that sites beyond identified settlements, are within the designated open countryside. The appeal site is located outside the settlement limit of Stoke St Gregory and is therefore treated as open countryside in respect of Policy SP1 of the CS.
6. Amongst other things, Policy CP1 of the CS seeks to reduce the need to travel through locational decisions. The appeal site is located to the north west of Stoke St Gregory which has a primary school, public house, shop and café, recreation fields, village hall and church. I also saw that there was a bus stop but I have not been provided with details of the services operating from Stoke St Gregory or their frequency. These facilities are all within half a mile of the appeal site and are accessed by walking along an unlit rural lane. However, the walk is relatively level and there are a number of areas offering safe pedestrian refuge from passing traffic. Therefore, although the site is located in the open countryside, there is reasonable access to shops and services required for day to day living such that there would be no conflict with Policy CP1 of the CS if the existing dwellings were to be occupied by persons not employed at the Centre.
7. Policy DM2 of the CS refers to development in the countryside. Subject to relevant criteria, it sets out a variety of uses which the Council would support in locations outside defined settlement limits. The Council refer to the sequential approach in subsection 7 of the policy relating to 'Conversion of existing buildings'. However, the proposal before me is not a conversion proposal. Works to convert the building were carried out pursuant to the 2007 planning permission referred to in the banner heading above. The building before me constitutes three dwellings and the proposal before me is the removal of a condition relating to its occupancy. Therefore, I do not find that Policy DM2 of the CS is relevant to the appeal proposal.
8. Policy H1a of the Taunton Deane adopted Site Allocations and Development Management Plan 2016 (SADMP) relates to permanent housing for rural workers. It permits the removal of occupancy conditions where: i) the dwelling is no longer needed on that unit for the purposes of agriculture or other rural based enterprises; ii) there is no current demand for dwellings for agriculture

- or other rural based industries in the locality; and, iii) the dwelling cannot be sold or let at a price which reflects its occupancy condition for a reasonable period to be agreed with the local planning authority.
9. The wording of the disputed condition is very specific – it permits only those persons who are solely or mainly employed at the Centre. The condition does not permit occupation by persons employed in agriculture or other rural based industry in the locality. As such, even if there was demand for dwellings for agriculture or other rural based industries in the locality, the condition as worded would not permit them to occupy the dwellings. Therefore, no conflict with criteria ii) of Policy H1a of the SADMP arises.
 10. Therefore, I turn to whether the dwellings are no longer needed for the rural based enterprise taking place at the Centre as set out in SADMP Policy H1a i).
 11. I am advised that a number of skilled basket weavers were previously employed at the Centre from Poland and Hungary. The dwellings the subject of this appeal provided housing for them. However, as a result of Brexit, workers coming from overseas have not been employed at the Centre for some time so the need to provide them with accommodation on arrival into the country no longer arises.
 12. The Council argue that the condition is not limited to those employed in the specific task of basket weaving or limited to employees coming from overseas. The condition would permit anyone employed at the Centre to occupy the dwellings and I agree. However, the appellant's letter dated 5 October 2023¹ ('the letter') advises that the units were offered to employees at the Centre rather than specifically to those employed in basket weaving. They also say that the business is now attracting a more local workforce that do not require accommodation on site.
 13. It states in the letter that one of the dwellings has never been occupied by an employee of the Centre (unit 1), one was occupied until early 2023 but is now unoccupied (unit 2) and unit 3 has not been occupied in connection with the Centre since 2014 and has been rented out on the private market instead. In the letter, the appellant sets out that all three units were offered to employees at the Centre when they became vacant. Had there been an employee at the Centre requiring accommodation, it seems unlikely to me that unit 2 would have been left unoccupied.
 14. The Centre has continued to operate in the 17 years since the grant of planning permission for the 3 dwellings and yet the evidence presented indicates that only one of the units has been occupied by a worker at the Centre in recent times. This does not indicate to me that there is functional need for workers accommodation to ensure the continued operation of the enterprise.
 15. Taken together, and on the basis of the evidence before me I am satisfied that the dwellings are no longer needed for the rural based enterprise taking place at the Centre and that criteria i) of Policy H1a of the SADMP is satisfied.
 16. I turn now to criteria iii) of Policy H1a and whether the dwelling cannot be sold or let at a price which reflects its occupancy condition for a reasonable period to be agreed with the local planning authority.

¹ Appendix 7 of the Statement of Case

17. The properties have been rented in the past by employees at the Centre. I have not been presented with any evidence relating to the rental price of the units. However, units 2 and 3 were occupied for a number of years by persons employed at the Centre. The evidence before me indicates that existing tenants moved out when their employment at the centre ceased or they found accommodation elsewhere which was more suited to their needs. The letter indicates that all three units have been offered to employees at various times over the years.
18. There is no evidence before me that the properties have been marketed for sale. Conflict with criteria iii) of Policy H1a therefore arises. Notwithstanding this, the disputed condition limits the occupation of the three dwellings to employees at the Centre. It does not permit occupation of those dwellings by a widow or widower or surviving civil partner of such a person, and to any resident dependants. It also does not permit occupation more widely in connection with agriculture, forestry or other rural based enterprises. The occupancy condition is so tightly framed that the properties could only be sold and occupied by employees of the Centre. In my view this would significantly limit the marketability of the property. For these reasons, I give the conflict with criteria iii) of Policy H1a limited weight. Moreover, for the same reasons I do not consider that the condition meets the tests of reasonableness as set out in the Planning Practice Guidance.

Other Matters

19. The Council refer to Paragraph 84 of the National Planning Policy Framework (the Framework). This relates to the development of isolated homes in the countryside. However, the three dwellings the subject of this appeal are already in existence. In addition, I saw that the appeal site is located within a small cluster of dwellings and that it is a short walk from the facilities on offer in Stoke St Gregory. Accordingly, I do not find that the appeal site can be described as isolated in the context of Paragraph 84 of the Framework.
20. The Council have suggested that the disputed condition could be re-worded to allow occupation of the dwellings by those persons employed in rural businesses nearby or occasional holiday lets in addition to those employed at the Centre. However, I have found that the appeal proposal complies with the development plan as a whole and therefore amending the condition as the Council suggests would not be reasonable.

Conclusion

21. The appeal development is located in the countryside as identified in Policy SP1 of the CS. It is clear that the policy seeks to focus development in the most accessible locations. In this case, I have found that there is reasonable access to shops and services required for day to day living such that there would be no conflict with Policy CP1 of the CS and that Policy DM2 of the CS is not relevant to the proposal before me. I have found no conflict with Policy H1a in terms of criteria i) and ii) but some limited conflict with criteria iii). Overall, I conclude that the appeal development complies with the development plan as a whole and therefore condition 18 is no longer necessary.
22. The guidance in the Planning Practice Guidance makes clear that decisions for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect. Notwithstanding

the conditions suggested by the Council, I shall grant a new planning permission without the disputed condition but retaining those non-disputed conditions from the previous permission either in whole or in part, that still appear to be relevant. I have updated the conditions to refer to the latest version of the General Permitted Development Order.

23. Accordingly, for the reasons given above, I conclude that the appeal should succeed.

Alison Fish

INSPECTOR

Schedule of Conditions

- 1) The area allocated for parking on the approved plan shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.
- 2) Any entrance gates erected shall be hung to open inwards and shall be set back a minimum distance of 6m from the carriageway edge.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no addition or extension to the dwelling(s) unless an application for planning permission in that behalf is first submitted to and approved by the local planning authority.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no further building, garages, structure or other enclosure constructed or placed on the site unless an application for planning permission in that behalf is first submitted to and approved by the local planning authority.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows (other than those expressly authorised by this planning permission) shall be constructed.

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