



Appeal Decision

Site visit made on 22 October 2024

by R Kent BA (Hons) MTP DipM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2024

Appeal Ref: APP/D1265/W/24/3349738

Greenwood Grange, Henchard, Access to Hardys Cottage, Higher Bockhampton, Dorset DT2 8QH

- 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 Mrs Alison Stamper (Dorset Meadows Limited) against the decision of Dorset Council.
 - The application Ref is P/VOC/2024/02581.
 - The application sought planning permission to Make alterations to convert existing tea rooms into 1No. holiday cottage without complying with a condition attached to planning permission Ref 1/E/03/002098, dated 9 December 2003.
 - The condition in dispute is No 2 which states that: The development hereby approved shall be for holiday use only and not for permanent residential occupation.
 - The reason given for the condition is: "The use of the development hereby approved as permanent residential accommodation would be contrary to the local planning authorities policy for the control of development in the rural areas."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's Statement of Case refers to Policy ECON6 of the West Dorset, Weymouth and Portland Local Plan 2015 (the Local Plan). Whilst the policy is not referred to in the reason for refusal, reference was also made to conflict with it in the Officer Report. I have therefore taken the policy into account in my decision.

Background and Main Issues

3. The evidence indicates that planning permission was granted for tea rooms in 1998 which were open to the general public. In 2003, planning permission reference 1/E/03/002098 was subsequently granted to convert the tea rooms into a holiday cottage, known as Henchard, subject to condition 2 which restricts it to holiday use only and not for permanent residential occupation. The appeal proposals seek to allow the property to be occupied without compliance with that condition.
4. The main issues therefore are:
 - Whether the site is a suitable location for an open market dwelling having regard to the proximity of services and to local and national policies relating to the location of new housing; and

- the effect of the proposal on the stock of holiday accommodation in the area.

Reasons

Location

5. The appeal property is a substantial, 4 bedroomed, thatched roof building adjacent to a group of holiday cottages. It adjoins an office and fronts on to a communal parking area and tennis courts. To the west, beyond a line of trees and a hedgerow is a car park serving the adjoining woodland and Hardy's Cottage and Visitor Centre. Although there is a small business park a short distance beyond the site to the east, overall, it is in a distinctly rural location.
6. Local Plan policy SUS2 indicates that outside development boundaries, development will be strictly controlled and restricted to development falling within a limited number of categories. One such category is open market housing through the re-use of existing rural buildings. Policy SUS3 provides the detailed criteria against which the re-use of buildings for open market housing identified in SUS2 might be permitted. When assessed against these criteria, the site does not adjoin a settlement with a defined development boundary nor does it lie within or adjoining an established settlement of more than 200 population. The evidence indicates that the site is approximately 1km from the settlements of Stinsford and Lower Bockhampton and is physically separate from them. Whilst there are other holiday cottages close to the site, the small number of properties and the absence of permanent residents and other services means in my view that they do not constitute a 'settlement' for the purposes of SUS3.
7. The supporting text to SUS2 highlights the problems associated with providing development in locations that have few facilities. In this instance, the rural roads serving the appeal site do not have footways and are unlit. Nor have I seen evidence that the site is served by public transport. As a result, whilst the nearby holiday facilities and business park are within a short walking distance and Kingston Marwood Agricultural College is within cycling distance; access to employment, retail, school and other services further afield would be heavily reliant on the use of the private car, particularly after dark or in poor weather. This would not be consistent with the strategic approach of Policies SUS2 and SUS3 which seek to direct open market housing towards settlements in recognition that dispersed patterns of development make it harder to provide cost-effective local services.
8. The supporting text to Local Plan Policy ECON6 includes "*holiday lets (residential homes restricted to holiday use)*" within the definition of built tourist accommodation for the purposes of the plan. Whilst I recognise that Policy SUS3 would not support the re-use of buildings in this location for built tourist accommodation, the use as a holiday cottage already has planning permission. This was granted a number of years before the adoption of the current Local Plan. The Planning Practice guidance makes clear that under section 73 of the Town and Country Planning Act, I can only consider the disputed condition and not reconsider the original application.
9. The separation of the site from Stinsford and Lower Bockhampton together with the poor pedestrian access, means that the site would be isolated from

those settlements. The National Planning Policy Framework (the Framework) seeks to avoid the development of isolated homes in the countryside unless one or more of 5 circumstances apply. Of those relevant to this appeal, the evidence before me does not demonstrate that the proposed unrestricted dwelling is required to meet the essential needs of a rural worker nor does it suggest that the existing building is redundant or disused.

10. Reference is made to the number of vehicle trips generated by the previous use as a tea room and the existing use for holiday accommodation. Whilst the evidence indicates that the number of vehicle trips generated by the existing use may be at least comparable to the use as an open market dwelling, it also suggests that occupancy levels for Henchard are lower in the winter than the summer. It does not provide an evidence based comparison of the existing number of trips throughout the year and their purpose or destination compared to those which an open market dwelling might be expected to generate. Given its size and location, it is likely that, if I were minded to allow the appeal, future occupiers of Henchard would have more than one car and trips would be generated throughout the year for work, school, shopping, leisure, health care and other purposes. Whilst the site was used as tea rooms prior to its conversion to a holiday cottage, that use ceased when it was converted to a holiday cottage. I therefore cannot conclude on the basis of the evidence before me that the year round use for open market housing would have a more beneficial effect on the patterns or levels of car use than the existing holiday accommodation.
11. I have given careful consideration to the appeal decisions which have been submitted. The Wolverhampton decision is over 10 years old and was assessed against a different development plan. That Inspector noted that the nearest village had a range of local services which is not the case in this appeal. In the Newton Abbot appeal, even though the nearest settlements appear to have had relevant services and public transport, the Inspector still concluded that the appeal proposal conflicted with the relevant development plan policies. I have not seen those policies but the conflict was outweighed by other considerations including parallels to Class Q and the precision and enforceability of the condition in dispute. Similarly, I am not aware of the policies which applied in the Colyton appeal or the evidence before that Inspector regarding travel patterns. In that instance, however, the building had not been used for holiday accommodation for some time and had been marketed as holiday accommodation at a realistic price. Whilst it was concluded that the use as open market housing in that case would have some benefit on local services, I have seen no convincing evidence of that in this appeal. Similarly, I have not seen the detailed evidence or policies on which the Chillaton decision is based.
12. Reference is also made to a planning officer's report relating to a site in Wimborne. Whilst that report includes an extract of another appeal decision, the extract related to the particular circumstances of that case, the full details of which I have not seen. Although that site is also in Dorset, the development plan in that instance was the Christchurch and East Dorset Local Plan and saved policies of the East Dorset Local Plan (2002). That is a different local plan to the current appeal and I have not seen the full wording of the policies it contains.

13. From what I have seen, there is no evidence to indicate that any of these cases are directly comparable to the current appeal which, in any event, has to be determined on its individual merits.
14. As a result, for the reasons given, the site would not be a suitable location for an unrestricted dwelling and the proposal would conflict with Local Plan Policies SUS2 and SUS3 which control development outside defined settlement boundaries; and the Framework's policies regarding rural housing.

Holiday accommodation

15. Whilst Local Plan Policy ECON6 resists the permanent loss of hotels and larger guesthouses, the policy wording itself does not expressly refer to holiday lets. The supporting text, although not policy, highlights the critical support that tourist accommodation provides to the local economy. It indicates that a flexible approach is needed in assessing to what extent the loss of such facilities should be resisted although it would need to be demonstrated that *"real effort has been made to retain the accommodation."*
16. Assessed against the guidance in the supporting text, the appeal evidence indicates that there is a market for the type of accommodation offered at Henchard. It also indicates that users of the accommodation use local restaurants, shopping and various local tourist attractions thereby further supporting the visitor economy.
17. Reference is made to there being over 2750 holiday let properties listed in West Dorset and Weymouth and Portland and to a nearby new holiday village for 1000 holiday homes. No evidence of the demand for holiday lets in the area has been provided and whilst the loss of one unit would not be significant, it would nevertheless represent a reduction in holiday accommodation close to the existing visitor attractions of Hardy's Cottage and the surrounding woodland walks.
18. Notwithstanding this, I have not given the supporting text the same force as the policy, as to do so would conflict with the policy itself. Whilst the proposal would not be consistent with the approach in the supporting text relating to the retention of the stock of built tourist accommodation, Policy ECON6 does not expressly seek the retention of holiday lets. The proposal therefore does not conflict with the policy.

Other matters

19. I have considered whether the condition meets the tests for conditions set out in the Framework. The reason for the condition shows that it was imposed on the basis that permanent residential accommodation would be contrary to the Council's policy for the control of development in the rural areas. It was therefore necessary and reasonable to apply the condition to restrict its use. For the same reason, it was also relevant to planning and to the development being permitted. I am satisfied that, for the reasons given above, the condition continues to satisfy these tests.
20. Reference has been made to the introduction in 2021 of permitted development rights under Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015. Whilst Class MA does allow for the change of use of specified premises to housing subject to various conditions and requirements being met, it is not applicable to the appeal site

which has already been converted to a dwellinghouse, albeit with restricted occupancy. Regardless of whether the sustainability of a location is a consideration for the purposes of Class MA, it is a material consideration when considering an appeal against the refusal of planning permission.

Planning Balance and Conclusion

21. For the reasons given, the conflict with Local Plan Policies SUS2 and SUS3 carries substantial weight. Whilst the proposal would result in the loss of a unit of holiday accommodation, this does not conflict with the wording of Policy ECON6 and therefore carries limited weight.
22. In the absence of clear evidence comparing the vehicle trips generated by the existing holiday accommodation to an unrestricted dwelling, I also attach limited weight to the suggestion that an unrestricted dwelling would be more sustainable than the current holiday use or the previous tea room. For the reasons given, I give the hypothetical use of Class MA permitted development rights little weight.
23. Overall, I conclude that the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

R Kent

INSPECTOR