



Appeal Decision

Site visit made on 27 November 2024

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd December 2024

Appeal Ref: APP/M1520/W/24/3344895

The Oysterfleet Hotel, 21 Knightswick Road, Canvey Island, SS8 9DA

- 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 Oysterfleet Hotel PLC against the decision of Castle Point Borough Council.
 - The application Ref is 23/0603/REM.
 - The application sought planning permission for a detached building providing an additional 17 bedrooms to the Oysterfleet Hotel main building and creation of additional car parking spaces without complying with a condition attached to planning permission Ref 21/0791/FUL, dated 11 July 2022.
 - The condition in dispute is No 4 which states that: *"No guest room shall be occupied by the same person(s) for a continuous period exceeding 28 nights."*
 - The reason for the condition is: *"The accommodation is not suitable for permanent residential occupation due to limited floor areas and the lack of outside amenity space."*
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Decision

1. The appeal is dismissed.

Main Issue

2. The proposal is to remove Condition 4 which would allow the 17 bedrooms to be occupied without any limitation on time. They would be within a block which is not yet built in the south-western corner of the hotel site. The main issue is whether the condition is reasonable and necessary having regard to the standard of accommodation in terms of room size and amenity space.

Reasons

3. The Residential Design Guidance (RDG) contains advice about internal floor areas and amenity space but dates from 2013 and does not have the status of development plan policy. There are also no policies that make use of the nationally described space standard. Therefore, neither this standard nor the provisions of the RDG should be relied upon although they are material considerations. Nevertheless, the National Planning Policy Framework expects that development should have a high standard of amenity for future users.
4. The rooms would have floor areas of between 20 and 28 sq m with no private amenity space. There are small open areas adjacent to the lake and access to its perimeter on footpaths but nothing that would provide the privacy, comfort or function of an exclusive external area. Because of their restricted size and the lack of any outdoor space, the rooms would not be suitable as permanent residential accommodation.

5. The hotel provides for a wide range of occupiers including contractors working away for long periods, those visiting family nearby and tourists. Without further detailed explanation, the 28-day clause is not considered to be a reasonable limit. For families compelled to move out of their houses in an emergency, this restriction could be disruptive but there is no evidence to support this. Although it is said that permanent occupation is not requested, this would be the effect of removing Condition 4 and no alternative limitation on consecutive nights has been put forward.
6. The original permission refers to the building as providing additional bedrooms to the hotel. There is therefore no lawful residential use within Use Class C3. However, each of them has a kitchenette. The appellant describes the rooms as serviced apartments and comments that they would have all the facilities which guests have at home. In theory, if the rooms were used for residential purposes, then a material change of use would occur but this is something of a 'grey area'. The condition provides certainty and precision about the distinction between full-time residential use and short-term occupation. To that end it is necessary.
7. Condition 5 requires the operator to maintain a register of those occupying the rooms, including dates of stay and main home address. Such a condition is not uncommon when required to monitor occupation and it should not be assumed that false addresses would be given. However, without Condition 4, this condition would have limited 'teeth'. It would provide information that could be used in determining whether a material change of use had taken place but there would be no 'yardstick' against which to decide whether that was the case. As such, Condition 5 would not provide sufficient control.
8. Removing the condition would provide more flexibility as to how the rooms could be used and would, in theory, assist the hotel's viability and the local economy. The Framework advises that significant weight should be placed on the need to support economic growth taking into account local business needs but the implications of the proposal have not been quantified. Indeed, given that the development has not taken place, there is no 'track record' to indicate that a 28-day limit on occupation is a significant impediment.

Conclusion

9. There are no relevant development plan policies and therefore paragraph 11 d) of the Framework is relevant. The unsuitability of the rooms for occupation for an unrestricted time is a significant objection. The adverse impact of accepting a poor standard of amenity for future users significantly and demonstrably outweighs the benefits when assessed against the policies in the Framework taken as a whole. This is because the claimed economic benefits and the justification for removing the condition are not compelling.
10. Although there would be no conflict with the development plan, material considerations, including the Framework, indicate that the condition is reasonable and necessary and so should be retained. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR