



Appeal Decision

Site visit made on 10 December 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2025

Appeal Ref: APP/D0121/W/24/3350972

Land Opposite Churchill House, Churchill Green, Churchill, North Somerset BS25 5QH

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Sean Whelan against the decision of North Somerset Council.
 - The application Ref is 23/P/1837/FUL.
 - The development proposed is create new opening for access, new bin store and cycle storage and parking area - change of use - two holiday lets to two dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have been provided with an approved decision notice for another application at the appeal site¹, described as 'proposed erection of bin and cycle storage, alongside the creation of hardstanding and gated access to the west of the site'. This was approved after the refusal of the appeal proposal. Accordingly, I have had regard to this approval insofar as it is relevant to the proposal before me now.
3. The appellant has submitted an amendment to the scheme during the appeal process, which would involve replacing the existing external timber cladding with brickwork. This is a substantive difference from the proposal considered by the Council. It would also be procedurally unfair for me to accept the amended plans as the Council and third parties have not had an opportunity to comment on the replacement of the external materials of the appeal buildings. As such, I cannot accept the amended plans.
4. Council tax bills for the appeal buildings were also submitted during the appeal process. The Council responded to the submission of this additional information by confirming that the planning department were not made aware of council tax bills being issued for the appeal buildings. The issuing of the council tax bills does not demonstrate that the buildings have a lawful residential use, nor has a lawful development certificate been granted to that effect. As such, this additional information is not a determinative factor in my consideration of the appeal.
5. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. Further written comments regarding these changes were submitted by the main parties. This decision is based on the current Framework and has taken account of the further representations made on this.

¹ Application Number 24/P/1588/FUL, approved 1 November 2024

Main Issues

6. The main issues are:

- whether it has been sufficiently demonstrated that the appeal properties are not viable as holiday let units; and
- whether the appeal site is an appropriate location for permanent residential dwellings.

Reasons

Viability of the holiday let units

7. The appeal site consists of two detached holiday lets. Planning permission was granted under planning application reference 14/P/0898/F for the erection of the holiday lets. A condition attached to that permission prevents the buildings being occupied as permanent, unrestricted residential accommodation or as a primary place of residence. That permission was varied under planning application reference 20/P1011/FUL to revise the layout plan, parking layout and the positions of the waste and recycling store and bicycle storage. The occupancy condition was included in the varied permission granted by the Council. The main parties agree that the latter permission is the scheme that was constructed on the site.
8. Policy DM57 of the Development Management Policies Sites and Policies Plan Part 1 (2016) (SPP Part 1) relates to conversion, reuse and new build for visitor accommodation in the countryside. However, a paragraph of the policy provides criteria for the subsequent change of use of new buildings from holiday accommodation to permanent residential use or the removal of conditions for holiday accommodation. If the holiday accommodation was constructed less than 10 years ago, then the policy requires the demonstration that the existing use is unviable. The supporting text to the policy confirms that the aim of the 10 year timeframe included in Policy DM57 is to ensure that any proposal for new holiday accommodation is genuinely seeking to establish a long-term business use as tourist accommodation.
9. The appellant submitted the business accounts and marketing strategy for the holiday lets to the Council with the planning application. However, the Council's Economic Development Team reviewed the information and raised a number of issues with the level of information that had been submitted. It indicated that the information that had been submitted showed that the income almost halved between 2022 and 2023, but no explanation was provided by the appellant for the significant drop in income. Although it was evident that one of the holiday lets had not been available due to refurbishments, it was not explained how the appellant sought to address the drop in income to seek the continued financial viability of the business. The Economic Development Team also mentioned the less than favourable reviews for the holiday lets and that there was no information on the action taken by the appellant to rectify any of these issues as part of attempts to secure the business' long term viability.
10. Collectively, I consider that the concerns of the Economic Development Team, and consequently the Council, are valid. The appellant has not provided any substantial or persuasive evidence with the appeal to counter the shortfalls in the information, as identified by the Council. As such, I am not convinced that the

holiday letting business is genuinely unviable due to a lack of interest in occupying the premises as holiday accommodation. Without evidence to the contrary, it appears that the reduction in income from the holiday lets has resulted from the appellant and their management agents not taking any reasonable and necessary steps to ensure that the business remains viable in the long term.

11. The appellant argues that the Council should have monitored the rent books for the holiday lets to provide them with an ongoing record of the business' income. However, I am not persuaded that it is the role of the Council to monitor the income of businesses in the district. The onus is on the appellant to submit the necessary information with their planning application in order to show compliance with Policy DM57. In these circumstances, for the reasons set out above, the appellant has fallen short in providing robust and sufficient information.
12. My attention has also been drawn to other schemes that were for the change of use of existing buildings to dwellings, some of which were holiday lets. However, I note that the Council has advised that 'the planning applications the appellant refers to correctly did not undertake a viability assessment as they had either been in use as a holiday let for over 10 years, or the existing uses were not holiday lets so did not require a viability assessment to be undertaken'. Nevertheless, the circumstances in each proposal are likely to be different. I have determined this appeal on its own merits and have found harm for the reasons set out above. As such, the permissions referred to by the appellant do not alter my judgement on the appeal before me now.
13. For these reasons, it has not been sufficiently demonstrated that the appeal properties are not viable as holiday let units. Consequently, the proposal would conflict with Policy DM57 of the SPP Part 1, which seeks, in part, that subsequent applications to change new buildings from holiday accommodation to permanent residential use or the removal of conditions for holiday accommodation will not be permitted within 10 years of their construction unless the existing use is shown to be unviable.

Appropriate location

14. The appeal site is outside a settlement boundary and is therefore in open countryside for the purposes of the development plan. Policy CS14 of the North Somerset Core Strategy (2017) (CS) states that development outside the settlement boundaries will only be acceptable where a site is allocated in a Local Plan or where it comprises sustainable development which accords with the criteria set out in the relevant settlement policies.
15. Policy CS33 of the CS sets out that new residential development outside settlement boundaries will be restricted to replacement dwellings, residential subdivision, residential conversion of buildings where alternative economic uses is inappropriate, or dwellings for essential rural workers.
16. Given that it has not been demonstrated that one of the scenarios listed under Policy CS33 applies to the proposed development, the proposal would conflict with that policy. As the proposal conflicts with Policy CS33 and taking into account that the site is not allocated in the Local Plan for residential development, the proposal would also conflict with Policy CS14.

17. The site is some distance from local services and facilities in Sandford and Churchill, including the local schools. The roads from the site to those villages do not have pavements or street lighting. Additionally, I have not been provided with information on cycle routes linking the site to those villages. As such, walking and cycling to and from the site to local services and facilities would not be easy or safe. Particularly during the hours of darkness and inclement weather. In terms of bus services, the appellant has referred to Westlink, which they state can be summoned to a location rather than stopping at a bus stop. However, I have been provided with limited information on how the service functions, including its hours of operation. The use of a private motor vehicle would therefore present the only practical means for residents to access the day-to-day services and facilities.
18. The holiday accommodation will already attract vehicle movements associated with their use by tourists. However, the site does not have easy and safe access to the services and facilities that would support the day-to-day use of the buildings as permanent residential dwellings, such as employment, education and healthcare, and is therefore unsustainable in terms of transport options. Moreover, the Framework prioritises sustainable transport modes and promotes sustainable travel modes that limit future car use. Notwithstanding the existing use of the site, the above factors lead me to find that it is not in a location where new dwellings would be considered acceptable.
19. The appellant has referred to new dwellings that have been constructed outside the settlement boundary of Langford. However, I have not been provided with information about the location of that development, nor have I been given the context around the decision taken to allow the new dwellings. I am therefore unable to make any meaningful comparison between that development and the appeal. The new dwellings referred to by the appellant do not, therefore, alter my judgement on the appeal.
20. For these reasons, the appeal site is not an appropriate location for permanent residential dwellings. Consequently, the proposal would conflict with Policies CS14 and CS33 of the CS, which collectively seek, in part, to steer development to those locations where there are the opportunities for employment, services and transport accessibility and ensure that unsustainable patterns of development are not created through inappropriate development being dispersed into rural areas. The proposal would also conflict with the Framework, insofar as it seeks to achieve sustainable development, including the provision of homes, in a sustainable manner.

Other Matter

21. The appellant has expressed concerns regarding the actions of the Council during the application process, including the lack of a site visit. I also note the allegation that the Parish Council were potentially issued the wrong information as part of the consultation process. Whilst these matters would have caused the appellant some frustration, they do not materially affect my consideration of the planning merits of the appeal proposal.

Planning Balance

22. The Council accepts that it cannot currently demonstrate a five-year housing land supply. It states that the current housing land supply is 3.88 years. In these circumstances, Paragraph 11(d) of the Framework states that permission should be

granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

23. The proposal would result in the provision of two dwellings on the site on a brownfield site. Whilst the evidence indicates that there is a chronic and substantial shortfall in housing delivery in the district and the Framework supports boosting housing supply and the efficient use of brownfield land, the proposal would make a limited contribution to the district's housing supply and therefore attracts moderate weight. There would also be associated social and economic benefits through financial contributions and future residents paying into the local economy. Although these types of benefits are supported by the Framework, given the relatively small scale of the proposal, they are given limited weight in the planning balance.
24. Weighing against the benefits is the conclusion that it has not been sufficiently demonstrated that the appeal properties are not viable as holiday let units and the appeal site would not be an appropriate location for permanent residential dwellings, resulting in a conflict with Policies CS14 and CS33 of the CS and Policy DM57 of the SPP Part 1. The proposal may comply with certain policies contained in the development plan, but given the harm that I have identified, the proposal conflicts with the development plan when taken as a whole.
25. The aim to focus development in rural areas to villages and other settlements is set out in the development plan. This approach is consistent with the Framework, which seeks to promote a sustainable pattern of development and states that sustainable development in rural areas will comprise housing where it is located to enhance or maintain the vitality of rural communities. As the nearest settlements are not easily and safely accessible by means other than private vehicle and the proposal would only provide two dwellings, the proposal would have a very limited impact supporting local services.
26. Given that the development plan policies that I have identified are consistent with the Framework and that there would be a conflict with the policies of the Framework itself, I apportion significant weight to the national and local policy conflicts and associated harm that would be caused by the proposed development.
27. Overall, I find that the adverse impact of the proposed development arising from the unjustified loss of holiday letting and the inappropriate location of the site for permanent residential dwellings would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.

Conclusion

28. For the reasons given above, the proposal would conflict with the development plan and material considerations do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

K Reeves

INSPECTOR