The Planning Inspectorate

Appeal Decision

Site visit made on 15 October 2019

by Kate Mansell BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2019

Appeal Ref: APP/B3438/W/19/3232886
Frimsmoor Croft, Ashbourne Road, Rue Hill, Cauldon Low ST10 3HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mrs J Little against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2019/0100, dated 20 February 2019, was refused by notice dated 17 April 2019.
- The application sought planning permission for the conversion of farm building into holiday/tourism use without complying with a condition attached to planning permission Ref SM94-1109, dated 14 March 1995.
- The condition in dispute is No 2 which states that: *The premises shall be used for short stay holiday accommodation not exceeding four weeks at any one time and for no other purpose including any purpose in Class C3 (dwelling houses) of the Town and Country Planning Use Classes Order 1987*.
- The reason given for the condition is: *The premises are not considered suitable for permanent residential occupation.*

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:

   - Whether the removal of condition 2 would result in a suitable location for permanent residential accommodation having regard to local and national planning policy.
   - The effect of removing the condition on the supply of tourism accommodation in the area.
   - The effect of removing the condition on the character and appearance of the host building and the surrounding area.

Reasons

3. Situated within an area of rolling open countryside, Frimsmoor Croft is a detached stone property set within a generous plot on the south side of Ashbourne Road (A52). The building is positioned towards the back of the plot. It presents a side gable to the road with a small pocket of hedge/tree planting to the front of the property. The remainder of the site is mostly laid out to grass with a hard-core track providing vehicular access from the road.

4. Planning permission for the conversion of the appeal premises from a barn into holiday/tourist use was granted in 1995[1]. It was approved conditionally, including Condition 2, the subject of this appeal. Condition 2 restricts the occupancy of the appeal building to short-let holiday residential use, not exceeding four weeks at any one time.

5. The appellant seeks to remove Condition 2. This would have the effect of granting planning permission for its conversion to a permanent dwelling to meet general demand. A previous application to remove Condition 2 was refused in 2015 and subsequently dismissed on appeal[2].

Policy Background

6. Both parties agree that the Council is presently unable to demonstrate a 5-year supply of deliverable housing sites. Consequently, Paragraph 11(d) of the National Planning Policy Framework (the Framework) and the so called 'tilted balance' is engaged. The proposal should therefore be considered in the context of the presumption in favour of sustainable development.

7. Policy SS1 of the Staffordshire Moorlands Core Strategy Development Plan Document (March 2014) (SMCS) sets out the general principles for development, to broadly contribute to the social, economic and environmental improvement of the area with Policy SS1a reflecting guidance within the Framework cited above.

8. Policy SS6c of the SMCS (2014) sets out the circumstances in which development within 'other rural areas' of the District, such as the countryside, will be considered. Policy R1 of the SMCS relates to all development in such rural areas. It seeks to support rural diversification.

9. SMCS Policy R2 states that other than sites allocated for housing in the Site Allocations DPD, only certain forms of housing development will be permitted in rural areas outside the settlement and infill boundaries of the town and the villages. Policy SS7 relates specifically to the Churnet Valley area as an area for sustainable tourism and rural regeneration.

10. In so far as these policies relate to the location of housing, they are broadly consistent with the Framework's objectives. This includes, to promote development in rural areas by siting housing where it will enhance or maintain the vitality of rural communities and, by identifying opportunities within planning policy for villages to grow and thrive, as well as recognising the intrinsic character of the countryside. To this extent, they can be afforded substantial weight as a result.

Whether a suitable location for permanent accommodation

11. Frimsmoor Croft is outside of the development boundary of a village. Consequently, for planning purposes, it is in the countryside. On the evidence before me, I have nothing to demonstrate that by removing the disputed condition, the property would meet or support any of the particular types of development cited within Policy SS6c of the SMCS (2014), including housing to meet essential local needs, affordable or rural exceptions housing, community facilities, tourist opportunities or rural business/farm enterprises.

[1] Council Ref: SMD/2015/0525
[2] Council and appeal ref: SMD/2015/052 and APP/B3438/W/16/3148726

12. In dismissing the previous appeal to remove Condition 2 cited above, the Inspector concluded that whilst the proposal would re-use an existing building, this aspect of Policy R1, as well as bullet point 5 of Policy R2, relate to the conversion of rural buildings and the appeal property was converted some time ago. I have no reason to come to an alternative view.

13. Moreover, the parties agree that the appeal site already has a residential use, albeit restricted by a holiday let condition. Bullet point 5 of Policy R2 in particular establishes criteria for the conversion of non-residential rural buildings, including in relation to viability. Consequently, these aspects of Policies R1 and R2 are not applicable to the scheme before me.

14. Nevertheless, the appeal proposal would not meet the affordable housing or new dwelling criteria established by Policy R2. Furthermore, Paragraph 79 of the Framework confirms that the development of isolated homes in the countryside should be avoided unless specific circumstances apply.

15. In the previous appeal, the Inspector considered the site to be isolated in the context of the Framework's definition and, from my observations, the physical circumstances of the site are unchanged. It is close to a small group of houses, but the site remains in an area of open countryside to the east of Cauldon Lowe. Waterhouses, the nearest village with limited services, would be approximately 4 miles away. It would principally be accessed via the A52 and A523. Along much of the A52 at least, I saw that there was no footpath or street lighting, making it unlikely that anyone would walk or cycle this distance.

16. Furthermore, whilst there is a bus stop close to the site entrance with connections to Ashbourne and Leek, I have nothing before me to demonstrate that the bus service would provide a realistic alternative to the private car. The use of the building as a permanent dwelling would also change the nature and pattern of travel in comparison to a short-term holiday let, not least in the need to reach services and facilities, including places of work, schools and health provision. I consider that future permanent residential occupiers would typically be reliant on a private car to access day-to-day services. Consequently, I also consider the site to be isolated for the purposes of Paragraph 79 of the Framework.

17. Having regard to the five exceptions within paragraph 79, the appeal does not seek to provide accommodation for a rural worker. Whilst it is a traditional stone built agricultural building, having regard to the definition of a heritage asset within the Framework, I have no substantive evidence, such as a heritage appraisal, to suggest that it has any degree of significance because of any historic interest. It is neither a designated asset nor locally listed. From my observations, the building is also neither redundant nor disused. The proposal would also not involve the sub-division of an existing dwelling, nor do I find it to be of sufficient merit to represent design of an exceptional quality. Consequently, the circumstances for the development of isolated homes in the countryside set out within the Framework do not apply.

18. The appellant has also drawn my attention to other decisions for the removal of holiday conditions that were allowed/approved, where the sites were in a similarly rural location. In the appeal at Oakmoor[3], the site was on the edge of a village and it made use of a redundant building. It was considered to bring

[3] Appeal Ref: APP/B3438/W/17/3171736

improvements to its appearance and to the immediate setting. The Inspector allowed it having regard to the planning balance and the specific circumstances in that case. I have not been provided with full details of the scheme at Rock House Farm[4] to determine the extent to which it might be similar to the appeal scheme. For these reasons, I do not find these decisions to be directly comparable and, in any event, I must consider the proposal before me on its individual merits.

19. I therefore conclude that the removal of Condition 2 would result in unsuitable permanent residential accommodation in the countryside. The proposals would therefore be contrary to Policies SS1, SS1a, SSC6 and R2 of the SMCS (2014) cited above, in so far as they relate to securing appropriate development in respect of the location of new homes. It would also be contrary to guidance within the Framework, which is a material consideration, to avoid isolated homes within the countryside. Consequently, I find the disputed condition both reasonable and necessary.

The supply of tourism accommodation in the area.

20. Following its planning approval in 1995, the appeal site became part of the stock of tourist accommodation in the area, with the economic benefits that this would bring. It also falls within the Churnet Valley, a part of the district especially valued for its natural landscape and history. Policy SS7 of the SMCS (2014) identifies it as an area for sustainable tourism and rural regeneration, giving particular support to visitor accommodation. Additionally, the Council's Churnet Valley Masterplan Supplementary Planning Document (CVSPD) (March 2014) recognises, amongst other aims, the importance of increasing overnight stays as this is the most sustainable for both the environment and the community, and the most valuable economically.

21. I appreciate that there are a reasonable number of other holiday-lets available within the Peak District, or 8-mile radius of the appeal site, in addition to nearby holiday lodge sites. However, along with the appeal site, these would all contribute to the objectives of the CVSPD. Even the 100+ accommodation pods at a nearby leisure complex would extend the offer and range of accommodation locally. Consequently, I am not persuaded that these other facilities either represent an oversaturation of tourist accommodation in the locality or have consequentially led to a decline in trade at the appeal site to justify its loss. Moreover, the newspaper article cited by the appellant does not provide substantive evidence of oversupply. It refers only to the opinion of a local surveying/estate agency firm.

22. Turning to the viability of the appeal premises as part of the supply of tourist accommodation, the overall income from the holiday let evidently dropped substantially in 2014/15. This would appear to coincide with a major outlay on solar panels. I agree with the previous Inspector that these would have been a one-off cost and long-term investment and their inclusion in expenditure does not give an accurate reflection of the viability of the business overall. This would equally apply to the cost in June 2019 of £3660 to replace the roof.

23. I appreciate that the appellant presently maintains and cleans the property for guests, which would reduce expenditure costs that have otherwise increased to cover matters such as flue bills, as well as insurance, public liability and

[4] Council Ref: SMD/2017/0764

general maintenance to approximately £5389.12 per year. There was, however, a reasonable increase in income between 2017/18 and 2018/19 and, as of July 2019, six bookings had produced an income of £2466, an average of £411 per reservation. I have no evidence as to whether this is equitable to other holiday lets within the vicinity. Nor does it clearly demonstrate that peoples' holiday accommodation requirements have changed to make the premises less attractive for this purpose.

24. I also have nothing before me to corroborate the appellant's assertion that the proximity of the property to increasing levels of traffic along the A52, and its location between 2 quarries, with associated lorry movements, has reduced demand. Instead, even with a previously negative review, the 2019 bookings are, nonetheless, indicative of the availability of, and also, some continuing demand for the accommodation.

25. Furthermore, from my observations, the site has particular rural qualities that may well be attractive to staying visitors. Consequently, whilst there may be some economic benefits arising also from permanent occupation, I am not persuaded that there is no prospect of the building being used for its lawful planning purpose as holiday accommodation, nor that it could be viable in its economic contribution to the supply of tourist accommodation locally.

26. I therefore conclude that the removal of Condition 2 would harm the supply of tourism accommodation in the area. It would therefore fail to comply with Policies SS1, SS1a, SS6c, R1 and SS7 of the SMCS (2014). These policies, amongst other matters, seek to promote tourist facilities and development that improves the economic conditions in the area and sustains and diversifies the rural economy. It would further conflict with guidance in the CVSPD (2014) to promote sustainable tourism. In this regard, it would also be contrary to guidance within the Framework to support a prosperous rural economy.

Character and Appearance

27. The appeal property is an attractive detached barn conversion with extensive views to the surrounding open countryside. The grounds within which it is set includes small pockets of mainly hedge planting immediately adjacent to the building. However, the majority of the plot is retained as grass with an open timber fence along the boundary with the adjoining field, retaining its rural agricultural character.

28. I recognise that permitted development rights have been removed from the property by means of Condition 4 attached to the original 1995 planning permission, which allowed for the holiday let conversion. Nevertheless, it is presently not a permanent home. It provides tourist accommodation, which is controlled by the disputed conditions. Consequently, it would be unlikely to be occupied all year round, with gaps in its use. The nature of the proposal as a permanent dwelling would therefore be sufficiently different.

29. Consequently, it would not be unreasonable to infer that its permanent occupation would lead to the domestication of the premises. This might include manicured lawns, landscaping such as borders, plants and patios, play equipment and washing lines, as well as a demand for domestic outbuildings. It would also be likely to lead to increased parking and additional vehicular comings and goings. I concur with the previous Inspector that this would result

in the domestication of the site and detract from the agricultural character of the existing building and the rural nature of the surrounding area.

30. For these reasons, I conclude that the proposal would result in material harm to the character and appearance of the host building and the surrounding area. It would therefore be contrary to Policy DC3 of the SMCS (2014). This policy seeks to resist development that would harm or be detrimental to the character of the local area and wider landscape of the Staffordshire Moorlands.

Other Matters

31. I appreciate the Council's concern that the proposal would set a dangerous precedent for other similar developments. I have not been provided with evidence of similar applications and I am therefore unable to determine with any degree of certainty whether there is any reasonable prospect of similar developments being repeated elsewhere, or the extent to which the cumulative effect would be harmful. If proposals came forward within the locality, they would be assessed in the light of the factors relevant to those cases. On the evidence before me, I am therefore not persuaded that the concern about precedent would offer a basis for resisting the scheme.

32. I also appreciate the appellant's personal circumstances in undertaking the work required in association with the holiday let. I recognise that it would enable the appellant to live in her own property and fund any future care needs. However, in my determination of this appeal, I must consider only the planning merits of the proposal before me.

33. The appellant also contends that should the tourist use cease and an agricultural use be reinstated, the appellant could apply under the Prior Approval process to change the use of the building. However, these would be subject to the statutory planning process and in any event, my role is confined to the proposal before me.

Planning Balance

34. Having regard to the matter of the 'tilted balance', I appreciate that the Government clearly seeks to significantly boost the supply of homes. In this case, however, I do not find the building to be within an accessible location for housing, close to services and facilities and it would, in fact, be isolated. Nor would it have good access to public transport.

35. Furthermore, it lies within the Churnet Valley, where there is specific support for tourist accommodation and planning permission was originally granted for this purpose so that it forms part of the stock of accommodation in the area. Its viability therefore attracts neutral weight as a result.

36. I do recognise that if occupied permanently, the property would be likely to support the local services and facilities all-year round. I have had regard to the representation in support of the proposal, highlighting the relevance of long-term residents to the village shop, pub and school in particular. This would provide some compensation for the loss of the holiday let use. On account of its size, there might also be some social benefit in offering a modest-priced home for sale or rent within the District for those that have found it difficult to get onto the property market locally. It might also offer the opportunity for home working to reduce the need for travel and any additional landscaping as a

result of permanent occupation might contribute environmentally to local wildlife. These factors weigh in favour of the proposal.

37. However, any social, economic or environmental benefits of the scheme would be reduced by the harm associated with its unsuitable isolated location. From my observations, the property is in good condition and I am not persuaded that the site would readily become redundant or disused or that there is no prospect of the property being used for its lawful purpose. Moreover, the benefits arising from one new dwelling and its contribution to housing supply would be very limited.

38. I therefore find that the removal of Condition 2 would result in a dwelling that would not be within a suitable location for permanent residential occupation. I have also found that the removal of the condition would harm the supply of tourism accommodation in the area and it would be harmful to the character and appearance of the host property and the surrounding area. I therefore find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal would not represent sustainable development and the disputed condition is both reasonable and necessary.

Conclusion

39. For these reasons, I conclude that the appeal should be dismissed.

Kate Mansell

INSPECTOR