



Appeal Decision

Site visit made on 20 May 2025

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2025

Appeal Ref: APP/B3438/W/25/3358820

**Hermitage Farm, Holiday Cottage, Froghall Road, Froghall, Staffordshire
ST10 2HQ**

- 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 Mr Christopher Cooke, of Hermitage Farm Holidays Ltd, against the decision of Staffordshire Moorlands District Council.
 - The application Ref is SMD/2024/0272.
 - The application sought planning permission for 'Conversion of barn to holiday accommodation' without complying with a condition attached to planning permission Ref 04/01361/FUL (SMD/2004/0970), dated 20 January 2005.
 - The condition in dispute is No 1 which states that: The premises shall be used for short stay holiday accommodation not exceeding 4 weeks at any one time except during the period 1st October to 31st March when it may be used for class C3 (dwelling houses) of the Town and Country Planning Use Classes Order, 1987 as long as no occupancy exceeds 3 months of any 12 month period. A register of such occupants including details of duration of stay will be kept and made available for inspection by the Local Planning Authority, if requested.
 - The reason given for the condition is: The occupation since the site lies within the open countryside outside settlement boundaries.
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Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. The description of development in the banner heading above is taken from the original planning permission¹ (the original permission), as the more recent planning permission granted in 2005 (the planning permission), which included the disputed 'restrictive occupancy condition', did not repeat that description.
3. The proposal seeks the removal of condition 1 of the planning permission which restricts the use of the barn to mixed-use short-stay holiday accommodation / residential occupation between 01 October to 31 March for no longer than a period of three months of any 12-month period. The appellant seeks to remove the condition to allow the permanent residential occupation of the accommodation.
4. The Council's fourth reason for refusal states a clear conflict has been identified between the proposal and the description of development of the original permission and the planning permission granted later. As such, the Council suggest that the proposal would not be consistent with the description of the development previously permitted, and that granting permission to remove the

¹ Planning Reference: SM99-0224 (now SMD/1999/0944).

restrictive occupancy condition would leave conflict with the description of the permission previously granted.

5. The High Court judgment in the case of *Freddie Reid v Secretary of State for Levelling Up Housing and Communities & Newark and Sherwood DC* [2022] EWHC 3116 (Admin) concerned the removal of a condition restricting the permitted use of the land to holiday accommodation and no other use within Class C3. The judge held that the removal of the relevant conditions would have had no effect on the description.
6. The circumstances of that judgment are similar to the case before me, in that, a holiday home, or holiday let accommodation would fall within use class C3, and by the operation of law (i.e. a lawful change of use to another purpose within the same use class), it could be used as a permanent dwelling. The condition restricted the occupancy of the dwellings, not the primary component of their use as dwellings. Consequently, the removal of the condition would not conflict with the description of development of the original permission. However, this does not alter the need to consider, as a matter of planning judgement, the planning merits of removing the condition.

Main Issues

7. Given the foregoing, the main issues in this case are whether the condition is reasonable and necessary, having regard to the following matters:
 - whether the appeal proposal accords with the development plan strategy for housing and would be in a sustainable location;
 - whether the living conditions of future occupiers of the accommodation would be acceptable, with regard to the provision of outdoor amenity space; and
 - the effect of the proposal on the supply of visitor accommodation in the area.

Reasons

Suitable location

8. The appeal site comprises a stone barn, converted into four mixed use holiday units / rental properties, within a complex of buildings at Hermitage Farm. The site is located in the open countryside, within the Churnet Valley. The surrounding area has a prevailing rural character with an undulating topography.
9. Policy SS10 of the Staffordshire Moorlands Local Plan 2020 (the LP) sets out a strategy for the open countryside and restricts residential development within rural areas, subject to a number of exceptions, including where it can meet the requirements of Policy H1.
10. The appeal property is a Grade II listed building, and the appellant suggests that Policy H1 5) d) is applicable to the appeal scheme. This sets out that the conversion of rural buildings for residential use will be permitted where it would represent the optimal viable use of a heritage asset, or it would be appropriate enabling development to secure the future of the heritage asset.

11. The reason for the current condition was to allow greater flexibility for the occupation of the accommodation. Despite the current condition, the appellant suggests that the holiday let business is not currently viable. In addition, the appellant has encountered a number of problems with the mixed-use occupation of the units. In particular, the appellant suggests that the short-term rental agreements of three months do not align with the Housing Act and the upcoming changes to housing legislation. Therefore, the appellant suggests that should any tenants wish to remain beyond the rental agreement period then there is no legal means to evict them.
12. Notwithstanding the issues encountered by the appellant, and the mixed-use occupation of the accommodation, there is no substantiated evidence to demonstrate that alternative schemes, other than the use for permanent residential dwellings, has been explored by the appellant. Likewise, the level of investment, modernisation and marketing, of the holiday lets is also unknown. Therefore, even though the submitted financial accounts and occupancy rates do appear to suggest that the business is not currently viable, the evidence is limited.
13. Consequently, I cannot be satisfied that the removal of the condition, to allow permanent residential occupation of the units, represents the optimal viable use to secure the future of the heritage asset. No other exceptions have been identified which accord with Policies H1 or SS10 of the LP, and the proposal is contrary to the Council's development plan strategy for housing.
14. Policy T1 of the LP seeks development which, amongst other things, reduces the reliance on the private car for travel, which is consistent with the objectives of the National Planning Policy Framework (the Framework) to prioritise sustainable transport modes.
15. The nearest villages to the appeal site are Froghall and Ipstones. The two villages are both a notable distance from the appeal site. Indeed, access to both villages is along the B5053, Froghall Road. The road is steep and winding in parts with no segregated footway or streetlighting and there is limited forward visibility in places. For these reasons, future occupiers would be discouraged from walking and cycling to access services and public transport opportunities, particularly during hours of darkness and in poor weather conditions. For similar reasons, and variable ground conditions, public footpaths would also not be reliable routes either. This would particularly be the case for families with young children, older people or those with mobility issues.
16. Furthermore, the speed and frequency of vehicles along the B5053 would also discourage walking and cycling along the road. There are limited details of the Moorlands connect service or other evidence that the occupants would have access to a frequent bus service, thereby providing a realistic alternative mode of transport. As a result, the future occupants would be highly dependent on the use of private cars for their day-to-day needs.
17. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Even so, I consider that the site is not readily accessible to the nearest settlements via a range of modes of transport.
18. Undoubtedly, the existing mixed use of the units generates a certain degree of vehicle movements to access services nearby and like many rural locations the

services and facilities which exist in the area would not be sufficient to meet all of the requirements of future residents. However, the removal of the condition would allow the units to be occupied as permanent dwellings, whereby vehicle trips would be more frequent than the existing use. While the difference would be modest, the vehicle trips and a reliance on a vehicle to access services and amenities would be increased, nonetheless.

19. My attention has been drawn to a number of previous planning applications and / or appeal decisions at Rock House Farm², The Lodge³, Alderlee Farm⁴ and Daisy Cottage⁵. In particular, the Rock House Farm application granted the removal of the holiday let occupancy condition, so as to allow the holiday lets to be used as dwellings. The Lodge and Alderlee Farm applications were for the change of use from holiday lets to dwellings. The full details and plans of those cases have not been submitted but the site-specific circumstances between those cases and the appeal scheme before me appear to be materially different.
20. Inevitably, it is the detail and specific context of any development which determines whether it is acceptable in practice. Indeed, the evidence before me suggests that there were material considerations in those cases that do not appear to be comparable to the appeal scheme. As such, those previous cases have limited weight, and I have come to my own judgement based on the specific context of this appeal site, my own observations, and the evidence before me.
21. For the above reasons, I conclude that the appeal proposal does not accord with the development plan strategy for housing, and it is not in a sustainable location. It would thereby conflict with Policies SS1, SS9, SS10, H1 and T1 of the LP.

Living conditions

22. The existing units each have a small, open patio area to the front which is large enough for a small table and chairs. Each patio area has an outlook over the gravelled shared parking area, and they are not private.
23. The units have access to the wider site which includes a large garden area and grounds of approximately three acres. The appellant sets out that the units are not new build dwellings, and the existing arrangements are not uncommon for historic dwellings. Even so, it is not clear on the evidence before me, how the existing arrangements would function as a communal space should the units all become independent dwellings.
24. While the small patio areas are suitable for the existing holiday let / short term rental units, they would fall significantly short of providing a suitable amount of private garden for a permanent home that would be occupied on a long-term basis. Therefore, the lack of a private garden of a suitable size for activities such as sitting out, drying clothes, and for children to play, would be harmful to the living conditions of future occupiers.
25. For the reasons outlined above, I conclude that the living conditions of future occupiers of the accommodation would not be acceptable, with regard to the provision of outdoor amenity space. Therefore, the appeal scheme would not

² Reference: SMD/2017/0764 – Rock House Farm, Town End Road, Foxt

³ Reference: SMD/2016/0770 - The Lodge, Mill Road, Oakamoor

⁴ Reference: SMD/2022/0656 - Alderlee Farm, Gun Hill Road, Meerbrook

⁵ Reference: SMD/2024/0517 – Daisy cottage

accord with Policy DC1 of the LP, which amongst other things, seeks to protect residential amenity.

26. The Council's reason for refusal on this issue also refers to Policy DC2 of the LP which concerns the historic environment. While the building is a Grade II listed building, the appeal scheme does not propose any external alterations, including boundary treatments to create outdoor amenity space. As such, the policy is not clearly related to this main issue concerning living conditions and so is not directly relevant.

Tourist accommodation

27. The four units provide holiday accommodation within the Churnet Valley, but the units can also be occupied as short-term rental accommodation between 01 October to 31 March. The appellant suggests that the occupancy of the units as short-term rental is much greater than the occupation as holiday lets.
28. Policies E4, SS10 and SS11 of the LP seek to enhance tourism in the rural area, particularly within the Churnet Valley. In particular, Policies E4 and SS11 seek to support new tourist accommodation in the area, primarily within sustainable locations. However, these policies do not seek to prevent the loss of tourist accommodation. Therefore, although the loss of the units would inevitably reduce the supply of tourist accommodation in the area, I am not persuaded, in the context of the site's location and the mixed-use nature of the development, that the removal of the condition would be contrary to the development plan strategy for sustainable tourism.
29. For these reasons, I conclude that the removal of the condition would not harm the supply of visitor accommodation in the area. As such, it would not be contrary to policies E4, SS10 and SS11 of the LP.

Other Matters

30. The appeal property is a Grade II listed building, and I have a duty under section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.
31. Taking into account that the appeal scheme does not seek any external alterations, I am therefore satisfied that the proposed removal of the condition would preserve the special interest of the heritage asset. Securing a long-term viable use for the listed building would also help to ensure that the building is managed and maintained appropriately also.
32. The appellant raises concerns about pre application advice that was received from the Council and the handling of the application. However, these matters do not affect my consideration of the planning merits of the appeal proposal.

Planning Balance

33. The Council accept that they cannot demonstrate a five-year supply of housing land. Therefore, the presumption in favour of sustainable development, as set out at Paragraph 11(d) of the Framework applies. In these circumstances, Paragraph 11(d)(ii) of the Framework states that planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably

outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

34. The Framework makes it clear that weight should be afforded to policies of the development plan according to their degree of consistency with the Framework. In this regard, the Framework seeks to direct development towards locations with good access to services and facilities and ensure that sustainable transport modes are prioritised. The Framework also seeks to ensure that developments promote health and well-being, with a high standard of amenity for existing and future users. Therefore, the conflict between the proposal and Policies SS1, SS9, SS10, H1, T1 and DC1 of the LP should be given significant weight in this appeal.
35. The removal of the condition would allow the units to be occupied for long term affordable rental accommodation, which would secure a permanent use for the listed building, which would be a public benefit. However, the weight I attach to this matter is tempered because there is a lack of robust evidence to demonstrate that all efforts have been made to improve the viability of the holiday let accommodation or to explore alternative schemes or uses for the building. Therefore, I attach modest weight to this benefit.
36. In addition, although the appellant sets out that there is a current shortfall of affordable rental accommodation in the area, I have no substantive evidence before me of the need or the level of shortfall in the area. Notwithstanding this, additional housing would contribute to boosting the supply of new housing and re-use of an existing building, as referenced in the Framework. Nonetheless, even within the context of the Council's housing supply shortfall, the contribution of four additional units would attract modest weight.
37. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development does not apply.
38. The removal of the condition would conflict with the development plan read as a whole and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. For these reasons, I conclude that the condition is reasonable and necessary with regard to the development plan strategy for housing and the requirement for permanent dwellings to have an appropriate level of outdoor amenity space.

Conclusion

39. For the reasons given, the appeal should be dismissed.

N Bromley

INSPECTOR