The Planning Inspectorate

Appeal Decisions

Site visit made on 4 December 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 January 2024

Appeal Ref: APP/Z3825/W/23/3329013
Bayley Paddock, Mill Lane, Littleworth, West Sussex RH13 8JU

- 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 Mr Wayne Bayley of Delcraven Ltd against the decision of Horsham District Council.
- The application Ref DC/23/0107, dated 17 January 2023, was refused by notice dated 14 March 2023.
- The application sought planning permission for change of use and alterations to existing stable building to form 1no holiday-let unit (part retrospective) without complying with a condition attached to planning permission Ref DC/22/0181, dated 29 March 2022.
- The condition in dispute is No 5 which states that: The holiday-let accommodation hereby permitted shall only be occupied/operated as holiday accommodation and shall not be occupied by an individual, family or group for more than 4 consecutive weeks in any 8 week period commencing with the first day of letting or by an individual, family or group for more than 4 weeks in any 26 week period commencing with the date of the first letting to their individual family or group.
- The reason given for the condition is: The establishment of an additional independent unit of accommodation would give rise to an over-intensive use of the site and/or lead to an unsatisfactory relationship between independent units of living accommodation contrary to Policies 26, 28 and 33 of the Horsham District Planning Framework (2015).

Decision

1. The appeal is allowed and planning permission is granted for change of use and alterations to existing stable building to form 1no holiday-let unit (part retrospective) at Bayley Paddock, Mill Lane, Littleworth, West Sussex RH13 8JU in accordance with the application DC/23/0107, without compliance with condition 5 previously imposed on planning permission DC/22/0181, dated 29 March 2022 and subject to the conditions listed in the attached schedule.

Preliminary Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal.

3. I have taken the site address from the appeal form as this more accurately identifies the appeal site location, albeit I have removed reference to plot 1.

4. There is a second appeal[1] for this site, and this will be the subject of a separate decision.

5. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether an alternative development proposal[2] is lawful or if the appeal scheme has been lawfully implemented. If the appellant wishes to ascertain whether these uses are lawful, they may make an application under section 191/192 of the Act.

Background and Main Issue

6. The current planning permission restricts the use of the dwelling to a holiday let. The proposal is to remove this restriction so that it can be a C3 Use. The main issue therefore is whether the condition is reasonable and necessary with regard to the location of the site within the countryside and the provision of tourist accommodation.

Reasons

7. The appeal site is occupied by an existing single-storey building within a well-sized plot in the unclassified settlement of Littleworth.

8. Policies 1 to 4 of the Horsham District Planning Framework (HDPF) seek to focus new development in the district's main towns and villages. Policy 1 of the HDPF largely echoes the presumption in favour of sustainable development as set out in the Framework.

9. Policy 2 includes a spatial strategy to maintain the unique rural character of the district whilst ensuring that the needs of communities are met through sustainable growth and suitable access to services and local employment. It focuses development at Horsham and then elsewhere in the district in accordance with a defined settlement hierarchy. This hierarchy is set out in HDPF Policy 3 which permits development in towns and villages.

10. The Council's delegated report confirms the site is located within the settlement of Littleworth, which for the purposes of HDFP Policy 3 is an unclassified settlement. Outside of these built-up area boundaries HDPF Policy 4 supports the growth of settlements in order to meet identified local housing, employment and community needs subject to meeting the specified criteria.

11. HDPF Policy 26 seeks to protect the rural character and undeveloped nature of the countryside. It requires that development must be essential to its countryside location and additionally meet at least one of four criteria, including to enable the sustainable development of rural areas. In meeting any of the specified criteria proposals must be of a scale appropriate to its countryside character and location.

12. Having regard to the reason given for the imposition of condition 5, the use of the property for a permanent residential dwelling would likely result in a similar number of vehicular trips as the approved holiday let. No substantive evidence has been presented to demonstrate that the permanent occupation of the premises would increase activity within the site above and beyond what could be reasonably expected by the holiday let which could be in use year-round.

[1] Appeal Ref: APP/Z3825/W/22/3313313
[2] Planning application Ref: DC/18/1827

13. Furthermore, there is no firm evidence before me that permanent occupation of the property, when considered in the context of the extant permission for a holiday let, would result in an unsatisfactory relationship between independent units of living accommodation. Moreover, the Council, noted in the officer report that the permanent occupation of the building as a residential dwelling would be similar in nature to that of the surrounding land uses.

14. The property has a modestly sized domestic garden and adequate areas for parking and refuge. It is well screened, from many views by vegetation and is located a good distance from other buildings in the vicinity. Limited changes are proposed to the building. The removal of the occupancy condition would not appreciably alter the property in terms of its appearance or permitted function. Its use as general market housing would not therefore harm the rural character and undeveloped nature of the countryside.

15. As noted above, the site benefits from extant planning permission for a dwellinghouse, albeit the permission places a restriction on occupancy. The unrestricted use of the building as a C3 dwelling would not be inappropriate development for the purposes of Policy 26, which seeks to protect the rural character and undeveloped nature of the countryside. As the building already has planning permission for a dwelling, I do not consider that the removal of the occupancy condition would conflict with Policies 1 to 4 of the HDPF.

16. The proposal would also accord with criterion 4 of HDPF Policy 26 as it would enable the sustainable development of the rural area. This is because future occupiers would have access to a range of facilities and services located within Partridge Green. Partridge Green is accessible by bus with a stop located close by on Mill Lane, which runs six days a week into the early evening. Even when the bus is not available future occupiers would be able to walk/cycle to Partridge Green, which is accessible by two routes. Along either route, the road is wide and largely straight, with footpaths available for much of the route. In any event, the accessibility of the site to day to day services would be the same whether for holiday makers or permanent residents i.e., the choice of modes of transport would be the same.

17. The Council have also stated that the proposal has not demonstrated that a business or commercial use would be unviable or unnecessary. In this regard, the Council's officer report identifies Policies 10 and 11 of the HDPF. However, there is no requirement within either of these policies for an applicant or appellant to demonstrate that a business or commercial use is not appropriate or viable. The policy simply says that commercial uses will be looked at more favourably. Additionally, there is no clear evidence before me that a small loss of holiday accommodation would significantly harm tourist accommodation or that there is a shortage of holiday accommodation in the area. Neither has my attention been drawn to any policy requirement for the appellant to demonstrate that there is no need for tourist accommodation in the area.

18. In conclusion, based on the specific circumstances of the appeal proposal, the proposal would therefore accord with Policies 1, 2, 3, 4 and 26 of the HDPF. This is because a dwelling is already permitted in this location, and its unrestricted occupation would not harm the rural character and undeveloped nature of the countryside. The condition in dispute is, therefore not necessary or reasonable to restrict the occupation of the dwelling for holiday let purposes, having regard to the development strategy for the area.

Other Matters

19. My attention has been drawn to a refused application for the conversion of the stable[3] to a dwelling and a number of appeal decisions[4]. Whilst I do not have full details of these schemes, I note that none of the examples given are for the removal of a condition restricting occupancy. Furthermore, many of these appeals raise other matters not relevant to this appeal. In this regard, the examples provided are materially different to the appeal proposal, and therefore I cannot draw any direct comparison that would lead me to a different conclusion.

20. The evidence indicates that proposals in this location may have the potential to result in water neutrality impacts on habitat sites with the Arun Valley Special Area of Conservation, Special Protection Area, and Ramsar Site (the Arun Valley sites). Such sites are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations). Regulation 63 prevents the competent authority from granting permission unless an appropriate assessment can show that there is no reasonable scientific doubt that the proposal will not have an adverse effect on the integrity of European sites. For the purposes of this appeal, I am the competent authority.

21. The Council accepts that an extant permission for holiday accommodation on the site exists. It also accepts that such a permission has been implemented. As the holiday let is a dwelling, the removal of the occupancy condition would not affect water neutrality. On the basis of the evidence, I am satisfied that the unrestricted occupancy of the site would not have a greater adverse effect on the integrity of the Arun Valley Habitat sites.

Conditions

22. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. I shall therefore impose all those that I consider remain relevant.

23. For the avoidance of doubt, other than removing Condition 5 to reflect my findings above and amending the time limit condition to reflect the date of the original permission, I have not made any alterations to the remaining conditions within the 2022 consent. Condition 2, which lists the approved plans and documents, remains necessary and relevant. Conditions on parking, landscaping and external lights are also necessary and relevant in the interests of residential amenity, highway safety and the character and appearance of the area.

Conclusion

24. For the reasons given above, I conclude that the appeal is allowed.

A Hickey

INSPECTOR

[3] Ref: DC/21/2324
[4] Appeals Refs: APP/Z3825/W/22/3313987, APP/Z3825/W/22/3303126, APP/Z3825/W/22/3295552, APP/Z3825/W/22/3306347

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than 3 years from the 29 March 2022.

2) The development hereby permitted shall be carried out in accordance with the following approved plans:
   - 0939.70/01
   - 0939.70/02
   - 0939.70/04
   - 0939.70/05

3) Prior to the first use of any part of the development hereby permitted, the parking turning and access facilities shall be implemented in accordance with the approved details as shown on plan 0939.70/02 and shall be thereafter retained as such.

4) Prior to the first use of any part of the development hereby permitted, the hard and soft landscaping measures, utilising native species planting, shall be implemented in accordance with the approved details as shown on plan 0939.70/02 and shall be thereafter retained as such.

5) No external lighting or floodlighting shall be installed other than with the permission of the Local Planning Authority by way of formal application.

End