

Appeal Decision

Site visit made on 13 February 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2nd March 2017

Appeal Ref: APP/T2350/W/16/3164622

Davis Gate Cottage, Clitheroe Road, Dutton, Longridge PR3 2YT

- 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 and Mrs C Hopwood against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2016/0858, dated 8 September 2016, was refused by notice dated 7 November 2016.
 - The application sought planning permission for conversion of an existing agricultural barn to form a holiday let without complying with a condition attached to planning permission Ref 3/2008/0403, dated 18 July 2008.
 - The condition in dispute is No 7 which states that: *"The unit of accommodation shall not be let to or occupied by any one person or group of persons for a continuous period of longer than 3 months in any one year and in any event shall not be used as a permanent accommodation. A register of such lettings shall be kept and made available to the Local Planning Authority to inspect on an annual basis"*.
 - The reason given for the condition is: *"In order to comply with Policies G1, G5, ENV3, RT1, RT3 and the Policy SPG – "Housing" of the Ribble Valley Districtwide Local Plan. The building is located in an area where the Local Planning Authority would not normally be minded to grant the use of building for a permanent residential accommodation"*.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs made by Mr and Mrs C Hopwood against Ribble Valley Borough Council and by Ribble Valley Borough Council against Mr and Mrs C Hopwood are the subjects of separate Decisions.

Background and Main Issue

3. The condition in dispute relates to a planning permission that was granted in July 2008 for the scheme of development in the heading above. The permission was subject to a condition that the conversion of an agricultural building be restricted to use as a holiday let. The agricultural building was subsequently converted.
 4. The main issue in this case is whether the disputed condition is reasonable and necessary, having particular regard to whether this is a suitable location for an unrestricted permanent dwelling with respect to its proximity to services and
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facilities to meet daily living needs and development plan policies which seek to achieve sustainable patterns of development.

Reasons

5. The removal of the condition in dispute would result in the creation of an unrestricted permanent dwelling. Key Statement DS1 of the Ribble Valley Borough Council Core Strategy 2008-2028 A Local Plan for Ribble Valley (2014) (Core Strategy) sets out the development strategy for the area and mainly directs new housing to the principal settlements of Clitheroe, Longridge and Whalley. In addition, it divides the Borough's 32 villages into two tiers, with the Tier 1 settlements being the more sustainable. In the 23 remaining Tier 2 village settlements, which are the less sustainable of the defined settlements, development will need to meet proven local needs or deliver regeneration benefits. The appeal site lies outside of any village settlement and as such lies within the open countryside.
6. Policy DMG2 of the Core Strategy indicates that development should be in accordance with the Core Strategy Development Strategy and should support the spatial vision. The policy sets out six criteria, at least one of which has to be met, for new development outside of settlements. There is no evidence before me to show that the proposed development satisfies any of the six criteria set out in Policy DMG2.
7. Policies DMH3 and DMH4 of the Core Strategy set out various criteria for the conversion of existing buildings to dwellings. Both policies contain a presumption against the creation of a permanent dwelling by the removal of any condition that restricts the occupation of dwellings to tourism/visitor use or for holiday use. In Policy DMH3 this is on the basis of unsustainability and Policy DMH4 unless it can be demonstrated that the unit would meet an identified/local affordable housing need.
8. The appellants argue that in relation to the conversion of buildings, the development plan pulls in different directions and that the 'blanket' restriction on the removal of holiday let conditions conflicts with the development strategy for the area which is permissive of the conversion of buildings to dwellings in the open countryside. Having regard to the relevant policies, I agree with the appellants that Policies DMG2, DMH3 and DMH4 do allow for the conversion of existing buildings within the open countryside subject to a number of criteria.
9. In this regard, Policy DHM3 sets out that within areas defined as open countryside, residential development will be limited to a number of circumstances including the appropriate conversion of buildings to dwellings, providing they are suitably located and their form and general design are in keeping with their surroundings. Policy DMH4 gives further guidance on the circumstances where planning permission will be granted for the conversion of buildings to dwellings.
10. The Core Strategy does not define suitably located. In that the appeal building is located within a group of existing buildings it is not isolated in those terms within the landscape. Nevertheless, it belongs to a group of buildings that are situated well away from the nearest settlement. In that context, it is in an isolated location where the Council also contends that the building is not suitably located because it does not benefit from adequate access to local services or facilities meaning that occupiers would be reliant on the private car.

There are some limited services available within the nearest recognised settlements of Ribchester and Hurst Green. However, these settlements are some distance away from the site and in any case are classified as less sustainable 'Tier 2' settlements in the Core Strategy. The principal settlement of Longridge, where a greater number of services and facilities can be found is approximately 4.5km west of the appeal site. Given the remote location and distance to services and facilities, I agree with the Council that residents of the dwelling would be heavily reliant on the private car for day to day access to services and facilities which is the least sustainable means of transport

11. Whilst the use of the property as a permanent dwelling might not lead to substantial additional travel by car, I consider that overall its use as a holiday let would not generate as many daily trips as would be associated with permanent domestic occupation. Therefore, notwithstanding the buildings location amongst an existing group of buildings, I am unable to conclude that the appeal site is 'suitably located' which is a requirement of Policy DMH3.
12. Furthermore, I note from the Core Strategy that tourism plays an important role in the economy of the Ribble Valley. Policy DMH4 (4) requires that there should be no detrimental impact on the rural economy as a result of the conversion. The tourism and economic benefits of its use as a holiday let would be lost by its use as a permanent dwelling. It is acknowledged that there are many other holiday lets in the Ribble Valley and in this context the loss of only one may not cause significant harm to the local tourism economy. However, it would have a harmful effect. Therefore, despite according with DMH4 (1) in that the building forms part of an already group of buildings, it fails to accord with Policy DMH4 (4) and the policy as a whole.
13. Notwithstanding the appellants' contentions regarding conflicts within the plan, the Core Strategy has a clear emphasis on new residential development being located in principal towns and Tier 1 settlements with development in the countryside being restricted to that which has particular justification and conversions of buildings where they are suitably located. This accords with paragraph 55 of the National Planning Policy Framework (the Framework) which states, amongst other things, that in order to promote sustainable development in rural areas, local planning authorities should avoid isolated new homes in the countryside unless there are special circumstances. Although the re-use of redundant or dis-used buildings is one such special circumstance, as the building has already been sympathetically restored and retained, the removal of the disputed condition is not needed to secure the conversion or enhancement of the building.
14. Taking the above into account, while I acknowledge that the Core Strategy is permissive of conversions of buildings to dwellings, I consider that the appeal site is not suitably located in relation to access to services and facilities and would not deliver a sustainable pattern of development in accordance with the provisions of the development plan as a whole. The removal of the condition in dispute and the subsequent permanent use of the property as an unrestricted dwelling in the open countryside would fail to sit within the wide definition of sustainable development in the Framework and the principles of sustainability contained in the development strategy for the area.
15. I note the appellants' assertions regarding errors and conflicts in the drafting of the Core Strategy and have had regard to the submitted extract of the Report

on the Examination into the Ribble Valley Core Strategy. It is not my role under a section 78 appeal to return to the examination of the development plan. That said, I acknowledge that Policy DMH4 was amended in line with the modifications requested by the Inspector. There is no evidence before me to suggest that further modifications were requested to Policies DMG2, DMH3 and DMH4. Moreover, the plan was adopted following the publication of the Framework and found to be compliant with it. Having considered the Core Strategy policies brought to my attention I am satisfied that they are consistent with the principles of sustainable development within the Framework. In addition, I note that the Council can demonstrate a 5 year supply of deliverable housing sites and policies relating to the supply of housing can therefore be considered up to date.

16. I therefore conclude that the removal of the disputed condition and granting permission for an unrestricted residential use would be contrary to Policies DS1, DMG2, DMH3 and DMH4 of the Core Strategy which seek, amongst other things, to ensure that residential development is directed to appropriate locations with acceptable access to facilities in order to deliver sustainable patterns of development and to resist the creation of permanent dwellings by the removal of any condition that restricts the occupation of dwellings to tourism/visitor use or for holiday use. Accordingly, I consider that the condition in dispute remains both reasonable and necessary.

Other Matters

17. I have considered the Council's concern, set out in its second reason for refusal that the proposal would set an undesirable precedent for similar proposals which would be contrary to the interest of the proper planning of the area. I accept the Council's general concern in this regard, although limited information with respect to particular sites where this may also be a concern have not been drawn to my attention. Nevertheless, as the appeal is failing on the substantive issue in this case, there is no necessity for me to consider this matter further.
18. I have had regard to the planning history at the site including previous permissions for the use of the barn as a separate dwelling¹ and as part of the conversion of the large adjacent barn as one dwelling². However, both permissions predate the publication of the Framework and the adoption of the Core Strategy by several years and were therefore considered under a different policy context. This limits the weight that can be attributed to them.
19. I note that the original planning permission was granted prior to the adoption of the Core Strategy and the reason for the disputed condition refers to policies which have now been replaced. The appellants suggest that if not for the housing moratorium operated by the Council at that time the conversion of the building to a dwelling would have complied with the development plan. Nevertheless this was not the case and in any event the reason for the condition included that the location of the appeal site would not be one where the local planning authority would be minded to allow a permanent residential dwelling. It is clear that in refusing the current application, the local planning authority remains of this view and in reaching my finding I have assessed the

¹ Planning application ref: 3/2001/0200

² Planning application ref: 3/2001/0710

appeal against the current development plan and guidance within the Framework. Therefore, this matter does not alter my findings.

20. I note that the site is directly adjacent to the Forest of Bowland Area of Outstanding Natural Beauty (AONB). The Council has not raised any concerns in relation to the impact on the character and appearance of the AONB. However, I have a duty to have regard to the statutory purpose of the AONB which the Planning Practice Guidance notes should also apply to the consideration of the impact of development on land outside its boundaries which might affect the setting. The permission already granted has created a domestic use of the property and I see no reason why its use as a permanently occupied dwelling would necessarily now harm the setting of the AONB. However, this does not persuade me to find that the appeal scheme is acceptable as a whole for the reasons already given.

Conclusion

21. Having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Caroline Jones

INSPECTOR