
Appeal Decision

Site visit made on 14 February 2018

by JP Tudor BA (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 16 May 2018

Appeal Ref: APP/W1850/W/17/3184701

Field Barn, Trebandy, Marstow HR9 6HD

- 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 Geoffrey Jordan against the decision of Herefordshire Council.
 - The application Ref 171716, dated 11 May 2017, was refused by notice dated 14 July 2017.
 - The application sought planning permission for change of use and associated works to barn for conversion to holiday let without complying with a condition attached to planning permission Ref DCSE2004/1226/F, dated 9 June 2004.
 - The condition in dispute is No 4 which states that: The building which is the subject of this application shall be used for holiday accommodation only and for no other purpose including any other purpose within Class C of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
 - The reason given for the condition is: The local planning authority are not prepared to allow the introduction of a separate unit of residential accommodation in this rural location.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Herefordshire Council against Mr Geoffrey Jordan. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect that removing the condition would have on the tourism industry, with particular regard to rural tourist accommodation.

Reasons

4. The appellant advises that he bought Trebandy Farm in 1989. It comprised some 125 acres of land, a run-down farm house and a collection of stone farm buildings. A number of the buildings were converted into residential and holiday accommodation use, with all now in permanent residential use apart from Field Barn, a three bedroom property, which lies about 300 metres to the north-east of the main group of farm buildings. The appellant seeks to remove the condition restricting its use to holiday accommodation which would enable

it to become a permanent residential dwelling. It could, therefore, be lived in or sold on that basis.

5. Policy E4 of the Herefordshire Local Plan Core Strategy 2011-2031 (CS)¹ says that Herefordshire will be promoted as a destination for high quality leisure visits and sustainable tourism. It advises that the tourist industry will be supported by a number of measures, which include retaining and enhancing existing tourist accommodation.
6. The appellant confirms that the property has been and remains in holiday let use. Indeed, in relation to a proposal to extend the property, allowed on appeal in 2014², the appellant submitted that the extension would increase the demand for the unit and improve the viability of his holiday let business. Although in that appeal, the appellant submitted that there were a low number of lettings during 2013, the Inspector gave limited weight to that aspect as no further evidence was provided in support. Therefore, Field Barn has been part of the available mix of tourist accommodation for some time and the tourist provision has been enhanced by means of an extension.
7. No evidence has been presented to suggest that it is unviable in its current use as holiday accommodation. Moreover, the planning application form suggested that holiday 'use' would continue. The reason given for seeking to remove the condition was to enable a mortgage to be raised on the property, which is apparently not possible with the holiday tie in place. Whilst it appears from the appellant's appeal statement that circumstances may have changed as the appellant now says that he wishes to live in Field Barn with his family, there is nothing to suggest that its use as holiday accommodation could not otherwise continue and the appellant advises that it remains advertised for that purpose.
8. The Herefordshire STEAM Report formed part of the evidence base for CS policy E4. On the basis of an extract from the STEAM Final Trend Report (SFTR)³, and an email from the Hereford Chamber of Commerce interpreting it, the appellant suggests that there is already a good range of rural self-catering accommodation in the County and that policy E4 is predominantly aimed at increasing hotel and serviced accommodation.
9. However, although policy E4 gives particular encouragement for new hotels in Hereford, it more broadly refers to retaining and enhancing existing, and encouraging new, accommodation throughout the county, which will help to diversify the tourist provision, extend the tourist season and increase the number of visitors staying overnight. Therefore, I do not agree that the policy is predominantly aimed at hotel and serviced accommodation. The fact that there may be a good range of rural self-catering accommodation would not justify a proposal which would reduce that provision, in clear breach of a relatively recently adopted policy. Moreover, the SFTR indicates an increase in serviced and non-serviced accommodation stays, which both make a contribution to the tourist economy.
10. The Council cites an appeal decision relating to New House Farm, Glewstone⁴, issued on 21 December 2016, which also involved the removal of the same holiday let condition, albeit there were other supporting conditions in that case.

¹ Adopted October 2015

² APP/W1850/A/13/2203295

³ 2006-15 (Comparing 2015 and 2014)

⁴ APP/W1850/W/16/3159150

The site considered is not far to the north of the Field Barn appeal site. The Inspector found that the proposal would, in failing to retain existing tourist accommodation, be contrary to CS policy E4 and its objective of supporting Herefordshire's tourist industry and dismissed the appeal.

11. The appellant suggests that New House Farm is some miles away and that, unlike Field Barn, it is not a part of a hamlet like the one at Trebandy. However, although Field Barn shares the same initial access road off the A4137 as the other houses at Trebandy, its access branches off and to the north of the main driveway. Moreover, as it is some 300 metres north-east of the main group of houses, it is physically discrete from them. Therefore, I do not agree that it forms part of that cluster of dwellings.
12. It is also submitted by the appellant that the Inspector in that appeal had insufficient evidence regarding demand for such accommodation whereas the SFTR, submitted with this appeal, confirms that the shortfall relates to the hotel and serviced sector rather than self-catering accommodation. However, as already explained, I do not accept that characterisation of policy E4 or that the SFTR data supports that contention. Therefore, the New House Farm appeal is similar and relevant to the appeal before me and I find the Inspector's reasoning persuasive.
13. The Council has previously approved applications to remove holiday let conditions relating to Daisy's Cottage and The Tractor Shed at Trebandy.⁵ The Council refers to the different circumstances and contexts of those decisions. It also suggests those conditions were less precise in their wording '*rendering them not enforceable or failing to meet the requirements of Government guidance on the use of conditions at the time those applications were assessed and determined.*' However, that is not suggested in the original Officers' reports and no conclusive evidence has been presented to suggest that any of the relevant conditions would be unenforceable.
14. Whilst I do not consider the wording of the respective conditions to be substantively different, the Officer Reports relating to both Daisy's Cottage and the Tractor Shed both refer to their proximity to adjoining or neighbouring buildings already converted to dwellings. That appears to have been a highly significant factor in those approvals whereas Field Barn is not within that complex of dwellings, being some distance away in a more isolated position, as confirmed by the Inspector in the appeal relating to the extension of that property, referenced in footnote 2 above.
15. It is also pertinent that the approval relating to Daisy's Cottage was given in 2012, under a different set of development plan policies, comprising the Herefordshire Unitary Development Plan. Therefore, policy E4 of the CS would not have applied to that application. In the case of the Tractor Shed, although policy E4 is listed as a relevant development plan policy in the Officer's Report, there is no detailed consideration of its content.
16. Therefore, whilst there are some similarities, there are also differences in the context of those Council decisions and the appeal before me. In any event, whilst the importance of consistency in decision-making is acknowledged, I have determined this appeal on its own individual merits whilst taking account

⁵ S1211846/F & 162240

of relevant development plan policies, national guidance and any other material considerations.

17. The appellant refers to compliance with policy RA6 of the CS, which promotes proposals which support the vitality and viability of commercial facilities in rural areas, such as village shops and public houses. However, the continued use of Field Barn as a holiday let, with no seasonal restriction, would provide similar benefits to surrounding facilities. Whilst policy RA6 also supports home working and the retention of existing agricultural businesses, the appellant describes his agricultural business as 'thriving'. Moreover, Field Barn already provides a potential income stream for the farm as tourist accommodation, in accord with the type of diversification of agricultural businesses also supported by policy RA6.
18. I appreciate the particular personal circumstances set out in detail by the appellant and his wish to reside at Field Barn with his family. However, the planning system is more generally focussed on the wider public interest, unless exceptional personal circumstances have been evidenced and are sufficient to outweigh general planning considerations. Overall, I do not consider that to be the case here.
19. Based on his personal experience, the appellant questions whether policies requiring holiday accommodation to be retained and the use of conditions help to support the tourist offer in the county. However, planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.⁶ The CS has been relatively recently adopted and would have undergone a public consultation and examination process to, amongst other things, test its soundness and consistency with the National Planning Policy Framework (the Framework).⁷
20. The above factors lead me to conclude that the removal of the condition would be likely to lead to a failure to retain existing tourist accommodation, resulting in an adverse effect on the tourist economy. It would, therefore, be in direct contravention of policy E4 of the CS. Although the application relates to one holiday let, policy E4 is clear in its wording and the cumulative effect of allowing such applications could lead to a gradual diminution in the diversity and availability of tourist accommodation. That would be contrary to the strategic objective of promoting Herefordshire as a destination for quality leisure visits and sustainable tourism. Therefore, I give significant weight to the conflict with CS policy E4.
21. CS Policy RA6 is also referred to in the Council's decision notice, but consistent with the findings of the Inspector in the New House Farm appeal, I do not find that policy as directly relevant. It is more obviously focussed on employment generating proposals and a range of economic activities and, although it refers to sustainable tourism, it does not specifically deal with the loss of existing tourist accommodation.
22. The appellant states that the Council does not have a 5-year housing land supply (HLS), which appears to be accepted by the Council. However, no evidence had been presented to confirm the extent of the shortfall.

⁶ s38(6) Planning and Compulsory Purchase Act 2004 and s70(2) Town and Country Planning Act 1990

⁷ Published March 2012

Nonetheless, relevant policies for the supply of housing are, by virtue of paragraph 14 of the Framework, considered out-of-date.

23. However, both parties are agreed that the provision of one permanent residential dwelling would make only a small contribution to the housing supply. Given the limited benefits, the adverse impacts of granting permission 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 contained within CS policy SS1 and the Framework does not apply. There are no material considerations sufficient to indicate that the appeal should be determined otherwise than in accordance with the development plan.

Conclusion

24. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed and the condition should be retained.

JP Tudor

INSPECTOR