

Application Number: 19/11538 Variation / Removal of Condition

Site: VALLEY COTTAGE, LYMORE LANE, MILFORD-ON-SEA
SO41 0TS

Development: Removal of conditions 2 & 3 of planning permission 03/78794 for occupation of tourist accommodation as an unrestricted dwelling house

Applicant: Mrs Spenser

Agent: Jerry Davies Planning Consultancy

Target Date: 07/02/2020

Case Officer: Vivienne Baxter

Extension Date: 13/03/2020

1 SUMMARY OF THE MAIN ISSUES

The following are the main issues to be considered when determining this application. These, and all other relevant considerations, are set out and considered in Section 11 of this report

- 1) the principle of development
- 2) Green Belt and countryside issues
- 3) the loss of tourist accommodation
- 4) flood risk issues

This matter is being considered by Committee as the Parish Council have raised a strong objection and there is also an objection from a statutory consultee (Environment Agency)

2 THE SITE

The site lies within the Green Belt and Countryside near the village of Milford on Sea. Part of the site lies within Flood Risk Zones 2 and 3. The application relates to a building that is sited within the curtilage of Valley Cottage. It is a single storey detached former garage building currently in use as a holiday let. Currently the holiday accommodation has its own parking/turning with a garden area with patio to the rear of the building.

3 THE PROPOSED DEVELOPMENT

The proposal seeks the removal of conditions 2 and 3 from planning permission 03/78794 which is for the use of the garage for tourist accommodation. These conditions are as follows:

2. The building shall only be used as holiday accommodation and shall at no time be used or converted to a single dwellinghouse.

Reason: The creation of a separate dwellinghouse in the Green Belt location would be contrary to policies CO-H1 and CO-RB1 of the New Forest District Local Plan.

3. No person shall occupy the building for longer than four consecutive weeks

Reason: The creation of additional residential accommodation in this Green Belt location would be contrary to policy CO-RB1 of the New Forest District Local Plan.

The removal of these conditions would enable permanent residential use of the property which consists of an open plan kitchen/living area, bathroom and bedroom.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description
17/10258 - Variation of Condition 3 of Planning Permission 03/78794 to extend occupancy from 4 weeks to 11 months of the year.	10/05/2017	Refused as it was considered to be contrary to Policy CS10 and DM20.
12/98369 - Removal of Conditions 2 & 3 of Planning Permission 03/78794 to allow use of property March to January in accordance with nearby holiday accommodation.	19/11/2012	Refused as it was considered to be contrary to Policies CS10 and DM20.
03/78794 - Use of garage for tourist accommodation.	16/09/2003	Granted Subject to Conditions
87/NFDC/35173 - Erection of double garage.	05/08/1987	Granted Subject to Conditions

5 THE DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Core Strategy

CS2: Design quality
CS6: Flood Risk
CS10: The spatial strategy
CS19: Tourism

Local Plan Part 2 Sites and Development Management Development Plan Document

DM13: Tourism and visitor facilities
DM20: Residential development in the countryside

The Emerging Local Plan

Policy 12 The South West Hampshire Green Belt
Policy 13 Design quality and local distinctiveness
Policy 27 Tourism

6 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Relevant Legislation

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004

Relevant Advice

National Planning Policy Framework

Chap 12: Achieving well designed places

Chap.13: Protecting Green Belt land

Chpt 14: Meeting the challenge of climate change, flooding and coastal change

National Planning Policy Guidance

Part 7: Flood Risk and Coastal Change

7 PARISH / TOWN COUNCIL COMMENTS

Milford On Sea Parish Council (original comment)

PAR 2: We recommend refusal but would accept the decision reached by the District Council's Officers under their delegated powers.

Following clarification of the description and re-consultation:

PAR 4: We recommend refusal. The Parish Council supports tourism in the parish and would not wish to lose tourist accommodation in the area. It does not consider this converted garage suitable for all year round accommodation.

8 COUNCILLOR COMMENTS

No Comments Received

9 CONSULTEE COMMENTS

The following is a summary of the representations received.

Environment Agency - objection due to lack of appropriate FRA

Comments in full are available on website.

10 REPRESENTATIONS RECEIVED

Four objections have been received from local residents, concerned with the following:

- would set a precedent for others to convert outbuildings into holiday lets and then dwellings
- property couldn't be considered affordable as it has been marketed at £300,000
- contrary to Green Belt policy
- there are drainage issues locally

11 OFFICER COMMENTS

Introduction

The main issues for consideration in this case are as follows:

- 1) the principle of development
- 2) Green Belt and countryside issues
- 3) the loss of tourist accommodation
- 4) flood risk issues

By way of background, since the last application in 2017, the host dwelling (Little Brook) has been sold off and a separate curtilage has been created making the dwelling completely independent from the application building. The application site is not now associated with the adjoining land at Little Brook but is a separate planning unit.

Relevant Considerations

The main issues are considered in turn below.

Principle of development

The site is not located in the built-up area but is located both in the Green Belt and countryside. The principle of development needs careful consideration in relation to these two factors

Green Belt

The proposal is not for the construction of a new buildings which would be inappropriate and harmful within the Green Belt. Paragraph 146 of the NPPF states that certain forms of development are not inappropriate in the Green Belt providing they preserve its openness and do not conflict with the purposes of including land within it. These forms of development include:

(d) the re-use of buildings provided that the buildings are of permanent and substantial construction;

Given the permanent and substantial construction of the existing holiday let, the proposal would fall within this criteria (d) of a form of development that is considered appropriate in the Green Belt as set out in the NPPF

The use of this building as a permanent home would not impact on the openness of the Green Belt as there is no associated built development and although there would be activity associated with the residential use this is unlikely to be so materially different from the current use as a holiday let to have any impact on the openness of the Green Belt.

Consideration also needs to be given to the purposes of including land within the Green Belt set out in Para 134 of the NPPF. Having regard to these purposes, the proposal would not impact on the sprawl of large built-up areas and given its siting to the west of the wooded Avon Water valley, it would have a limited impact on the special character of Milford on Sea. As the proposal does not involve physical built form and is situated within a hamlet with residential properties to the south, east and north, it is not considered that it would result in the merging of neighbouring towns merging or encroach on the countryside.

It is considered that the proposed removal of the restrictive conditions would not result in additional residential development and as such would not be inappropriate development in the Green Belt. As such it would not be contrary to Green Belt policy.

Countryside

This property is located within the countryside Policy DM20 of the Local Plan Part 2 is relevant as it relates to residential development in the countryside. This policy seeks to retain a mix of housing within the countryside to meet different housing needs by limiting the size of extensions, replacement dwellings (subject to floorspace criteria), and only allowing new residential development that is affordable housing to meet a local need, an agricultural worker or a forestry worker dwelling.

In all cases proposals should be designed to respect the character of the countryside and not significantly alter the impact of built development on the site within its setting.

This property was limited to be holiday accommodation only when permission was first granted as an unrestricted use would have created a new dwelling in the countryside contrary to policies that sought to resist such development in the countryside. The removal of the two conditions – relating to the property remaining as holiday accommodation and limiting the maximum occupancy to 4 consecutive weeks - would facilitate the use of the property as a permanent dwelling within the countryside which would not normally be supported.

Whilst policy DM20 does not allow for new residential development in the countryside under such circumstances, in planning terms, the current proposal would not be a "new" residential use as the existing holiday let is within the same use class as a dwelling (C3). As such there is no conflict with Policy DM20, and no harm would result to the countryside.

Loss of tourist accommodation

Core strategy Policy CS19 requires the retention of tourist and visitor facilities, particularly serviced accommodation where the facility supports employment. Policy 27 of the Emerging Local Plan saves this Core Strategy policy with sub-text emphasising the retention of serviced accommodation rather than self-catering accommodation.

Policy DM13 of Local Plan part 2 is not specific in requiring the retention of self-catering tourism facilities but requires an alternative leisure/visitor-based use where hotel or guest house accommodation is no longer viable.

Emerging policy emphasises the retention of serviced accommodation and the importance of extending the length of stay of visitors to the area. The existing accommodation is neither serviced nor enables long stays.

In this instance, the accommodation is a one-bedroom self-catering property which is not considered to provide significant benefits to the local community and any employment benefits are restricted to the maintenance of the property. Given the small scale of the current holiday let and its limited contribution to the local economy, it is not considered to be contrary to policy.

Flood risk

Some of the application site lies within Flood Risk Zones 2 and 3. In these flood risk zones a site-specific flood risk assessment is required for all developments.

Core Strategy Policy CS6 requires flood risk will be considered at all stages of the planning process to avoid inappropriate development in areas at current or future risk of flooding.

Part 7 of the Planning Practice Guidance to the NPPF relates to flood risk and coastal change. Paragraph 30 of the NPPG set out that a site-specific flood risk assessment needs to demonstrate how flood risk will be managed now and over the development's lifetime taking into account climate change and the vulnerability of its users. It should also establish whether a proposed development is likely to add to current or future flooding or increase flood risk elsewhere. The FRA needs to assess whether the measures proposed to deal with these effects and risks are appropriate.

The area of the site within flood risk zones 2 and 3 includes the vehicular access onto the site and the southern corner of the building leaving the access onto the rear patio and majority of the garden outside of these zones.

The Environment Agency have been consulted and they consider that the proposal does represent a change of use. On this basis, have raised an objection to the submitted Flood Risk Assessment. The consider that the FRA does not comply with the requirements set out in paragraph 30 part 7 of the Planning Practice Guidance. This is because no mitigation measures have been considered and there is no assessment of flood risk for the 1 in 100 year for fluvial or 1 in 200 year for tidal or an appropriate allowance for climate change. These deficiencies could be overcome by submitting a revised FRA which covers these points and demonstrates that the development will not increase flood risk elsewhere and where possible reduces flood risk overall. The agent is not prepared to do this stating that this application is for relief of condition only as the property is already a dwelling albeit restricted to a holiday let and that there is no change of use involved.

Consideration therefore needs to be made in the absence of this further information and based on the FRA provided.

The proposal would not increase the number of people present on the site although the occupant/s would be permanent rather than transitory.

The change to the way the property is occupied could not materially increase the flood risk on the site or elsewhere. The risk of the occupants of the building experiencing a flood event remains unchanged. It is the officers view therefore that a reason for refusal on this basis would be difficult to substantiate.

Impact on residential amenity

No physical changes to the property are proposed, there is likely to be some change to the activity associated with the use but this is also not likely to be materially different.

The impact on residential amenity when comparing the current use and the proposed use of the property as permanent residential accommodation would be limited and unlikely to be harmful in its impacts.

Other issues

There have been concerns raised locally in respect of the drainage of the property although it is noted from the original approval for the holiday let in 2003 that the foul sewage is connected to the mains and surface water runs to a soakaway. Whilst a greater strain on the system may be of concern locally, the proposal does not involve any additional bathrooms, toilets or other plumbed facilities and it is not considered to be a planning issue as a result.

As there is no additional residential or overnight accommodation, so Habitat Mitigation contributions are not required.

12 CONCLUSION ON THE PLANNING BALANCE

The proposed removal of conditions would not result in an additional dwelling in the countryside nor significantly impact on the provision of tourist accommodation. In Green Belt terms, the proposal would not conflict with the purposes of Green Belt and it would not harm the openness of this area.

Although there is an objection from the Environment Agency, there would not be an additional residential accommodation as a result but just changes to the restrictions attached to the use. The removal of the conditions as proposed would not materially increase the risk of flooding nor would a flood event have any more impact on the future residents than current occupants. It is therefore concluded that the objection from the Environment Agency is unfounded.

The application for relief of conditions 2 and 3 is therefore recommended for approval

13 OTHER CONSIDERATIONS

Crime and Disorder

N/A

Local Finance

Local financial considerations are not material to the decision on this application.

Human Rights

In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Equality

The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. The Committee must be mindful of this duty *inter alia* when determining all planning applications. In particular the Committee must pay due regard to the need to:

- (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

13 RECOMMENDATION

GRANT the VARIATION of CONDITION

Proposed Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Further Information:

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PLANNING COMMITTEE

May 2020

Valley Cottage
Lymore Lane, Milford on Sea
SO41 7S
19/11538

Scale 1:1250

N.B. If printing this plan from the internet, it will not be to scale.

