

11/01128 Pins Ref 2182113.	Donnington Grove Country Club, Donnington, Newbury, RG14 2LA.	To provide an extension to existing hotel to provide 26 aparthotel units, together with associated landscaping and car park without complying with a condition attached to planning permission Ref 10/00600/COMIND, dated 12 July 2010.	Dele. Refusal	Dismissed 08.01.2013
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Preliminary matter

In the statement accompanying the planning application, the appellant indicated that Condition 10 should be changed by the removal of the last sentence. In the grounds of appeal the appellant sets out an alternative condition which was sent to the local planning authority. This provided that the aparthotel would be unoccupied from 6 January to 5 February in any year and that the building would provide holiday accommodation only which should not be occupied as a permanent primary place of residence. Whilst no formal response was received the appellant states that the Council indicated that it would be unlikely to support the alternative wording.

The appellant's statement indicates that having reviewed the proposal the condition set out in the grounds of appeal would no longer result in the development being viable. The appellant requests that the appeal is considered on the basis of the original application and that Condition 10 is varied to read: -

The 26 aparthotel units hereby approved shall be let and managed only in conjunction with the Donnington Grove Country Club. They shall not be sold as separate dwelling units, and no separate dwelling unit shall be created.

Main Issues

The main issues are whether in the absence of Condition 10, or its variation as sought by the appellant, the proposal would firstly; accord with the policies for development within the countryside and secondly; make adequate provision towards affordable housing, local infrastructure and services.

Reasons

Development within the countryside

Donnington Grove Country Club lies within the grounds of the Grade II listed Donnington Grove in open countryside to the north of Newbury. The parkland grounds are registered as a Historic Park and Garden and the club comprises a golf course with associated facilities including a hotel. The annex the subject of this appeal would be located to the north west of the existing hotel buildings.

An e-mail from the appellant's agent to the Council prior to the submission of the planning application sets out a definition of an aparthotel and the Council report defines the units in the same terms as "serviced, self contained, self catering apartments usually on short term lets". The report refers to an earlier permission for a hotel extension and indicates that the issue for consideration was whether use as an aparthotel would fall within hotel style accommodation or be more akin to Class C3 dwelling house use.

The first two sentences of Condition 10 require a link with the Country Club and prevent the sale of the units but they do not control the use of the proposed development. However the final sentence would prevent the units from being occupied as a place of permanent residence and would bring the use within the definition of an aparthotel. Taking account of that condition and

their association with the golf club the Inspector expected that the units, as permitted, would be occupied for holiday and leisure purposes which would boost the local tourism economy.

In support of this appeal the appellant has submitted the management agreement for the recently permitted development of a former Fish Farm that lies within the appellant's ownership. That agreement provides that the cottages and apartments would be leased on 125 year terms and links the leaseholders' ownership of the dwellings to membership of the country club and golf course. The use of that accommodation would be restricted to private dwellings only and there would be no time-based limitations on occupancy. The appellant indicates that the appeal proposal would be subject to a similar agreement.

The amended condition as proposed by the appellant, combined with the management agreement, would enable the appellant to exercise some control over the aparthotel units; however there would be nothing to prevent them from being occupied as permanent residences. The appellant draws attention to a lack of storage space but the proposed units would provide facilities that would be found in one, two and three bedroom flats within common grounds. There appeared to the Inspector to be no functional reason why they could not be occupied as permanent dwellings and he considered that in the absence of a control over occupancy their use would not fall within the definition of "aparthotel" as originally set out by the appellant's agent. In his view the units would fall within Use Class C3 – dwelling houses.

The Spatial Strategy of the West Berkshire Core Strategy (Adopted in July 2012) (CS) indicates that most housing development will be in or adjacent to existing settlements and that in the countryside outside settlements a more restrictive approach will be taken. It indicates that specific exceptions to this approach could include barn conversions and agricultural workers dwellings to support the rural economy. Area Delivery Plan Policy 1 (ADPP1) indicates that within the open countryside only appropriate limited development will be allowed focussed on addressing identified needs and maintaining a strong rural economy. These up to date policies are consistent with the objectives of the National Planning Policy Framework (the Framework) which indicates that new development should be in sustainable locations and that new isolated homes should not be located in the countryside unless there are special circumstances.

The Framework identifies the principle of protecting the intrinsic character and beauty of the countryside whilst supporting thriving economies within it. This may result in development being permitted for new buildings in the rural area for specific purposes which would not be permitted for other purposes. It is clear from the Council's evidence that permission was granted in this case to enable development that would enhance the facilities offered by the Country Club thereby benefiting the wider tourism/leisure sector of the local economy. The building would have the same appearance as the originally approved structure; however its role within the community and the economy of the area would be materially different.

The development of additional hotel accommodation or apartments specifically developed for leisure use would necessarily need to be located within the existing site. However the proposed residential units would be remote from local shops and services and public transport links and the Inspector considered that a very high proportion of journeys to and from the dwellings would be made by private cars resulting in this being an unsustainable location for new dwellings.

The "Appraisal Report" report prepared for the appellant sets out current issues affecting the economy in general and the leisure/hospitality sector in particular. The report concludes that the development of the aparthotel as permitted would not be a viable business proposition. The report indicates that if the condition was varied as proposed a lump sum capital return would be

generated which would enable the development to be financed. However, whilst the report gives an indication of the cost of the development it gives no indication of the sales revenues that would accrue. There is no indication of any surplus that may arise to support the business which is currently trading at a loss.

The report indicates that the development would secure income streams to the country club through service charges and annual club membership. The Management Agreement indicates that the freeholder would provide two memberships per dwelling with the fees discounted by 50% and that a "reasonable" annual management charge would be payable. No figures have been provided and therefore the Inspector was unable to assess the extent to which the proposal would ensure the future viability of the Club.

The appellant draws attention to the development at Fish Farm Cottages which was underway when he visited the site. The permission (ref 11/00901/FULD) describes that proposal as the redevelopment of existing farm buildings and the drawings submitted by the appellant indicate that it would comprise two and three bedroom units arranged around a courtyard. Those units would provide more spacious accommodation than the appeal units with internal storage areas, utility rooms and separate kitchen/dining rooms and living rooms. With the exception of two units within an existing building those units are indicated to be two storey cottages. The units are described in Condition 11 of the permission as "second homes" but apart from a requirement in that condition that they are let and managed only in conjunction with the Donnington Grove Golf Course, there is no restriction on their occupation.

The officer report on that development submitted by the appellant has a different reference number to the decision notice (ref 07/01093/FULD) and describes the development as a change of use and conversion. The text of the report indicates that the proposal involved the redevelopment of redundant buildings that had already had permission for use as a golf club. The report also indicates that a surveyor's report concluded that in order to ensure the long term viability of the hotel and golf club additional hotel accommodation would be required and that the surveyor's report justified the need for additional hotel accommodation on the site. The Inspector did not have all of the details of the proposal or its planning history but it appears that the development now underway has arisen through a process of an initial scheme to convert the then existing buildings which evolved to a proposal to redevelop most of the buildings.

The Inspector noted the references to the surveyor's report but taking account of the location of the development some 200m from the hotel building, the nature of the units and the planning conditions imposed on the permission, he was not convinced that the development at the fish farm would perform the role of providing additional hotel accommodation. He also noted that the financial appraisal accompanying the appeal proposal makes no reference to the contribution made by this development.

The development of residential accommodation as now proposed on the appeal site would conflict with the CS and would result in residential development in an unsustainable location. The appellant indicates that the proposal would occupy a "brownfield" site but the Inspector considered that the presence of tennis courts does not amount to "previously developed land" as defined by the Framework. The appellant indicates that the main motivation for the aparthotel was the provision of additional income for the country club and funds for future investment. However he had seen no convincing case that demonstrates how this would be achieved. He noted the reference to the fish farm units, but the full circumstances of that development are not clear to him. The amount of development now proposed is significantly greater than that allowed at the fish farm (26 units as compared with 7) and the background to that development, which

originally involved the conversion of existing buildings, is also materially different from appeal site. Whilst that permission is matter of record, he was not persuaded that it justifies the removal or variation of Condition 10.

On this issue, the Inspector concluded that the removal or variation of Condition 10 as proposed would result in the provision of residential accommodation in an unsustainable location and would conflict with the policies of restraint of development within the countryside.

Affordable housing, local infrastructure and services.

Affordable housing

Policy CS6 seeks the provision of affordable housing and the Council Statement indicates that as this is a green field site a 40% provision should be made; however the evidence produced by the Housing Team Leader indicates that a provision of 30% should be made here. The appellant argues that taking account of the viability of the proposal the affordable housing provision should be waived.

The appraisal report does not consider the effects of the provision of affordable housing on the viability of the development. If circumstances arise where the need to provide affordable housing is preventing the development of new housing in a sustainable location then there may be a case for reconsidering the affordable housing requirements. However those circumstances do not apply here and he had seen no convincing justification for waiving the requirement for affordable housing.

Local infrastructure and services

CS Policy CS5 indicates that new development within the District needs to be supported by infrastructure and services and the Council has submitted evidence supporting the need for financial contributions in relation to highways, education, libraries, health, adult social care and public open space provision.

Highways and transportation

The contributions towards highways and transport are calculated using formulae based on the use of the development and the original proposal would make a contribution towards highways infrastructure. In an e-mail of August 2011 the appellant indicated agreement to the higher charge sought for the development based on residential use; however the appellant now considers that the additional amount arising from the variation of the condition would be unnecessary. The appellant does not challenge the formula by which the amount is calculated. In the absence of any reasoned argument the Inspector could see no justification for a contribution that would be less than is normally required for a residential development.

Other services

Taking account of the setting of the development, he considered that the full contribution towards public open space would not be justified, however occupiers may well make use of formal playing pitches and equipped play areas and it would be reasonable to include a requirement for contributions. The appellant argues that in this location the occupiers of the accommodation are unlikely to have children of school age; however there would be nothing to prevent this. The appellant also argues that because of the characteristics of the use, and the proposed Condition 10, contributions towards health, libraries and social care would not be necessary. However he had seen no evidence to demonstrate why this should be the case.

On the basis of the evidence submitted it appears to him that the requirements for contributions towards affordable housing, infrastructure and services satisfy the tests in the Framework and

the provisions of the Community Infrastructure Levy Regulations. Having concluded that the proposal would result in the creation of new dwellings, the Inspector had seen no justification for waiving those requirements and he therefore concluded that the proposal would conflict with the objectives of CS policies CS5 and CS6.

Conclusion

The Framework indicates that where identified needs are not met by existing facilities the provision and expansion of tourist and visitor facilities is an acceptable form of development within the countryside. The planning permission for this development was consistent with that approach and would have resulted in purpose-built accommodation restricted to short term occupation. The amendment or removal of Condition 10 would result in the development of 26 residential units whose use would not be limited to tourist or visitor accommodation.

Government statements indicate the role of the planning system in enabling development with a presumption in favour of sustainable development. However the proposal would result in the development of new homes in an unsustainable location and that development would not contribute to the affordable housing needs of the area or to the full extent of the demands that it would place on infrastructure and services.

The carrying out of the development would represent a financial investment in the area and would be of benefit to the local building and supplies industry; however the encouragement towards development to kick start the economy does not outweigh all other planning considerations. The Appraisal Report indicates that as a stand-alone development the proposal with an amended Condition 10 would be viable but there is no clear indication as to how it would benefit the Country Club. Whilst the development of this site may raise funds for the Country Club and Golf Course business it would not directly contribute to the rural economy by providing improved tourist and leisure facilities.

In his view there is no overriding public interest reason to justify the development of residential units in this location and taking account of all matters the Inspector concluded that the appeal should not succeed.

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