



North Devon Council

Title of Decision Requested: Breach of Condition Notices for Willingcott Valley Woolacombe EX34 7HN case ref 10637

Decision requested by decision maker: Agreement to issue Breach of Condition Notices for units 23, 29, 33 and 70 Willingcott Valley Woolacombe EX34 7HN.

1. BACKGROUND / REASONS FOR THE DECISION REQUEST

1.1. The relevant planning permission which relates to no's 23, 29, and 33 is planning permission reference 7310 granted by the Council on 7 August 1990. Condition 5, attached to permission ref 7310 states,

5 THE HOLIDAY UNITS HEREBY APPROVED SHALL BE OCCUPIED ONLY FROM 15 MARCH TO 15 JANUARY.

5 THE DEVELOPMENT IS NOT SUITABLE TO BE OCCUPIED AS PERMANENT DWELLING UNITS.

1.2. The relevant planning permission to which relates to no 70 is planning permission reference 42508 granted by the Council on 4 October 2006. Condition 4 states,

(4) The development hereby permitted shall not be used otherwise than for the provision of short let holiday accommodation. The property shall not be occupied as a permanent dwelling and shall not be occupied by any one person for a period exceeding 28 days in any calendar year. The owner or operator shall maintain a register of occupants for each calendar year. This shall be made available on request for inspection by any duly authorised officer of the Local Planning Authority.

Reason:

The site is in a location within which new permanent residential use would not be acceptable in policy terms. However, use for holiday purposes only is considered acceptable.

1.3. The units of holiday accommodation at 23, 29, 33 and 70 are being occupied as permanent residential accommodation and not has holiday accommodation. The reasons for issuing the Notice is that sustainable tourism development in northern Devon is focused on qualitative improvements, which could include expansion of existing facilities, such as that recently approved at this site (planning permission ref 70366). Delivery of a quality product, not only through environmental safeguards but also through improved standards in the quality and range of accommodation and attractions, is an important element in achieving sustainable development.

- 1.4. Policy DM18(2) supports Tourism Accommodation where it: (a) is related directly to and compatible in scale with an existing tourism, visitor or leisure attraction; or (b) reuses or converts existing buildings; or (c) improves facilities for or diversifies the range or improves the quality of existing tourism accommodation; and in all cases: (d) the scale and character of the proposal is appropriate to the size of the existing settlement or tourism attraction; (e) the local road network can accommodate the type and scale of traffic to be generated and the safety of public highway users is maintained; (f) is designed to respect and enhance the key characteristics of the relevant landscape character types; (g) identified environmental and heritage assets are not subject to significant harm, are conserved or enhanced, with particular respect to the setting and special qualities of nationally important landscapes, the Undeveloped Coast, biodiversity and heritage designations; and (h) protects and enhances the setting and special qualities of the Area of Outstanding Natural Beauty and provides an overall environmental enhancement when assessed throughout a year.
- 1.5. As with other planning decisions on this site, the Local Planning Authority (LPA) supported the enhancement of this tourism accommodation facility subject to a condition that ensured that the occupancy is restricted to tourist accommodation. This condition was considered necessary and reasonable given that a permanent residential use would not be acceptable in this location.
- 1.6. The site is within the Countryside where development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a Countryside location in accordance with Policy ST07(4) of the adopted Local Plan. Policy ST13 will support high quality tourism development that promotes a year round industry whilst ensuring growth is sustainable and should not damage the natural or historic assets of northern Devon. This is further clarified at paragraph 5.31 which states 'in order to achieve the objective of sustainable tourism, the area's tourism 'offer' must be enhanced.
- 1.7. Given that the site is located within the Countryside. The unrestricted use of the buildings as residential units would not meet a local economic and social need, would not be the reuse of a rural building, and such provision is not restricted to a Countryside location. The buildings subject to this enforcement investigation are within a tourism complex; wherein the planning history shows its growth into a high-quality provision to the local tourism economy. However, the use of these units as unrestricted residential units, within the Countryside, outside of Local Centres, Villages and Rural



Settlements would not result in a sustainable form of development and therefore should be opposed.

1.8. For the above reasons it is agreed that the Breach of Condition Notices should be served.

2. FINANCIAL IMPLICATIONS

2.1. There are no immediate financial costs involved with this action. Should the owners not comply with the Notice served, there may be cost involved with taking prosecution action for non-compliance with the Notice or direct action, but this is a decision which can be made later and will only occur if the owner does not comply.

3. ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED?

3.1. There are no other actions the Council can take to remedy this breach of planning control. The owners and occupiers have not willingly complied with requests to remedy the breach over a long period of time.

4. ANY CONFLICT OF INTEREST DECLARED?

4.1. None.

5. DISPENSATION IF GRANTED

5.1. Not applicable.

6. BACKGROUND PAPERS

6.1. This enforcement case was opened in December 2017 when the Council received a complaint that allegedly at least 12 units on the site were being let on a permanent residential basis rather than for holiday use only which was changing the feeling of the site. Further complaints were received in June 2018 and February 2019.

6.2. An email from Council tax in November 2017 confirmed that units 19, 22, 29 and 54 were occupied on a permanent basis.

6.3. A site visit was carried out on 17 March 2020 with the visiting Officer speaking with the gardener on site. This visit established that several residents were living full time on the holiday village park. The visiting Officer checked land registry records and the owner details had not changed for many years but previous correspondence to the owner had been returned. At this time, the residents living on site were at No 55, 54, 58, 19, 12 and 1.

6.4. Land Registry details were received in July 2021.

- 6.5. In September 2022 the Council contacted the new owner's management company stating that the Council would be investigating the ongoing breaches of planning control at the site, the breaches were non-holiday use of the units (used for sole and main residences).
- 6.6. An email dated 28 September 2022 from the management company running the site confirmed that the following units at 21, 22, 23, 61, 29 and 33 were occupied permanently and were not being used as holiday accommodation.
- 6.7. On 1 March 2023 an email was sent to the management company asking for the names of the occupiers of these units so the Council could progress the breach. An email was received back the same day with the names of the current occupiers at that time.
- 6.8. On 21 March 2023 the management company advised the Council that unit 46 was also being lived in permanently and not used for holiday accommodation. On 22 March 2023 all names of the occupiers currently in permanent occupation were sent to the Council from the management company.
- 6.9. On 27 March 2023 it was confirmed by the management company that unit 22 was now back to holiday rental.
- 6.10. An email was sent to the management company on 29 March 2023 advising that letters had been sent to the following units at 21, 23, 29, 33, 46 and 61 requiring the permanent residential use ceases within 9 months (by end of December 2023).
- 6.11. On 4 April 2023 an email was sent to Council tax asking for information on who was paying domestic council tax at the site and for how long they have been paying for. An email was received from Council tax on 18 April 2023 with the relevant information:
- 21 Willingcott Valley - liable from 1 October 2020, ongoing
 - 23 Willingcott Valley - liable from 1 September 2021, ongoing
 - 29 Willingcott Village - liable from 13 December 2015, ongoing
 - 33 Lower Willingcott - liable from 30 January 2015, ongoing
 - 46 Willingcott Village - liable from 1 August 2021, ongoing
 - 61 Willingcott Village - liable from 18 February 2016, ongoing
- 6.12. Unfortunately, due to staffing and resourcing issues the case wasn't pursued until the current Planning Enforcement Officer came to post and was

in a position to pursue the case further. A review of the case was carried out in November 2023 which set out the history.

- 6.13. Those units occupied on a permanent basis (not complying with the planning permission and relevant conditions):

2017

No 19 – 1 occupier
No 22 – 2 occupiers
No 29 – 1 occupier
No 54 – 2 occupiers

March 2020

No 1
No 12
No 19
No 54
No 55
No 58

2022

No 21
No 22
No 23
No 33
No 29
No 61

2023

No 21
No 22 now back to holiday let
No 23
No 29
No 33
No 46
No 61

- 6.14. The Council wrote to those listed in 2023 and gave them until 1st January 2024 to cease the permanent residential use.

- 6.15. A site visit was carried out with the owner's management company on 27 March 2024 and photographs taken of all the following units.



No 21 Willingcott Valley
No 23 Willingcott Valley
No 33 Willingcott Valley
No 29 Willingcott Valley
No 46 Willingcott Valley
No 61 Willingcott Valley
No 70 Willingcott Valley

- 6.16. The managing company stated no 1 Willingcott Valley was occupied permanently but thought that it had been occupied for more than 10 years.
- 6.17. On 3 April 2024 an up-to-date Land Registry Search was completed for all the above units.
- 6.18. The Planning Officer was consulted, and the relevant planning permissions and red line plans were requested for the site as there appeared to be different permissions relating to different parts of the site. This information was received on 25 November 2024.
- 6.19. On 26 November 2024 additional Land Registry Searches were completed and on the same day letters were sent to the following units 21, 23, 62, 29, 33, 46, 29, 61, 65 and 70. Letters were sent to the named occupiers according to Council tax records and also the owner and/or occupiers.
- 6.20. The letter set out the breach that they were living permanently in holiday accommodation without planning permission and requested the unauthorised permanent occupation cease by 26 January 2025. No response was received from any of the owners or occupiers.
- 6.21. A telephone call with the Council Tax team on 12 February 2025 established the following:
- No 21 –still occupied
 - No 23 – 12 January 2025 new occupier
 - No 62 – second home, owners live elsewhere
 - No 29 – still there (occupied since Dec 2015)
 - No 33 – still there
 - No 46 – second home, owners live elsewhere
 - No 61 – second home, owners live elsewhere
 - No 70 – now occupied
 - No 65 – still occupied

6.22. A compliance visit was completed on 13 February 2025 with the owner's managing agent. Photos were taken confirming delivery of letters.

No 21 – letters posted through letter box (occupier spends winter in Spain so we were told by occupier of No 23)

No 23 – 12 January 2025 new occupier – hand delivered to occupier and conversation had to explain that they couldn't be living here as it was holiday accommodation only.

No 29 – hand delivered to occupier and conversation had to explain that they couldn't be living here as it was holiday accommodation only.

No 33 – no response, letters posted through letter box

No 70 – hand delivered to occupier and conversation had to explain that they couldn't be living here as it was holiday accommodation only.

No 65 – no response, letters posted through letter box (although unit did not appear to be in permanent residential use on looking through windows).

6.23. This visit found clear evidence of continual residential occupancy of holiday accommodation for those above units. The letters delivered to the site on 13 February 2025 stated that as the breach was continuing (permanent occupation of holiday accommodation) the Council were now taking more formal action which may include a Breach of Condition Notice. This letter also enclosed a copy of the previous letter sent to them and a letter from the Council's Housing team offering advice and information on housing options.

6.24. Following receipt of this letter the owner of no 65 confirmed that the unit was now used as holiday accommodation and an alternative sole and main residence address elsewhere in the UK was provided to the Council.

6.25. The owner of no 21 similarly provided evidence to the Council that it was only used for holiday accommodation and an alternative main and sole residence was provided abroad where the owner spends most of their time now following retirement. The Planning Officer considered these two units did not require a Breach of Condition Notice considering the information provided to us.

7. CONSULTATION UNDERTAKEN

7.1 The Lead Planning Officer Matthew Brown and the Planning Officer Steve Emery have been consulted. Steve Emery has instructed the Planning Enforcement Officer to issue the Notices and drafted the reasons for issuing.

8. OFFICER REQUESTING DECISION TO BE TAKEN: Stacey Salter, Planning Enforcement Officer



9. NAME OF DECISION TAKER: Tracey Blackmore Service Manager
(Development Management): Head of Planning, Housing and Health

10. DATE DECISION TAKEN: 28th March 2025

11. APPROVED BY DECISION TAKER: Yes / No (~~*Please delete as appropriate~~)

12. DECISION TAKER'S COMMENTS: