
Appeal Decision

Site visit made on 31 October 2016

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

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

Decision date: 21 November 2016

Appeal Ref: APP/G2713/W/16/3155479

Langbaurgh Farm, Great Ayton, North Yorkshire TS9 6QQ

- 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 Mrs Mary Leonard against the decision of Hambleton District Council.
 - The application Ref 15/02282/MRC, dated 8 October 2015, was refused by notice dated 30 June 2016.
 - The application sought planning permission for the variation of condition 7 of planning permission Ref 03/02265/FUL dated 13 September 2004 (Conversion of agricultural buildings comprising of one storage unit, holiday units and a single dwelling with an office).
 - The condition in dispute is No 7 which states: "The occupation of the holiday accommodation hereby approved shall be restricted to holiday visitors only and no person or persons shall occupy the accommodation for more than eight weeks consecutively."
 - The reason for condition No 7 is "The Local Planning Authority does not consider that the accommodation is suitable or properly located for permanent residential use in accordance with Hambleton District Wide Local Plan Policy EM11."
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal is to remove condition 7 of the original permission to allow the buildings, which are grade II listed, to be used as three independent dwellings.
 3. In considering whether to grant planning permission special regard has to be given to the desirability of preserving a listed building or its setting, or any of its features of special architectural or historic interest. Although the Council does not refer to this matter I must give it particular consideration.
 4. The converted barns form an attractive group of former agricultural buildings dating from the 18thc and are understood to have been used as a tannery in the 19thc. The Council refers to the proposal as making "few externally visible changes". However neither the application form, submitted plans nor the accompanying design and access statement (DA) shows any proposed physical changes within the appeal site. Off-street parking appears to be communal and no subdivision or new boundary treatment is proposed.
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5. The DA confirms there would be no alterations to the buildings or to the existing landscaping (which I take to include hard landscaping) of the site. The appeal is therefore determined on that basis. However it is unclear to me how in the long term the historic or architectural significance of the buildings, including their value as a group might be affected by pressure for further development to define their separate occupation. It is entirely possible that further information from the parties might have resolved my concerns but if so, this would not in any event affect my conclusion on the main issue, and so it is not necessary to consider the matter further in this appeal.

Main Issue

6. The main issue is whether the proposed development is sustainable having regard to its location outside the development limits of Great Ayton.

Reasons

7. The holiday cottages are sited to the west of Langbaurch Farm. The site is located beyond the north-west outskirts of Great Ayton, about 120m from the road. It is outside the development limits of the village as set out in the Hambleton Local Development Framework Core Strategy 2007 (CS). CS Policy CP4 describes specific cases where development could be permitted in principle outside settlement limits, for example to provide affordable housing to meet a local need. However the proposal would not provide for any particular rural need set out in the exceptions to the policy.
8. The National Planning Policy Framework (Framework) Paragraph 55 now advises that housing should be located where it will enhance or maintain the vitality of rural communities. In response the Council adopted Interim Policy Guidance (IPG) to give more support to the sustainability of rural communities. Small scale development would be permitted under certain conditions next to the main built form of villages.
9. However the appeal site is a considerable distance from the edge of the settlement and, being also separated from it by a main road, in my view the proposal insufficiently relates to the village for it to be supported by this guidance. The IPG is not part of the development plan, however it is a considered response to, and consistent with the aims of the Framework so has moderately significant weight in this appeal.
10. In addition I consider that in terms of Paragraph 55 of the Framework it is an isolated location due to the distance from built up areas of the village. There would be some support for village services in a permanent residential use for the cottages, but this would not in my view outweigh the potential benefit to the local economy from their use in connection with tourism. No case is made for any of the limited exceptions to apply as set forth in Paragraph 55.
11. The appellant states that demand for the cottages as holiday accommodation has reduced dramatically and they are no longer viable. However there is no supporting information that would enable me properly to evaluate this assertion, to which I must therefore give limited weight.
12. The presence of the nearby holiday park may have affected the appellant's business but this is not explained in any detail and, as the Council points out, given the limited accommodation in that operation there is no reason to suppose that both businesses could not be mutually supportive. The appeal

- site is established by the original permission as suitable for a tourism use and no evidence in this appeal suggests that it does not continue to be so suitable.
13. Reference is made to a recent development of 123 dwellings at Nunthorpe. This may show that residential properties in the wider area are generally in demand, but otherwise that scheme is not comparable to the appeal proposal as it is some 3-4 miles north of Great Ayton and forms part of a built up area.
 14. One of the cottages would become the home of the appellant's disabled elderly mother who would be cared for by the family. The Council has not addressed this matter; however the mother is understood to need constant care and would benefit from independent living, with her carer close by.
 15. I sympathise with the desire to provide for the needs of the appellant's family. National Planning Practice Guidance (nPPG) advises that there may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could be justified because of who would benefit from the permission. On the limited information available however, I am not persuaded that there is such an exceptional need or that if it did exist, it would not be outweighed by the harm that would be caused by a permanent dwelling in this location contrary to national and local policy.
 16. Similarly, nPPG advises that a condition that would restrict occupation solely on grounds of an individual's personal circumstances will scarcely ever be justified in the case of permission for the erection of a permanent building.¹
 17. I conclude that the proposal would be in an unsustainable location outside village settlement limits where no exceptional case has been made for it, contrary to CS Policies CP1, CP2 and CP4. These policies, among other matters seek the efficient use of infrastructure, including a sustainable mix of uses; focus on the need to minimise the need to travel, and aim to locate new housing close to existing facilities. The proposal would also result in new isolated homes in the countryside contrary to Paragraph 55 of the Framework.

Other matters

18. Support for the proposal from nearby residents is noted, however this factor does not diminish the harm identified.
19. The Council indicated that lack of an affordable housing contribution would form a second reason for refusal. In the event the application was delayed by 6 months during which time the Court of Appeal issued its decision² which ultimately had the effect of reinstating government policy that schemes of up to 10 houses should normally be exempt from making affordable housing contributions.
20. The appellant sent emails requesting updates to the affordable housing position. She then received a reply in June 2016 that the Government had won its appeal and "as a result the affordable housing requirement would no longer apply in this case." I have no information that the Council's own policy had changed as a result of the judgment. Significant weight should be attached to the government policy but a decision made other than in accordance with the

¹ Paragraph: 015 Reference ID: 21a-015-20140306

² Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441.

development plan would depend on the evidence submitted. In any event as it appears that the Council does not seek a contribution in this appeal it is unnecessary to consider this matter further.

Conclusion

21. For the reasons given above and having regard to all other matters raised, the appeal is dismissed.

Grahame Kean

INSPECTOR