

Appeal Decision

Site visit made on 7 November 2016

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 12th December 2016

Appeal Ref: APP/J0405/W/16/3154306

**New Dairy Farm, Stewkley Road, Cublington, Buckinghamshire
LU7 0LS**

- 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 carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs M Calamassi against the decision of Aylesbury Vale District Council.
 - The application Ref 16/01137/APP, dated 24 March 2016, was refused by notice dated 20 May 2016.
 - The application sought planning permission for retention of original farm house for additional family tourist accommodation without complying with a condition attached to planning permission Ref 10/01670/APP, dated 30 September 2010.
 - The condition in dispute is No. 8 which states that:
"Within one month of the occupation of the dwelling hereby permitted the existing dwelling on site shall be demolished and all debris and materials arising therefrom removed from the site".
 - The reason given for the condition is:
"For the avoidance of doubt and because the Local Planning Authority would not accept an additional dwelling on this site due to the open countryside location and in accordance with PPS7".
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs have been made by Mr and Mrs Calamassi against Aylesbury Vale District Council and by Aylesbury Vale District Council District Council against Mr and Mrs Calamassi. These applications are the subject of separate Decisions.

Background and Procedural Matters

3. Planning permission was granted in September 2010¹ for a replacement dwelling at New Dairy Farm. The dwelling is a substantial property set well back from Stewkley Road and the permission is subject to a condition requiring the demolition of the existing dwelling, which is a part single, part two storey dwelling located much closer to the highway, within one month of the occupation of the replacement.

¹ 10/01670/APP

4. On the evidence before me the appellant began occupation of the replacement dwelling in March 2016. Although a specific date has not been provided it would appear that the condition was breached after the planning application for its retention was made on 24 March 2016. The appellant does not dispute that the condition meets the relevant tests for the imposition of conditions but now seeks to now retain the dwelling as tourist accommodation. Consequently, the proposal is to effectively remove condition 8 of the relevant planning permission and I have therefore dealt with the appeal under s73².
5. The reason for the original condition refers to PPS7 which has since been superseded by the National Planning Policy Framework ('the Framework'). However, I am required to determine this appeal on the basis of the development plan and national policy which are in place at the time of my decision and accordingly, I have determined the appeal on that basis.

Main Issue

6. Given the above, the main issue is whether in the absence of condition 8, the retention of the existing dwelling would be acceptable, having regard to relevant local and national policies regarding development in the countryside, as well as the effect on the character and appearance of the area.

Reasons

7. The Framework, at paragraph 55 advises that rural housing should be located where it will enhance or maintain the vitality of rural communities. New isolated homes in the countryside should be avoided unless there are special circumstances, including the essential need for a rural worker to live permanently at or near to their place of work, or the development would re-use redundant or disused buildings and enhance the immediate setting.
8. The appellant challenges whether paragraph 55 is relevant as the proposal is for a commercial operation in the form of tourist accommodation. However, the dwelling would ordinarily afford the facilities required for day to day private domestic existence and is likely to be occupied by groups and families, who, during their stay would constitute a single household. It would have many of the attributes of a new dwelling and I note from the accompanying 'Planning Appraisal Statement' that it would be provided with all of the normal furniture expected in a three bedroom house and the kitchen and bathroom will be fully fitted out. In my view and in this particular case, it should be considered as a dwellinghouse for planning purposes, notwithstanding the condition restricting its occupation for no more than 28 days in a six month period by the same person or persons, as suggested by the appellant.
9. The appeal site is located outside of any defined settlement boundary and within open countryside. Despite the presence of other development within the vicinity of the dwelling, it was evident from my site visit that it is remote from services and facilities. The village centre of Cublington is technically within walking distance but access would be along an unlit and narrow rural road and it would not therefore be an attractive route for pedestrians. The appeal site is not therefore accessible by a range of transport modes and future occupants would opt to use private cars in order to access day to day facilities, services and attractions further afield. In this regard, it would be functionally isolated.

² The Town and Country Planning Act 1990 (As amended)

10. Furthermore, I have no evidence before me that the proposal would result in any meaningful enhancement or maintenance of the vitality of rural communities. The appellant's point that the Framework supports the growth and expansion of all types of business and enterprise in rural areas does not overcome the preclusion to isolated new homes in the countryside set out in paragraph 55. Indeed this policy preclusion is an important and significant constituent element of the Framework.
11. Were I to allow the appeal, it would result in the retention of the original dwelling which would be a net increase of one dwelling which was not envisaged by the original permission. That permission was only granted because it was a replacement and in planning terms the proposal would result in the creation of a new dwelling in an area where such development is not normally allowed and is subject to different planning policies and constraints.
12. Turning to character and appearance, the area is defined by the open rural landscape which surrounds it, resulting in the appeal site having a strong connection to the open countryside. The site also lies within an Area of Attractive Landscape as designated within the Aylesbury Vale District Local Plan ('AVDLP') that consists of a series of low, generally open and undulating hills that combine to form a strong rural and agricultural landscape.
13. The replacement dwelling is located to the rear of the existing dwelling and whilst it is some distance from the highway, its substantial scale and bulk is clearly conspicuous from it. Given the undulating topography of surrounding land it is also visible in wider views. The retention of the existing dwelling along with the much larger replacement dwelling and its associated detached garage would result in the further intensification of residential development within the site. This would amount to the proliferation and spreading of substantial built form within the countryside that would be at odds with the character and appearance of this rural area and the openness of the landscape.
14. The Framework supports the re-use of redundant or disused buildings where this would lead to an enhancement to the immediate setting but I do not consider that this is the case here as the dwelling is required to be demolished by condition. As such it should not be classed as redundant or disused. Furthermore, the intensification of development in the form of two dwellings of a markedly contrasting design and appearance would not lead to an enhancement. I also do not share the appellant's view that the retention of the dwelling would help screen the replacement and therefore justifies its retention.
15. For these reasons, the proposal would result in a new dwelling in the countryside that would not be acceptable in this location and would cause harm to the character and appearance of the area. It would conflict with Policies RA8 and GP72 of the AVDLP, insofar as they seek to protect the character and appearance of the countryside and landscape character.
16. The proposal would also conflict with the Framework which seeks to avoid isolated new homes in the countryside, promote sustainable forms of transport, reduce greenhouse gas emissions and locate development where it will enhance or maintain the vitality of rural communities. Although the blanket protection of the countryside is not supported by the Framework I find these policies are, when taken as a whole, consistent with it with regard to the need

to recognise the intrinsic character and beauty of the countryside and protect landscape character.

Other Matters

17. I have been referred to the conversion of stables for tourist accommodation in proximity to the dwelling that has been approved by the Council³. However, that proposal was for a different form of development, being for the conversion of an existing rural building that would have been subject to different planning considerations and judgements. Moreover, the removal of the original dwelling was required as part of the balance of considerations which led to the approval of the original planning permission for the replacement, without which permission would not have been granted. In my view, it is not directly comparable to the proposal before me and does not alter my view in relation to the main issue.
18. I have also been referred to an appeal decision at Weatherhead Farm, Buckingham⁴ where the appellant states the Inspector took the view that a holiday let/bed and breakfast use was 'quasi-residential'. However, for reasons already given and in this particular case, I have reached a different view. Furthermore, that proposal also related to the conversion of redundant agricultural buildings and I do not consider that it is directly comparable to the appeal proposal before me.
19. The appellant contends that the proposal would address a demand for tourist facilities and I have been provided with evidence from local sources that the demand for tourist accommodation remains unmet. Although the Council dispute the relevance of the evidence, I do not consider that the evidence demonstrates such an overriding need for such accommodation that it outweighs the conflict with national and local planning policies that I have identified.

Conclusion

20. For the reasons set out above, the proposal would conflict with the development plan, when taken as a whole and the Framework. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

³ 14/03082/APP

⁴ App/J0405/A/14/2213174