
Appeal Decision

Site visit made on 22 November 2016

by David Cross BA (Hons), PGDip, MRTPI

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

Decision date: 20 December 2016

Appeal Ref: APP/X1355/W/16/3156889

Little Owl Lodge, Lynesack, Butterknowle, Durham DL13 5QG

- 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 Mr P Wilkinson against the decision of Durham County Council.
 - The application Ref DM/16/00271/VOC, dated 25 January 2016, was refused by notice dated 17 March 2016.
 - The application sought planning permission for erection of holiday cottage (semi permanent) without complying with a condition attached to planning permission Ref 6/2009/0144/DM, dated 11 June 2009.
 - The condition in dispute is No 3 which states that: *The holiday accommodation hereby approved shall not be occupied [sic] by any person or group of persons for a period exceeding eight weeks in any calendar year. The operator of the accommodation shall make available to officers of the Local Planning Authority the register of occupiers of the accommodation hereby approved upon written request, given 24 hours notice.*
 - The reason given for the condition is: *In order to prevent permanent residential occupancy in accordance with Policy TR4.*
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue of this appeal is whether the disputed condition is reasonable and necessary in the interests of ensuring a sustainable pattern of development having particular regard to national and local policies concerning dwellings in the open countryside.

Reasons

3. The appeal property consists of a holiday cottage located adjacent to a small cluster of dwellings and farm buildings. The site is not located within one of the settlements listed as being suitable for housing or small scale housing development in Policies H3 and H4 of the Teesdale Local Plan 2002 (LP), the nearest being Copley approximately 1km to the south. Policy H6 of the LP specifies the circumstances where new housing in the open countryside is acceptable, including meeting the needs of agriculture or forestry; however the proposal would not meet the requirements of this policy.
 4. The appellant and the Council agree that the site is within the open countryside. However there is a disagreement over the degree of isolation of the site.
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5. The site is located over 1km from the nearest settlements of Copley, Butterknowle and Woodland. At my site visit, I saw that access to the site from the public highway of Grewburn Lane is via an unmade and unlit track. I have taken into account that there is a bus service which passes along Grewburn Lane which provides access to services in villages in the area and to the towns of Bishop Auckland and Barnard Castle. However, due to the nature of the access track from the appeal site I consider that this would deter occupants of the appeal site from accessing the public highway and bus services on foot. Residents are therefore likely to rely on the private car, particularly in the evenings and in the winter months. For the above reasons, I consider that the use of the holiday cottage as a permanent residential dwelling would represent an isolated dwelling due to its location and limited accessibility.
6. I note that the LP pre-dates the National Planning Policy Framework (the Framework) by some time. The Framework's approach to the promotion of sustainable development in rural areas, set out in paragraph 55, is that housing should be located where it will enhance or maintain the vitality of rural communities. The Framework goes on to note that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances, such as the essential need for a rural worker to live permanently at or near their place of work in the countryside; where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or the proposed dwelling is of exceptional quality or innovative.
7. Although there are dwellings located nearby, the appeal proposal would, to all intents and purposes, result in an isolated home in the countryside in that it is remote from the nearest settlement. It does not meet any of the criteria specified in Paragraph 55 of the Framework and, as such, would conflict with national planning policy in relation to the sustainable location of rural housing.
8. Taking the above matters into consideration, I conclude that the principle of a condition in the interest of ensuring a sustainable pattern of development, bearing in mind the requirements of national and local planning policy, is reasonable and necessary.

Other Matters

9. I acknowledge that the property has been marketed for a year with no demonstrable interest arising in the property with a restriction for holiday let purposes. This marketing exercise follows the provisions of Policy BENV14 of the LP, although I note that the Council state that this policy is not considered to be consistent with the Framework and should therefore not be afforded significant weight. The appellant also refers to the marketing requirements of Policy H8 of the LP, although this relates to agricultural occupancy conditions and I consider that it is therefore not directly applicable to the current proposal.
10. However, despite the lack of interest arising from the marketing of the property with condition No 3 in place, I am mindful that the appellant does not contend that the holiday let is unprofitable or suffers low occupancy rates. This indicates that the use of the property as a holiday let is a viable business use

which makes a positive, albeit small, contribution to the local rural economy. The current use of the property therefore complies with Paragraph 28 of the Framework which supports a prosperous rural economy in which tourism plays a part. I therefore consider that the current use of the property makes a contribution to the rural economy and the removal of condition No 3 would end this economic benefit for the area.

11. I have had regard to the appellant's statement that the property is operated as part of a farm diversification exercise and that the success of the holiday let arose from the connection with the farm operations and in particular an alpaca enterprise. But no evidence has been provided to me to demonstrate that the holiday let is unviable as a separate business. Similarly, although the appellant states the property is located in one of the less sought after areas in relation to tourism, there is no evidence before me that this location makes the holiday let unviable.
12. I am mindful of the personal circumstances of the appellant but I am not persuaded that this outweighs the harm arising from the proposal identified above and the conflicts with national and local policy. I have also had regard to the appellant's suggestion that the proposed variation is made on a personal basis so that condition No 3 would be reinstated should circumstances change. However, I consider that such a condition would not meet the tests within Paragraph 206 of the Framework particularly in relation to necessity, relevance to the development and whether it would be reasonable in all other respects.
13. The appellant has referred to a proposal in Mickleton where he states a similar condition was varied after a period of time of the property being marketed. However, I do not have the details of this scheme and so cannot be certain that the circumstances are the same. In any case I have considered the appeal proposal on its own merits.

Conclusion

14. I consider that the use of the appeal property for permanent residential accommodation would not accord with the provisions of the Framework and the relevant development plan policies and it would not represent sustainable development in the countryside. I therefore conclude that the condition is necessary and reasonable in the interests of ensuring a sustainable pattern of development, having particular regard to national and local policies concerning dwellings in the open countryside.
15. The proposal would conflict with Policy TR4 of the LP which states that chalets and other dwellings permitted for holiday accommodation will only be granted if occupation by any one person or group is limited to not more than 6 weeks per year. The policy broadly complies with the provisions of the Framework in relation to promoting the rural economy and preventing isolated homes in the countryside.
16. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR