

Appeal Decision

Site visit made on 5 January 2017

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 6 February 2017

Appeal Ref: APP/E2001/W/16/3160181

Red House Farm, Beverley Road, North Newbald YO43 4TJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr G Slinger against the decision of East Riding of Yorkshire Council.
 - The application Ref DC/16/01568/VAR/EASTSE, dated 11 May 2016, was approved on 7 July 2016 and planning permission was granted subject to conditions.
 - The development permitted is: *'Variation of condition 1 (holiday occupation only) on application 08/03411/VAR to allow for holiday occupation and short-term business/employment letting only'*.
 - The conditions in dispute are Nos 1, 2 and 3 which state that: *(1) The units shall be occupied for holiday or temporary short-term business/employment letting only; (2) The units shall not be occupied as a person's sole, or main places of residence; and (3) The site owners/operators shall maintain an up to date register of the names of all owners/occupiers of individual units on the site, and of their main home addresses and shall make this information available at all reasonable times to the Local Authority.*
 - The reason given for the conditions is: *'to ensure that the approved accommodation is not used for unauthorised permanent residential occupation'*.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by East Riding of Yorkshire Council against the appellant Mr G Slinger. This application is the subject of a separate decision.

Procedural Matters and Background

3. The application form indicates that the original applicants were Mr G Slinger and Miss N Willey. However, the appeal form indicates that the appellant is solely Mr G Slinger. Given that the appellant appears as a named applicant, I am satisfied that the appeal has been made in accordance with the relevant procedural guidance and I have determined the appeal on that basis.
 4. The appeal follows the granting of planning permission relating to application Ref DC/16/01568/VAR/EASTSE, dated 7 July 2016, which varied condition 1 of application Ref 08/03411/VAR and retained conditions 2 and 3 attached to that approval. Subsequently, the appellant has sought to have all three conditions attached to the approved application Ref DC/16/01568/VAR/EASTSE removed.
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These conditions relate to restrictions on the future occupancy of the existing units on the appeal site.

5. The original proposal for application Ref DC/16/01568/VAR/EASTSE sought to remove all three conditions and was described as '*Removal of planning conditions 1, 2 and 3 attached to planning application number 08/03411/VAR*'. However, during the application process the Council advised that such a proposal would not be supported. The possibility of building in flexibility with regard to the occupancy of the units on site was discussed and agreed between the Council and appellant. This resulted in planning permission being granted for '*Variation of condition 1 (holiday occupation only) on application 08/03411/VAR to allow for holiday occupation and short-term business / employment letting only*'. Conditions 2 and 3 of the planning permission relating to application Ref: 08/03411/VAR remained unchanged.
6. This appeal therefore seeks the removal of conditions 1, 2 and 3 attached to the planning permission granted for application Ref DC/16/01568/VAR/EASTSE. It is against this background, and on this basis, that I have determined the appeal.

Main Issues

7. The main issues are:
 - whether or not the appeal premises are suitable for use as permanent residential dwellings, having particular regard to local and national policy concerning dwellings in the open countryside; and
 - whether or not conditions 1, 2 and 3 attached to the planning permission granted for application Ref DC/16/01568/VAR/EASTSE are necessary and reasonable, having regard to local and national policy.

Reasons

Principle of development

8. Paragraph 55 of the National Planning Policy Framework (the Framework) states that local planning authorities should avoid isolated homes in the countryside unless special circumstances exist to justify such development. These circumstances are reflected in Policy S4 of the East Riding Local Plan Strategic Document (ERLPSD). Amongst other matters, proposals for permanent dwellings for agricultural, forestry or other rural based occupational dwellings are supported as are conversions for new housing where it would represent the optimal viable use or re-use a redundant or disused building. Furthermore, affordable housing, replacement dwellings and new dwellings of exceptional design quality may also be supported.
9. The appeal site is in a remote and isolated location in the countryside. It is around two miles from the nearest settlement of North Newbald which has only limited facilities. At the time of the site visit, the site had six holiday let units which formed part of a wider complex of buildings at Red House Farm. These are well maintained and are of a high standard of accommodation. The site is accessed by a narrow single track with passing places which is about a quarter of a mile in length. This track connects to Beverley Road which is also a relatively narrow rural lane with passing places that leads to North Newbald.

10. Due to the remote and isolated location of the appeal site. It is apparent that any future permanent residents would need to travel in order to access key services and employment. Furthermore, the appellant has not indicated that the proposed permanent dwellings would accommodate agricultural, forestry or other rural based workers or would be affordable housing. Indeed, it is stated that the dwellings would be open market housing. In addition, the dwellings would not be replacement units or new dwellings of exceptional design quality. Although it is the appellant's view that the holiday units are under-used, from the site visit, it is apparent to me that the holiday units cannot be considered to be redundant or disused.
11. The appellant argues that there is a need for permanent residential development in the area. There is no substantive evidence before me to support this. The letters from the letting agents referred to by the appellant indicate a demand for short to medium term residential lettings. Notwithstanding this, I find that this matter alone provides no overriding justification for the removal of the conditions which, in my view, would render the proposal contrary to the development plan.
12. As a result, whilst I note that the appellant considers there is compliance with Policy S4, there is no substantive evidence to suggest that allowing the holiday units to be occupied as unrestricted dwellings would result in development which would meet any of the exceptions or special circumstances set out in Section C of Policy S4 and Paragraph 55 of the Framework.
13. Whilst I acknowledge that the removal of the conditions would result in a small number of open market dwellings in the rural area, this would not outweigh the harm which would result from allowing development that would be contrary to the development plan, particularly relating to development in the countryside.
14. Consequently, I conclude that the appeal premises would not be suitable for use as permanent residential dwellings, having regard to local and national policy concerning dwellings in the countryside. The proposal would therefore be contrary to Policy S4 of the ERLPSD and the relevant guidance within the Framework. Amongst other matters, this policy and guidance seeks to ensure that permanent residential development is not remote or isolated and is situated in accessible locations for jobs, services and facilities.

Validity of conditions

15. Paragraph 206 of the Framework states that planning conditions should only be imposed '*where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects*'. These are known as the six tests.
16. The appellant argues that there is a need for homes across the region and that policy allows for some of that need to be met in rural areas. Based on the evidence before me, I acknowledge that there may be a need for some short term letting in the area. However, this must be balanced against the overall local development strategy as set out in Policy S3 of the ERLPSD and the development plan as a whole. To this end, the variation of condition 1 relating to application Ref DC/16/01568/VAR/EASTSE allows for the units on the appeal site to cater for the need for short term letting. This resulted from negotiations between the Council and appellant and, in my view, represents a pragmatic approach to decision-making.

17. The modification of condition 1 provides some flexibility and scope to diversify the use of the units and increases opportunities to make the business viable. However, in order to adhere to the overall spatial development strategy, the Council has continued to impose conditions 2 and 3 to ensure that there is no permanent residential use on the site and that the units comply with the development plan.
18. From the evidence provided, I note that the occupancy levels for the holiday lets are on average at 60% over the last three years. I acknowledge that occupancy rates can fluctuate throughout the year. However, whilst such a level of holiday let occupancy alone may not be sufficient to ensure a viable business, the annual accounts for the holiday lettings business indicate that there has been a modest upturn in profit in recent years.
19. In this context, I find that the imposition of the three conditions relating to application Ref DC/16/ 01568/VAREASTSE balances the need for the appellant to expand their business offer to be viable against the Council's aim to ensure that development is sustainable and complies with the overall policy approach to development in the countryside. This seems to me to be a sensible, pragmatic and reasonable approach to take in this case.
20. Therefore, in my judgement, conditions 1, 2 and 3 are not unduly restrictive, financially or otherwise. Furthermore, they are necessary, relevant to planning and the development and reasonable in all other respects and meet the six tests set out in the Framework. Without the imposed conditions, the proposal would create open market housing in the countryside that would be unacceptable and contrary to established planning policy and guidance. Although I note the appellant considers that the relatively recent changes to permitted development rights indicate a change in the approach to rural residential development, such rights are granted only in very specific circumstances, which do not exist in this case. Whilst I also appreciate the appellant considers the business to be unviable, I am not persuaded that these matters outweigh the proposal's conflict with policy in this case.
21. Consequently, I conclude that the removal of conditions 1, 2 and 3 of the planning permission granted relating to application Ref DC/16/01568/VAR/EASTSE would result in development which would be contrary to Policies S3 and S4 of the ERLPSD, the Framework and Planning Practice Guidance. Amongst other matters, these policies and guidance seek to ensure that development is located in sustainable locations which are not remote or isolated and are accessible to jobs, services and facilities.

Conclusion

22. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR