
Appeal Decision

Site visit made on 7 February 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 21 February 2017

Appeal Ref: APP/Y2003/W/16/3162901

22 Leys Lane, Winterton, Lincolnshire, DN15 9QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Trevor Cheesman against North Lincolnshire Council.
 - The application Ref PA/2016/1346, is dated 17 August 2016.
 - The development proposed is to clad and extend to the rear of portacabin.
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Decision

1. The appeal is allowed and planning permission is granted to clad and extend to the rear of portacabin and use of land as a land skills programme for people with special needs at 22 Leys Lane, Winterton, Lincolnshire, DN15 9QT in accordance with the terms of the application, Ref PA/2016/1346, dated 17 August 2016, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Site Plan; and the submitted photographs of the cabin.
 - 2) The premises shall be used for a land skills programme and for no other purpose.
 - 3) The building and use hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. The building hereby permitted shall be removed and the use hereby permitted shall be discontinued on or before 1 June 2020.

Procedural Issues

2. Although the description of the development relates to the cladding and extension of the portacabin, from what I have read, the proposal is also for the use of the site as a land skills programme for people with special needs.
3. The frame and roof of the building have been constructed and I was able to see the overall size of the building at my visit. I have determined the appeal based on the dimensions of the building as existed on the date of my site visit.

Main Issues

4. The main issues are whether the building and use of land would conform to development plan policies for development within the countryside; and the effect of it upon the character and appearance of the area.
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Reasons

5. The site is located within the open countryside. I saw at my visit that the cabin has been partially clad and it is surrounded by a large timber frame which supports a pitched roof and extends rearwards of the cabin. The result is a substantial building akin to the size of a small bungalow.
6. The site will be used by the appellant's daughter who has Downs Syndrome and her friends who also have special needs. The daughter and her friends are soon to finish their education. It is intended that the site will provide a "land skills" programme where they could learn about planting, seeding, growing, compost manufacture and general site maintenance. The building would be used for seeding, potting and welfare facilities. It is the intention that plants would be sold with proceeds going to Friends of St Hugh's (FOSH), a charity that raises funds for its students who have additional needs. The Secretary of FOSH has written in support of the development and confirmed that Rose Cheesman, the wife of the appellant, has been involved with FOSH for many years, having been its Chairperson for 10 years and currently a trustee.
7. However, I noted at my site visit that the plot of land to which the building relates is limited in size and there is no obvious sign of the land being put to productive use. I acknowledge the intentions of the appellant but the project is yet to be established and in its current absence, and without full details of the number of people the building would accommodate, there is no proven need for such a large building. Paragraph 17 of the National Planning Policy Framework indicates that planning should recognise the intrinsic character and beauty of the countryside. I appreciate that the building is not obvious from the road but it is visible in the wider landscape from other fields. As such, the building is an urbanising feature within the rural area.
8. I acknowledge that some of the other plots have buildings on them but I do not know the full circumstances surrounding them and, whilst they provide part of the visual context for the cabin, their existence does not fully justify further encroachment into the countryside.
9. I therefore conclude that the building harms the character and appearance of the countryside. It conflicts with Policy RD2 of the North Lincolnshire Local Plan, 2003 (LP) which indicates that development in the open countryside will be strictly controlled and that permission will only be granted for certain categories of development, including being "essential to the efficient operation of agriculture". It also conflicts with Policies CS 2 and CS 3 of the Core Strategy, June 2011 which has similar aims and objectives, indicating that development outside of settlement boundaries will be restricted to that which is essential to the functioning of the countryside.
10. That said, I must have due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Since the appeal is made for the use of the building for training/activities for people with a disability, it is for people who share a protected characteristic for the purposes of the PSED.

11. It does not follow from the PSED that the appeal should succeed. However, in my view, the social benefit of the scheme outweighs the harm to the countryside and the consequent conflict with development plan policy. The viability of the scheme has not yet been proven but I consider that permission on a temporary basis is appropriate to allow the development of the project. I consider three years to be a reasonable time to allow for this. The Council will then have an opportunity at the end of the period to review the situation and decide whether there remains a justification to depart from development plan policies. I note the objection from the appellant in respect of a temporary permission but without a proven need for the building, permission would otherwise be refused.

Other Matters

12. I note the representations from interested parties. Comments have been made about the scale of the operation and its effect upon the access and parking. I have no evidence that the project would be large scale and the local highway authority has advised that it had no objection to the development. Furthermore, as I am granting temporary planning permission, this is a matter that can be monitored by the Council.

Conditions

13. I have considered the Council's conditions in accordance with the Planning Practice Guidance. It is necessary, in the interests of proper planning and for the avoidance of doubt, to define the plans with which the scheme should accord. I have not restricted the site to agricultural use or applied a condition to say that no trade, business or profession should take place as these conditions would conflict with the use applied for. I have not imposed a condition preventing overnight accommodation because a material change of use (e.g. to a residential use) would need planning permission and therefore the condition is not necessary. However, instead of these conditions, for the purposes of clarity, and because the appeal has been allowed with regard to the specific circumstances of the appellant, I have restricted the use solely to that applied for. A condition restricting the permission to a temporary period of 3 years is necessary for the reasons already explained.

Conclusion

14. In the absence of a viable scheme or a proven need the building cannot be fully justified. However, due to the particular circumstances of the appellant; the equalities issues described; and the agricultural relationship to the project, I consider it appropriate to grant a temporary planning permission subject to conditions.

Siobhan Watson

INSPECTOR