The Planning Inspectorate

Appeal Decision

Site visit made on 14 February 2017

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 24 February 2017

Appeal Ref: APP/D2510/W/16/3159235
The Delph, Station Road, Eastville, Lincolnshire PE22 8LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr T Taylor against the decision of East Lindsey District Council.
- The application Ref S/047/00477/16, dated 12 October 2015, was refused by notice dated 4 May 2016.
- The development proposed is use of land for the erection of a permanent dwelling in lieu of one existing static caravan.

Decision

1. I dismiss the appeal.

Main Issues

2. The application is in outline with all matters reserved, but the access would remain as existing. The main issues are therefore;

   - Whether the proposal should be considered as a replacement dwelling.
   - The principle of the proposed development in this location having regard to Government policy on the provision of traveller sites.
   - The suitability of the flood-risk assessment.

Reasons

Replacement Dwelling

3. The land is in use as showmen's permanent quarters, granted permission variously under references S/047/1880/03 and S/047/0368/15. That included the stationing of 4 residential touring caravans and provided for the siting of a residential static caravan with associated decking. The appellant gives further detail that the permissions are for full-time permanent occupation, but restricted to a Member of the Showman's Guild.

4. Policy A3 of the East Lindsey Local Plan Alteration 1999 details the settlement hierarchy, with land allocated in the towns and main villages. The site is outside the medium sized village of Eastville, a settlement which scores poorly in the Council's sustainability assessment and which the Council considers in itself to be an unsustainable location. The site is therefore within open countryside in policy terms.

5. The Council are of the view that the existing dwelling is not able to take advantage of the provision in Policy DC5 for replacement dwellings in the countryside. That policy states that the replacement of existing dwellings in the countryside will only be permitted where it can be shown that the original dwelling is, among other criteria, not a temporary or mobile structure. The appellant asserts that what is on the site of the proposed dwelling is not a temporary or mobile structure.

6. That which is in place certainly has decking and a conservatory of the type associated with permanent structures, but it is essentially a mobile home and the degree of attachment of the conservatory and decking do not render it otherwise. In view of the findings as to this being a mobile home capable of being relocated, the proposal should not be considered as a replacement dwelling in the countryside under Policy DC5.

Principle of Development

7. Planning Policy for Traveller Sites contains policy for travelling showpeople as defined in the Glossary. The Council do not take issue on this definition being accorded with in this case, and the existing occupancy restriction ensures control in any event.

8. Part of the Council's objection, expressed in the first reason for refusal, is that it would involve the erection of a unit of market housing in an unsustainable rural location contrary to Policy A3. The appellant does not agree with this assessment and suggests that a restriction could apply to the permanent dwelling by condition, to that on the present permission, so that it could be occupied only by a Member of the Showman's Guild.

9. The National Planning Policy Framework and the web-based Planning Practice Guidance require conditions to be, among other things, reasonable and necessary. Whilst it may be necessary to restrict the occupancy, the proposed restriction fails the test of being reasonable as it would limit the use of the site to those showmen who are able to acquire, and willing to live in, the permanent dwelling. It would be unreasonable to develop and restrict a permanent dwelling in this location to suit the particular wishes of the present occupier of the site.

10. The Government's traveller policy provides at Policy F for mixed use sites having regard to the need that travelling showpeople have for yards to allow residential accommodation and space for the storage of equipment. The appellant states that nowhere in that Guidance is it required that accommodation for showpeople should be restricted to caravans. The guidance does however refer to sites and not permanent dwellings.

11. Furthermore, the provisions in the national policy are for travellers, and the use of sites in the countryside as a base for that activity can be, as here, a permissible exception to the restrictive policies on housing in the countryside such as Policy A3. Whilst the present occupier of the site may have what the guidance refers to as a more localised pattern of trading, educational or health needs, which result in he and his family residing here all year, the site should be available as a traveller site. Provided a person satisfies the requirement of being a Member of the Showman's Guild, the expectation of the permission is that they could move their caravan onto the site in replacement for the one presently in place.

12. It is the fact that the Council are unable to demonstrate a five year supply of housing sites, but that does not assist in this case since the occupancy restriction would be in place, and the dwelling would not be available to the supply, particularly since there would be no increase in the number of dwellings.

13. In conclusion, the site is outside what is considered to be the unsustainable location of the village of Eastville, but is acceptable for the stationing of the present caravan due to the provisions of Government policy on traveller sites. It is not a suitable location for any other type of housing and the ability to move caravans on and off the site as the needs of travellers change, would be lost. The proposal does not accord with paragraph 7 of the Framework in being land in the right place, with access to services and protecting the natural environmental. There is no justification under paragraph 55 of that document to permit a permanent 'bricks and mortar' dwelling.

Flood Risk Assessment

14. The site is within Flood Risk Zone 3, being at risk of tidal flooding and from observation on site this must apply over a significant area. A revised flood risk assessment was submitted on 25 April 2016, and the Officer's Report states that the Environment Agency withdrew their objection subject to any development meeting certain criteria of finished floor levels and resilience. The Council maintain that there should have been a sequential test and that there are sites in better locations. They argue that as this is not a replacement dwelling, a sequential test is applicable. The findings of the first main issue is that the proposal should not be considered as a replacement dwelling under Policy DC5, but it is nevertheless a replacement of an existing and permanent residential use.

15. Paragraph 13g) of Planning Policy for Traveller Sites warns against locating sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans. The location is an existing one, and with use of conditions such as were recommended by the Environment Agency, the proposal could be an improvement over the existing situation. To conclude, there would be no reason to withhold permission on the grounds of flooding or the adequacy of the flood risk assessment submitted on 25 April 2016.

Conclusions

16. It is acknowledged that there is no reason to withhold permission due to the flood risk, and in fact some benefit would arise through being able to control the floor level. However, the site is not in a suitable, sustainable location and its use as showmen's quarters allows residential use here only through the siting of a caravan for the use of travelling showpeople, whilst other residential uses would be contrary to central Government and local policy. The use of an occupancy condition would not overcome the harm and would be unreasonable. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR