

Appeal Decision

Site visit made on 24 January 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 24 February 2017

Appeal Ref: APP/U2615/W/16/3160561

The Manor Barn, Browston Lane, Browston, Great Yarmouth NR31 9DP

- 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 Richard Smith against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/16/0227/F, dated 24 March 2016, was refused by notice dated 8 June 2016.
 - The application sought planning permission for additional room to annexe to provide live in care without complying with a condition attached to planning permission Ref 06/15/0043/F, dated 1 April 2015.
 - The condition in dispute is No 5 which states that: "The additional accommodation hereby permitted shall only be used by the occupiers of The Manor House, or their dependents, and shall not be used as a separate dwelling or let separately for holiday purposes".
 - The reason given for the condition is: "In order to enable the Local Planning Authority to retain control over the use of the site as the building is not in an area where a separate dwelling would normally be permitted".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The disputed condition is attached to two planning permissions¹ from 2014 and 2015, but the application form and decision notice refer to the 2015 planning permission only. Nevertheless, under Section 73 of the Town and Country Planning Act 1990, I can either allow the appeal and create a new planning permission without the disputed condition or dismiss the appeal. In either scenario, the existing two planning permissions would remain extant. For the avoidance of doubt, I have taken into account both planning permissions when determining this appeal.
3. The site address on the original application form was incomplete, so the address shown above is based on the decision notice and appeal form.

Background and Main Issue

4. The 2014 planning permission related to the change of use from a cart shed to 'granny annexe' at The Manor House. This was approved in accordance with Policy HOU11 of the Great Yarmouth Borough-Wide Local Plan 2001 ('the Local

¹ 06/14/0099/F granted permission on 22 April 2014 and 06/15/0043/F granted permission on 1 April 2015

Plan') which provides for the change of use of existing buildings to residential use where certain criteria are met. A condition was attached restricting the use of the additional accommodation to occupiers of The Manor House or their dependents.

5. The 2015 planning permission related to a proposed additional room to the annexe to provide live in care. This was approved in accordance with Policy HOU18 of the Local Plan, and the same condition was attached.
6. The appellant is seeking to avoid having to comply with the disputed condition on the 2015 planning permission to allow his parents to purchase the current annexe and continue to live there should he come to sell the main house. The Council has stated that this would be contrary to Policy HOU10 of the Local Plan which restricts new dwellings in the countryside to specific types of dwelling, none of which have been put forward by the appellant in this appeal
7. The main issue therefore is whether the disputed condition is necessary to prevent the use of the appeal building as a separate dwelling, having regard to the character and appearance of the countryside and the proximity of services.

Reasons

8. There is some disagreement between the appellant and the Council as to whether Policy HOU10 and/or Policy HOU11 are relevant to this appeal. I accept that Policy HOU11 has some relevance given the above planning history, but the principle of a residential use has already been established. From the evidence before me, there would be no conflict with Policy HOU11 should a new planning permission be created without the disputed condition.
9. However, the conditions on both planning permissions clearly seek to avoid the use of the appeal building as a separate dwelling, which brings into play Policy HOU10. There is nothing in Policy HOU10 that indicates a new dwelling has to be an entirely new building, and so I consider this policy to be of relevance to this appeal.
10. The cited planning permission at Hobland House (ref 06/16/0488/F) appeared to involve the conversion of an existing outbuilding to a single dwelling under Policy HOU11, rather than the conversion of a residential annexe, and so is not identical to this appeal. I have determined this appeal on its own merits based on the evidence before me.
11. The Council contends that Policy HOU10 is in general conformity with the National Planning Policy Framework (NPPF) and I have no reason to disagree. The Council emphasise the relevance of paragraph 55 of the NPPF which seeks to locate rural housing where it will enhance or maintain the vitality of rural communities and avoid new isolated homes in the countryside unless special circumstances apply.
12. The existing annexe is situated within the grounds of the Grade II listed The Manor House as a comparatively small and subservient building to the main house. From an internal inspection, it is laid out for residential use. It has a simple and pleasant appearance and does not detract from the setting of the listed building given the design and siting. The annexe is not highly visible from Browston Lane to the east due to the buffer provided by paddocks and vegetation. Browston Lane is characterised by intermittent development amongst fields and paddocks. Thus, in terms of the character and appearance

of the countryside, the use of the annexe as a separate dwelling would be acceptable and it would not be isolated in a physical sense.

13. However, the village of Browston has few services and is accessed via narrow country lanes lacking in lighting and pavements. This means that travel by private motor vehicle is the only realistic option on a day to day basis. While there are already vehicle movements to and from The Manor House, the creation of a separate dwelling in the annexe would result in two separate properties occupied by two separate households. There would likely be more travel requirements and so the new dwelling would be functionally isolated from services and facilities.
14. No special circumstances have been put forward by the appellant in support of a new isolated dwelling, including those examples listed in paragraph 55 of the NPPF. I acknowledge the appellant's personal circumstances, but these can carry only limited weight in favour of the allowing the appeal. I note that the provision of a new dwelling would help in a very modest way to increase local housing supply, but there is little evidence that it would enhance or maintain the vitality of rural communities in terms of supporting local services.
15. The use of the annexe as a separate dwelling would lead to negative social and environmental effects in terms of the lack of accessible local services and the inefficient use of natural resources through increased travel by private car. It would conflict with Policy HOU10 in terms of the creation of a new dwelling in the countryside outside of specified exceptions and would not follow the approach of paragraph 55 of the NPPF. The adverse impacts of the change of use would thus be significant, compared to the very modest benefits of a new dwelling.
16. The appellant casts doubt on whether the Council can demonstrate a five year housing land supply, something which the Council has not responded to in its appeal statement. The evidence before me is limited. However, even if I were to accept that there is a shortfall in housing land supply and that relevant policies for the supply of housing should not be considered up to date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits and the proposal would not be sustainable development.

Conclusion

17. The annexe would not be suitable for use as a separate dwelling having regard to the proximity of services, and would conflict with Policy HOU10 of the Local Plan and paragraph 55 of the NPPF. The disputed condition is therefore necessary to prevent the use as a separate dwelling from occurring. The condition also meets the other tests for conditions set out in paragraph 206 of the NPPF in that it is relevant to planning and the approved development, enforceable in terms of the ability to detect a change in use, precisely worded and reasonable in all other respects.
18. For the above reasons, and having had regard to all matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR