

Appeal Decision

Hearing held on 31 May 2017

Site visit made on 31 May 2017

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 13th June 2017

Appeal Ref: APP/R2520/W/16/3164899

Thorpe Park Lodges, Middle Lane, Thorpe on the Hill, LN6 9AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr K Dineen against the decision of North Kesteven District Council.
 - The application Ref 16/0566/FUL, dated 9 May 2016, was refused by notice dated 21 October 2016.
 - The development proposed is the erection of new building (part two storey / part single storey) comprising 3 individual units to accommodate new reception area/laundry/staff room/store with park manager's accommodation above (unit 3) and ancillary commercial units with no mezzanine floor (units 1 and 2) to accommodate the following possible uses: gym / fitness studio, bike hire store, fishing tackle store or convenience store.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Mr K Dineen against North Kesteven District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The number of commercial units was revised during the course of the application. As such, I have taken the description of the development as amended from the appeal form, which reflects the description given on the decision notice.
 4. Since the appeal was submitted, saved Policies C2, R1, RTS8 and DC2 of the North Kesteven Local Plan as referred to in the Council's reason for refusal have been superseded by the Central Lincolnshire Local Plan (LP) which was adopted by the Council on 24 April 2017. With regard to the appeal the Council has confirmed that Policies LP1, LP2, LP6, LP7 and LP55 are applicable to this appeal and I have been provided with a copy of those policies. I am required to determine this appeal on the basis of the development plan and national policy which are in place at the time of my decision and accordingly I have determined the appeal on that basis.
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Main Issues

5. The main issues are:

- (a) Whether, having regard to local and national planning policy that seeks to avoid isolated new homes in the countryside, there is an essential need to live permanently at Thorpe Park Lodges, and:
- (b) Whether the appeal site is an appropriate location for flexible use commercial development, having regard to local and national policies which seek to direct such development to established centres.

Reasons

Residential Development

- 6. Thorpe Park Lodges is a small development of 18 permanent holiday chalets, with a further 2 chalets currently under construction. The site has consent for 30 chalets and it is anticipated that the site will be fully built out over the next 18 months. The chalets range in their size, accommodating between 4 and 8 people, plus pets. The site has a fishing lake to the centre and there is access to an adjacent Golf Course to the north.
- 7. The appeal proposals comprise of a building which would form a reception, laundry room and store as well as two commercial units serving the lodges. An internal staircase would lead from the reception area to a first floor self-contained 2-bed flat which would be around 100 sqm in size.
- 8. The appeal site is located within the open countryside and LP Policy LP2 states that in such locations, development is restricted to a number of criteria, including whether the proposals fall under Policy LP55. This policy relates to a number of types of development in the countryside, including new dwellings which are only acceptable where they are essential to the effective operation of rural enterprises. In order to demonstrate such an essential need, a number of criteria are listed in respect of functional and financial evidence requirements. Paragraph 55 of the National Planning Policy Framework (the Framework) seeks to avoid isolated new homes in the countryside unless there are special circumstances including the essential need for a rural worker to live permanently on their place of work in the countryside.
- 9. The appellant contends that there is a functional need for a permanent presence on site. This relates to security issues as well as in respect of site maintenance and customer need. The appellant currently lives in the nearby village of Eagle, which is around 5-10 minute drive from the Thorpe Park Lodges. The appellant would not reside in the proposed flat, rather the business is now in a position to employ a full-time site manager and it is they who would occupy the accommodation proposed.
- 10. At the hearing it was established that over the past 5 years there have been 5 incidents of crime at the site. However, while I am sympathetic to such occurrences, some of the examples given related to the theft of building materials as the site during the construction of the site. Such incidents would not be likely to continue once the development of the site and the proposals before me were completed. Furthermore, another example relates to credit card fraud and I do not consider that the nature of such crime would be prevented by a physical presence.

11. CCTV is in place at the site, however, this was not across the whole site and I consider that such measures should be first explored to alleviate any security concerns. I consider that a discrete system could be installed so as not to worry or put off holiday makers seeking to use the site for leisure and relaxation purposes.
12. In respect of customer need, based on a number of accounts recited at the hearing, I accept that the nature of the business does give rise to out of hour's calls to attend to issues that customers may have with the on-site accommodation and facilities. Social media and online reviews also gives rise to additional pressure to deal with any issues in a timely matter wherever possible.
13. However, while it may be preferable for the appellant to have a dwelling on the appeal site, it does not appear to be essential to the continued operation and the successful future development of the wider enterprise. No business plan or business accounts were submitted as part of the application. While the appellant claims that such information was never requested, it forms part of the policy requirements under LP55 and I note that it was also a requirement of the now superseded policy DC2 of the North Kesteven Local Plan.
14. The scale of the business is relatively small and even when it would be fully built out, I am not persuaded that the level of out of hours calls as established at the Hearing would justify the proposals. At around 7-10 call-outs per week the frequency of these is relatively low.
15. Moreover, I see no reason why 24hr cover to deal with such frequencies could not be undertaken such as employing a night warden or staffing the holiday park as part of a rotating shift pattern. I note that the appellant was concerned about the perception of night-time security, however this does run somewhat counter to arguments that a full-time presence is required for safety and other functional reasons. In any case, having night time staff is not uncommon in the hotel or self-catering industries and this could be appropriately managed to avoid any perception that the holiday park is not safe or of an impersonal service.
16. The appeal site is also in proximity to a number of villages and while the appellant claims that housing in these areas would be unaffordable on a full time managers wage, there is no demonstrable evidence before me that such a wage would be insufficient to finance the purchase, or rent, of local property or that the business itself could not look to finance accommodation in the local area.
17. The appellants have made significant financial investment into the existing enterprise and I recognise the benefits in terms of employment, and the expansion of a rural enterprise. However, it has not been demonstrated that there is an essential and proven need for residential accommodation on the site, based on both the current situation and its future expansion.
18. The Council has also raised concern with regard to the size of the proposed dwelling and have queried why an existing store and customer service area to the centre of the site could not be converted. However, given my findings above in respect of the principle of the accommodation on site, I have not assessed this further.

19. On this matter, I therefore conclude that there is no essential need for residential development within the countryside and as such the development conflicts with LP Policy LP2 and LP55, as well as paragraph 55 of the Framework.

Commercial Development

20. LP Policy LP7 seeks to deliver high quality and sustainable visitor facilities, subject to a number of criteria. In countryside locations, the policy requires that such development relates to an existing visitor facility which is seeking redevelopment or expansion. Policy LP55 supports non-residential development in the countryside provided that the location is justified by means of proximity to existing established business and the development is of a size and scale commensurate with the proposed use.
21. In seeking to ensure the vitality of town centres, Policy LP6 sets out a hierarchy, supporting service provision in identified centres. Paragraph 24 of the Framework advocates a sequential, town centre first approach to applications for uses, allowing that, in some circumstances, such uses can be considered outside of town centre or edge of centre locations. The test requires main town centre uses to be located within centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites, such as the appeal site, be considered. Paragraph 25, however, states that the sequential approach should not be applied for small scale rural development. What constitutes 'small-scale' is not defined by the Framework, or within the LP.
22. The commercial element of the development relates to the creation of two units attached to the reception area which would be around 70sqm. These would be for flexible uses relating to the sale of fishing tackle and the provision of convenience goods as well as cycle hire and gym equipment for guests. These would fall under the definition of main town centre uses and would usually require the sequential test.
23. However, I consider that the units would be small scale. The floor space for each unit would not be particularly large and at the Hearing, the Council conceded that in terms of scale, the units would be small when compared to units available within other settlements. I am therefore satisfied that the sequential test is not applicable in accordance with paragraph 25 of the Framework.
24. The proposed mix of uses would be ancillary to the holiday lodge business; the sale and hire of fishing tackle would relate to the fishing lake on the site and the provision of cycle hire and a gym would be an appropriate expansion of the leisure facilities of the site. The provision of a 'camp-store' selling basic holiday essentials including local produce and other incidentals such as disposable BBQ's and logs would also be a commensurate retail outlet.
25. I note the success of the existing business and that with 95% occupancy levels, the current lack of onsite facilities has not hindered the business. However this would not justify a refusal of consent and I consider that the provision of such services would not be unreasonable as part of any future planned growth. Such uses would enhance the offer on site and such uses are reasonably common 'add-on's' to an established tourist accommodation business. The proposed units would be located to the front of the Thorpe Park Lodges site,

but it would be screened from public view by the mature hedgerow which forms the site boundary. I also consider that an access gate and fob entry system could reasonably be conditioned. As such I do not consider that the development would attract any passing trade and that access would be restricted to holidaymakers. I am doubtful as to whether the units would be leased independently, due to the function and structure of the business but irrespective of any such arrangements, it is clear that the units would have a functional relationship with the existing business.

26. The Council considers that, due to the small scale nature of the holiday park, the business would not be viable, and could give rise to pressure to vary or remove any planning conditions attached to a grant of permission for other unsuitable uses. However, this would be a matter to determine at that time, based on the merits of the case and taking into account local and national policy. Such a concern would not justify the refusal of consent of the proposals before me.
27. Paragraph 28 of the National Planning Policy Framework (Framework) states that planning should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres. While there are services in nearby locations, these are a distance away which would, in turn, necessitate journeys by car due to their lack of accessibility. I am also mindful that the Council has also not cited any particular harm to the vitality and viability of existing centres. The commercial element of the appeal scheme would be therefore be consistent with the Framework in this regard.
28. On this matter, I therefore conclude that the principle of the commercial development would be acceptable with regard to its countryside location. The proposal would therefore be consistent with policy LP1 of the LP, which cites a presumption in favour of sustainable development, and policies LP7 and LP55. There would also be no conflict with paragraphs 25 and 28 of the Framework.

Conclusion

29. While I have found that the commercial elements of the proposal would be acceptable, I have found that the residential development would not be justified in a countryside location.
30. Accordingly, for the reasons given above, and having considered all other matters raised, the should therefore be dismissed.

C Searson
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Nick Grace
Mr Karl Dineen

Grace Machin Planning and Property
Owner

FOR THE LOCAL PLANNING AUTHORITY:

Mr Nick Feltham

Principle Planning Officer

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Copy of email dated 31 May 2017 from Ben Tebbutt regarding commercial viability of proposed units.