



Appeal Decision

Site visit made on 20 August 2019

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 17 September 2019

Appeal Ref: APP/E2001/W/19/3225713

land south of Crow Wood, Westfield Road, Raywell HU16 5YL

- 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 Quintor Homes Limited against the decision of East Riding of Yorkshire Council.
 - The application Ref DC/18/03524/VAR/WESTES, dated 26 October 2018, was refused by notice dated 16 January 2019.
 - The application sought planning permission for change of use of land for the siting of 23 holiday lodges with associated landscaping works and creation of new vehicular and pedestrian access without complying with conditions attached to planning permission Ref DC/16/01370/PLF/WESTES, dated 28 September 2016.
 - The conditions in dispute are Nos 2, 3 and 4 which state that:
Condition 2
The holiday lodges shall be occupied for holiday purposes only.
Condition 3
The site owners / operators shall maintain an up-to-date register of the names of all owners / occupiers of individual holiday lodges on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Authority.
Condition 4
The holiday lodges shall not be occupied as a person's sole or main place of residence.
 - The reasons given for the conditions are:
Condition 2
This condition is imposed to ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation.
Condition 3
This condition is imposed to ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation.
Condition 4
This condition is imposed to ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Planning permission¹ was granted in 2016² (the 2016 permission) for the change of use of land south of Crow Road for the siting of 23 holiday lodges with associated landscaping and creation of a new vehicular and pedestrian

¹ LPA Ref No: DC/16/01370/PLF/WESTES

² 28 September 2016

access. That permission was subject to a number of conditions which, amongst others, included conditions to restrict occupancy of the lodges for holiday purposes.

3. The proposal now before me seeks to vary the wording of condition 2 and delete conditions 3 and 4 of the 2016 permission so that instead of being restricted to holiday occupancy, the proposed lodges could be occupied by residents aged 55 years old and over on a permanent basis. It is a matter of agreement between the two main parties that all other aspects of the 2016 permission, including in respect of the appearance, dimensions and locations of the lodges, their layout within the site and the vehicular and pedestrian access would remain unchanged.
4. Thus, having regard to the above, the main issues are:
 - Whether or not, having regard to the development plan and national planning policy, conditions 2, 3 and 4 are necessary, with particular regard to whether the appeal site is an appropriate location for residential development for occupation on a permanent basis for those aged 55 years of age and over;
 - Whether the proposal would preserve the setting of the grade II listed Raywell Hall; and
 - The effect of the proposed development on the character and appearance of the surrounding area, with particular regard to the Yorkshire Wolds Important Landscape Area.

Reasons

Location

5. It is not disputed that the appeal site lies in the open countryside beyond any identified settlements or their established development limits. The site lies adjacent to Raywell Hall Country Lodge Park and benefits from an extant permission for the change of use of the land and the siting of 23 holiday lodges within it. Raywell Hall itself is a grade II listed building, whilst the site lies within the Yorkshire Wolds Important Landscape Area.
6. Policy S4 of the East Riding Local Plan Strategy Document (ERLP) sets out the Council's approach to supporting development in villages and the countryside in the context of ERLP policies' S1 and S2 promotion of sustainable development. ERLP policy S4(C) 1 – 11 sets out the forms of development in the countryside that will be supported within an overall caveat that all proposals respect the intrinsic character of their surroundings.
7. The proposal, by way of the variation of condition 2 and the removal of conditions 3 and 4, seeks to allow the 23 lodges previously approved as holiday lodges to be occupied as permanent residential accommodation by those aged 55 years and over. The proposed manner of occupation of the lodges that the appeal proposal seeks does not fall within the forms of development supported by ERLP policy S4(C) and so the proposal to vary condition 2, and remove conditions 3 and 4 would be contrary to ERLP policy S4(C).
8. Not only does the site lie within the open countryside and beyond development limits of the nearest settlements, it is also some distance from those

settlements. The roads leading to the appeal site are typical country roads lacking footpaths, lighting or verges capable of providing practical or practicable walking options. The closest settlements, such as West Ella and Kirk Ella would be accessed most directly via Riplingham Road, which fits neatly within that description, even before trying to cross the busy A164 to reach the services and facilities there. It is not a route that would be conducive to walking or cycling, and it has not been suggested that public transport exists. As a consequence, it is highly likely that residents would be heavily reliant on private transport to reach services and facilities further afield.

9. The appellant also suggests that there would be a willingness to provide a bus link to villages further afield, such as Willerby and Cottingham. There is no indication of what level of services exists in those village, whilst there is no mechanism before me to secure such an arrangement. As they are further afield, they would be even less attractive to access by means other than the private car, than Kirk Ella or West Ella would be and would again result in residents being heavily dependent on private transport.
10. Nor do I consider the suggestion that just because the occupants of the lodges would be those aged 55 years and over, there is likely to be a lesser dependence on access to education and play facilities, or that occupiers will be retirees and so have less need to commute to employment opportunities. In this respect, I concur with the Council's view. I do not consider the age of 55, or indeed, ages over 55 years, to be an impediment to employment or to suggest that somehow all residents would be retired. Not only do I consider that to be a false assumption but, even if a high proportion of residents were retired, I am not persuaded that such retirees would necessarily be inactive. A need to commute to employment opportunities may therefore be swapped with a need to commute to community, sporting, or leisure activities, in addition to shopping, which the appeal site's location does not cater for.
11. I accept that housing for the over 55's is capable of constituting a type of housing for a specific group with particular housing requirements. The appellant draws on a range of sources to support the principle of the proposal to provide housing for the 55-and-overs. Whilst I have noted the content of these extracts, quotes and tables, a consistent theme runs throughout; principally the importance of ensuring provision that is accessible to housing and support services, and other services and facilities.
12. The appellant argues that the ERLP's approach to sustainability and sustainable development is flawed and fails to take true account of housing for specific groups such as the over-55s. However, the appellant's evidence in this respect also underlines the importance of ensuring that such provision is sustainably located with good access to services and facilities. The proposal would introduce a permanent residential community into a countryside location distant from services and facilities.
13. Whilst the Country Lodge Park has facilities commensurate with a holiday lodge setting, I agree with the Council that these do not compare with the range of services and facilities expected within a well-served settlement. A tea room and a lodge reception building with site shop does not amount to an appropriate range of facilities. In any event, access between the site and these very limited facilities is through a wooded, un-lit and relatively steep-sided valley which, whilst a pleasant recreational walk, would not provide a

convenient or practical option for residents at certain periods of the day or times of year.

14. For the reasons I have set out, I conclude that conditions 2 and 4, supported by condition 3, are necessary in order to avoid the development of permanent residential accommodation in an open countryside location poorly served by accessibly located services or facilities and which would be heavily reliant on private transport. To vary and remove the conditions in the manner sought by the appellant would be contrary to ERLP policy S4, and would fail to achieve the type of sustainable development sought by ERLP policies S1 and S2, and the Framework.
15. I accept that there would be factors which would weigh positively in support of the proposals. The proposal would provide specialist accommodation for the over 55's and add to the housing mix and housing supply within the East Riding. However, these aspects of permanent residential accommodation must also be considered in the context of the loss of the tourism benefits that would otherwise arise from the lodge development. The net effect is that the positive aspects of the proposal would not be sufficient to outweigh the harm that I have identified above.

Setting of the listed building

16. The Council previously concluded that although the siting of the holiday lodges would cause less than substantial harm to the setting of the grade II listed Raywell Hall, the occupation of the lodges as holiday accommodation would provide public benefits in terms of tourism and tourist accommodation. This was, the Council concluded, sufficient to provide benefits to the local economy that would outweigh the less than substantial harm that the proposal would arise.
17. The appeal proposal would not differ from the approved scheme in terms of the appearance and dimensions of the lodges, their location within the site or the arrangements for vehicular and pedestrian access. The Council reach the same conclusion regarding the proposal causing less than substantial harm to the setting of the grade II listed building and the appellants do not directly challenge that conclusion. It is thus a matter of broad agreement between the parties that the proposal would result in less than substantial harm to the setting of the grade II listed Raywell Hall.
18. Whilst the appeal site is some distance from Raywell Hall and is separated from it by a steep sided and woodland filled incision in the prevailing rolling countryside, I have not been presented within any compelling evidence that would lead me to reach a different conclusion to that reached by the Council in this respect. The Council suggest that the permanent occupation of the lodges would result in a greater degree of clutter and paraphernalia around the lodges than might otherwise arise if they were occupied for holiday purposes. However, although that may be so, to a degree at least, I do not consider that there would be a significant or material visual difference between the holiday occupation and residential occupation of the lodges in terms of manicured lawns, garden furniture, outdoor lighting or other domestic paraphernalia, which I saw to be present around the existing lodges within the Country Lodge Park. Nor have the Council explained how or why the use of the space around the lodges would differ so fundamentally as permanent residences as opposed

to holiday lodges, particularly given the target market at which the proposal would be aimed.

19. However, paragraph 194 of the Framework states that any harm to the significance of a heritage asset from, for example, development within its setting, should require clear and convincing justification. Where the harm would be less than substantial, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
20. I accept that accommodation for those aged 55-and-over can be a form of specialist accommodation. It can also follow that such proposals are capable of 'freeing up' housing as those aged 55-and-over downsize and move into such specialist accommodation. However, the extent to which the proposal would give rise to those results is not substantiated and would be likely in any event to, at best and commensurate with the scale of the proposal, have a limited impact on freeing up housing supply within the East Riding. Consequently, the extent to which this public benefit weighs in support of the proposal is limited.
21. As the effect of the proposal would be to replace the holiday occupancy of the lodges with permanent accommodation for those aged 55-and-over, the public benefits to the tourist economy that formed part of the previous balance would no longer exist. Permanent residents would of course also contribute to the local economy. However, occupation as holiday accommodation would be more likely to bring about a greater throughput of occupants than would permanent residential occupation and this persuades me that whilst public benefits would arise from the proposal, they are not sufficient to outweigh the less than substantial harm that I have identified above. As I am required to give great weight to the heritage asset's conservation, in this case the setting of the grade II listed Raywell Hall, the proposal is contrary to ERLP policy ENV3 and the provisions set out in the Framework.

Character and appearance

22. The field within which the lodges would be situated is typical of the pleasantly rolling countryside which surrounds the appeal site. Although not particularly prominent in views from Westfield Road by virtue of the dense, verdant roadside hedge on the northern side of that road, the site becomes more visible from elevated positions to the south of the site.
23. Thus, from Riplingham Road and the nearby public footpath, the site, and therefore the lodges, would be a clear feature within the landscape. And that landscape is defined as being part of the Yorkshire Wolds Important Landscape Area (ILA), one of a number of diverse landforms that ERLP policy ENV2 and its supporting text state gives particular areas a distinctive character. ERLP policy ENV2(B) states that proposals should protect and enhance existing landscape character. In the case of the Yorkshire Wolds, it goes on to state³ that special attention should be given to ensuring developments are of an appropriately high quality.
24. The appeal site would not be seen together or in the same context as the existing lodge buildings as the woodland area and valley sides provide an effective and substantial visual screen between the sites. The lodges would

³ ERLP policy ENV2(B)1

thus appear as an incongruous form of development somewhat isolated visually and physically from the existing developments closer to Raywell Hall. They would also be more clearly visible from elevated locations than the existing lodges and would thus be more prominent in the local landscape.

25. However, there already exists an extant permission for the development of the appeal site for the siting of holiday lodges. As the appeal before me seeks only to vary and remove a number of occupancy conditions, there would be no change to the approved scheme in terms of its principle, the layout of the lodges within the site, the number of lodges or their scale, design and appearance. Although the Council are concerned that the use of the lodges as permanent residential properties would fundamentally alter the nature and use of the spaces around the lodges, it has not been explained how or why that would be the case. However, whilst it is not clear to me how the proposal would enhance the landscape character of the ILA, I do not consider that it would have a materially more harmful impact on landscape character than the approved holiday lodge scheme. In reaching this conclusion I give significant weight to the extant permission for the development of holiday lodges in this respect and, as a consequence, find no conflict with ERLP policy ENV2(B). Nor, for the same reasons, would there be conflict with ERLP policies S4 or ENV1 in their aim for proposals to respect the character and appearance of the surrounding area.

Conclusion

26. For the reasons I have set out above, I consider that conditions 2 and 4, supported by condition 3, are necessary in order to avoid residential development in an inappropriate location and to avoid harm, albeit less than substantial, to the setting of the grade II listed Raywell Hall. Thus, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR