



Appeal Decision

Site visit made on 20 August 2019

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2019

Appeal Ref: APP/V2635/W/19/3231108

Gomo Re Gumbo, Station Road, Leziate, Kings Lynn, Norfolk PE32 1EJ

- 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 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 Wayne Russell against King's Lynn and West Norfolk Borough Council.
 - The application Ref 19/00414/F is dated 05 March 2019.
 - The application sought planning permission for the additional use of garden annex also as a holiday let without complying with a condition attached to planning permission Ref 11/00546/CU, dated 25 May 2011.
 - The condition in dispute is No 3 which states that: The use of the building hereby permitted shall be for ancillary accommodation in association with the use of the existing dwelling 'Gomo Re Gumbo', or as holiday accommodation only and shall at no time be used as an independent unit of residential accommodation.
 - The reason given for the condition is: For the avoidance of doubt and to ensure that the building is not used for unrelated purposes that would be incompatible with the provisions of Policy PPS7: Sustainable Development in Rural Areas.
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Decision

1. The appeal is dismissed and planning permission is refused for the additional use of garden annex also as a holiday let without complying with a condition attached to planning permission Ref 11/00546/CU, dated 25 May 2011.

Main Issue

2. The main issue is whether the condition is necessary having particular regard for its stated purpose of ensuring that the existing garden annex/holiday let accommodation is not used as a separate unit of accommodation.

Reasons

3. The appeal site forms part of the current curtilage to an existing residential property which is located in Mintlyn Woods on the west side of Station Road. The property is accessed via an unmade vehicular track and is located away from any settlement boundary and is remote from any services or facilities. Therefore, in planning policy terms, the site is located within the countryside.
4. The site itself contains an existing building which is currently used as an annex to the host dwelling as well as holiday let accommodation. There is also a large garage/storage building which would be demolished to make way for the new access driveway.

5. The Appellant outlines that there are services and facilities in Leziate but there is not a pavement or street lighting on the route between the appeal site and the facilities themselves. It is also stated that Station Road would not offer a safe or practical route for pedestrians or cyclists and as a result the site feels disconnected with any community facilities and this would imply conflict with Policies CS01, CS02 and CS06 of the Kings Lynn and West Norfolk Borough Council Local Development Framework – Core Strategy (2011) (CS) and Policies DM 1, DM 2 and DM 3 of the Site Allocations and Development Management Policies Plan (2016) (SADMP).
6. From my site visit I saw that there were very few facilities in Leziate and this is reflected in the CS's settlement hierarchy which identified it as a small village/hamlet. I therefore agree with the Appellant that the site feels disconnected from services and facilities. Furthermore, it is clear that the future occupiers of the dwelling would be heavily reliant on the use of the private motor vehicle (which is the least sustainable form of transport) to gain access to the most basic level of services. In that sense, without any clear circumstances to justify a dwelling, it is clear to me that the site is not a suitable location for new residential development.
7. Notwithstanding the above, the Appellant has advanced a case that the proposal should be considered against paragraph 79 of the National Planning Policy Framework (the Framework). Paragraph 79 states that planning decisions should avoid isolated homes in the countryside unless one (or more) of a set of circumstances apply. The Appellant has drawn my attention to paragraph 79d) which refers to the subdivision of an existing dwelling and a recent appeal decision¹ which considered this issue. However, in that case, the annex was attached to the host dwelling and the proposal did not involve any physical works to facilitate its use as a separate dwelling. Therefore, that development is materially different to the proposal before me.
8. I am conscious that should the annex building be used as a separate dwelling it would be in proximity to two other dwellings, Gomo Re Gumbo and Fir Cottage. Whilst the dwelling would not be physically isolated from other dwellings it would be very isolated from services.
9. Both main parties have referred me to the Braintree case² which (in summary) outlines that an isolated home in the countryside simply connotes a dwelling that is physically separate or remote from a settlement. Therefore, just because the site would be in proximity to other dwellings does not mean that it would not be isolated in the context of paragraph 79 of the Framework.
10. Turning to whether the proposal would amount to the subdivision of an existing dwelling, it was clear to me at my site visit that the appeal building is a separate building to the host dwelling and has its own rear curtilage. In considering whether the building forms part of the existing dwelling I note that the Appellant has stated the building is around 18 metres away from the rear of the host dwelling. This distance, together with the use of the building as holiday let accommodation, indicates to me that the building does not form part of the existing dwelling for the purposes of paragraph 79. This is particularly the case as the holiday let element is a distinctly separate form of

¹ Reference APP/U1105/W/17/3191044 dated 1 August 2018

² Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

habitation and the occupants of the holiday let would not be living as a single household with the occupants of the host dwelling.

11. I have also had regard to the Appellants statement that the annex has been occupied by the Appellants brother for a considerable period of time and that this provides a response to a locally identified need. However, this appears to contradict the holiday let aspect of the planning permission to which the condition in dispute in this appeal relates to. That said, there is very little evidence to suggest that this has been the case and I therefore give this very little weight.
12. Taking all of the above factors into account, I can only conclude that the proposal would not result in the subdivision of an existing dwelling and therefore the proposal does not provide any of the circumstances where an isolated dwelling in the countryside is supported by paragraph 79.
13. In coming to that view, I acknowledge that the appeal building is within the curtilage of the dwelling and that the proposal would amount to the subdivision of the plot to form two planning units. However, this in itself is not a scenario for which paragraph 79 is intended to support.
14. In support of the appeal development the Appellant has also outlined that the existing occupiers of the host dwelling and annex currently access local service and facilities and the proposal would promote the economic, social and environmental dimension of sustainable development. Whilst I agree that there would be some social and economic benefits, I can only give these benefits limited weight.
15. The Council have also raised concerns over the tandem nature of the resultant development and its impact on the prevailing character of the area and Leziate. Whilst the prevailing character of Leziate is that of frontage development, the location of the appeal site is divorced from this built form. The only existing development in the vicinity of the annex building is the two existing dwellings.
16. With that in mind, I find that the immediate area does not exhibit any particular character of built form. Therefore, the introduction of a tandem style dwelling (by the use of the existing building) would not harm the overall character of the built form in the locality. Whilst I acknowledge that such style of development is not a character of the existing development in Leziate and the surrounding area, in this case I find that it would not result in any significant harm.
17. In addition to the above, the Council has raised concerns over the potential impact on the living conditions of the occupiers of both Gomo Re Gumbo and Fir Cottage in respect of noise and disturbance from additional traffic (including headlights) and potential overlooking from the existing first floor window on the western elevation.
18. Whilst the development would result in additional traffic (and the associated noise which goes with it) the intensity of the development is clearly low. The access driveway would also be away from the existing dwelling and there would be very limited possibilities for headlights to shine directly into the rooms of the existing dwelling. Taking both of these factors into account, the increase in traffic would not cause an unacceptable harm to the occupiers of the existing dwellings.

19. I have also had regard to the potential for overlooking from the window in the western elevation of the annex and vice versa. However, the first floor element is accessed via a steep ladder type staircase and is unlikely to be used as a bedroom. Furthermore, it would be possible to obscurely glaze this window as there is also a rooflight to the room as well, thereby preserving an element of outlook and natural light to that room for its future occupiers. Therefore, any overlooking potential could be dealt with by means of a suitably worded planning condition should I be minded to allow the appeal. Therefore, I consider that the proposal accords with the living conditions aspects of Policy DM 15 of the SADMP.
20. Finally, I have considered the comments in relation to the pre-application advice from the Council. In my experience, such advice is given without prejudice and this is indicated as such on the response letter. Furthermore, the Council indicated that they were unlikely to support the proposal. Taking all of this into account, I consider that the pre-application advice does not have any significant bearing on the planning merits of the appeal.
21. On the basis of all the evidence before me, and for the reasons given above, I conclude that the location of the appeal site is such that the creation of an independent dwelling would not be appropriate and condition 3 is necessary to perform its intended function of ensuring that the building is only used as ancillary accommodation to the host dwelling (or for holiday let purposes).
22. The Council consider that the proposal would be contrary to Policies CS02, CS06 and CS08 of the CS which differs from those initially suggested by the Appellant. The Appellant has latterly suggested that Policy CS 06 does not apply as the proposal does not represent the conversion of an existing building as it is already in use for residential purposes. Whilst I agree that the building is already in residential use, the proposal would create a new dwelling, albeit by using an existing building and therefore Policy CS06 is a relevant policy.
23. In relation to the SADMP policies referred to by the Appellant, I am not convinced that the proposal would be contrary to Policy DM 03. However, it would be contrary to Policies DM 01 and DM 02 as the proposal is outside of a defined development boundary and does not accord with any of the suitable development types advocated by the policy and would not be sustainable development. The sustainable development objectives are also relevant in respect of Policy CS01 of the CS which also sets out the approach in relation to the settlement hierarchy in Policy CS02.
24. Therefore, considering all of the Development Plan policies before me, I find that the proposal would be contrary to Policies CS01, CS02, CS06 and CS08 of the CS and Policies DM 01 and DM 02 of the SADMP which amongst other matters seek to ensure that proposals are situated in sustainable locations and represent a sustainable pattern of development.

Conclusion

25. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR