



Appeal Decision

Site visit made on 25 June 2019

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 11th October 2019

Appeal Ref: APP/T3535/W/19/3224869

Plot 1 & 2, Part land north of Alandale Drive, Kessingland, Suffolk NR33 7SD

- 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 Miss Janice Benson against the decision of Waveney District Council.
 - The application Ref DC/18/4271/ROC, dated 4 October 2018, was refused by notice dated 7 December 2018.
 - The application sought planning permission for construction of 2 No. holiday bungalows without complying with a condition attached to planning permission Ref DC/15/0217/FUL, dated 19 March 2015.
 - The condition in dispute is No 7, which states that: "The chalets shall not be occupied between 7th January and 1st March in any year".
 - The reason given for the condition is: "The chalets are intended for holiday use, and are not considered suitable for permanent occupation".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the planning application was determined the Waveney Local Plan (2019) ("the WLP") has been adopted and thus the Local Plan (2011) policies set out in the Council's Decision Notice have been replaced. The Council has also merged with Suffolk Coastal District Council to become East Suffolk Council. The development plans for the two local planning authorities remain in place for the area within the East Suffolk authority to which they relate, until such time as they are revoked or replaced. It is therefore necessary to determine this appeal with reference to policies set out in those plans.
3. At the time when planning permission was granted, the appeal site lay outside the settlement boundary. However, the appeal site now lies within the settlement boundary for Kessingland within an established tourist accommodation area. The purpose of the WLP Policy WLP8.17 is to protect existing tourism accommodation. Policy T01 of the Kessingland Neighbourhood Plan (2017) ("the KNP") is broadly consistent with the purpose of WLP Policy WLP8.17 in this regard.

Background and Main Issue

4. The bungalows were built as holiday accommodation within an existing holiday park following the grant of permission in 2015 subject to a condition restricting their occupancy between the months of January to March. The appeal is seeking the removal of this condition so that the bungalows can be used as permanent residential accommodation.
5. Although the appeal site is now within the defined settlement boundary for Kessingland and therefore not considered to be within the open countryside, it is located within an area identified as an established tourist accommodation site. As such, the relevant policy for determining this appeal is WLP8.17 concerning existing tourist accommodation.
6. Thus, the main issue is whether the condition is reasonable and necessary to maintain a supply of tourist accommodation in the locality.

Reasons

7. The bungalows lie close to an area of the Suffolk coast which is recognised as a popular holiday destination. The WLP states that the existing stock of tourist accommodation in the area, including self-catering accommodation, plays an important role in supporting the district's tourism economy.
8. Policy WLP8.17 of the WLP concerns the protection of existing tourist accommodation from conversion to residential. It states that a change of use will only be considered in exceptional circumstances where it can be fully and satisfactorily demonstrated that there is no demand for the tourist accommodation. This must be demonstrated by marketing evidence gathered over at least 12 months, in accordance with specified requirements. Policy T01 of the KNP has similar aims in this regard. Both policies concern the protection of tourism accommodation in general, notwithstanding specific terminology used in their supporting text. No marketing exercise has been carried out in respect of the appeal proposal.
9. The appellant suggests that a number of the surrounding holiday chalets are privately owned and are occupied all year round contrary to occupancy restrictions, and that the holiday park is in a poor condition. As a result, the appellant suggests that the appeal of the site to tourists is reduced. However, there is no substantive evidence before me to support the contention that these factors significantly affect the ability of the site to attract tourists and bring tourist revenue into the area or that the designation as an established tourist accommodation site no longer applies.
10. The appellant argues, with reference to the local and national housing situation, that without the restrictive occupancy condition, the two bungalows would provide much needed accommodation for the elderly and/or disabled and would help to promote social inclusion amongst older people. Only limited anecdotal evidence of a need for these specific types of accommodation is provided. In addition, I have been provided with no evidence that the age range of potential purchasers of the bungalows would be restricted or indeed that there is an age restriction on the occupants of the surrounding holiday chalets. Consequently, I afford these matters minimal weight.

11. Similarly, there is no substantive evidence before me to suggest that any local issues give rise to the need for a year-round presence at the site. I therefore attach only minimal weight to this matter.
12. Furthermore, any benefit derived from the appellant's suggested site renovation works, landscaping, and works to the road and infrastructure would not be sufficient to justify a deviation from local plan policy in this particular case.
13. The appellant accepts that the necessary marketing campaign has not been undertaken. Thus, on the evidence before me it has not been demonstrated that there is no demand for tourist accommodation in the locality. Condition 7 is necessary in order that the development does not undermine development plan policy concerning the protection of tourist accommodation. It is relevant to planning and to the development in question as the policies concerned are part of an up-to-date development plan which relates to the appeal site. The period of non-occupancy which is set by Condition 7 is likely to have been determined on the basis of an assessment of the quietest part of the "low" season for tourism purposes, and I have no evidential basis to arrive at a view that it is unreasonable.
14. Thus, I conclude that the condition is reasonable and necessary to maintain a supply of tourist accommodation in the locality. The proposed removal of Condition 7 conflicts with Policy WLP8.17 of the WLP and Policy T01 of the KNP.

Other Matters

15. The appellant's concerns regarding the Council's approach and the actions of interested parties are not matters for this appeal, which I have determined on its individual planning merits.
16. I have had regard to other matters raised, including concerns about the potential for increased wear and tear on the access road and driveway to the bungalows. However, as I am dismissing the appeal on the main issue for the reasons given above, I have not pursued these matters further.

Conclusion

17. For the reasons given above I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR