



Appeal Decision

Site visit made on 13 February 2020

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 April 2020

Appeal Ref: APP/X3540/W/19/3234886

Beechnut Cottage, Church Road, Dallinghoo, IP13 0LA

- 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 and Mrs Derek Spall against the decision of Suffolk Coastal District Council.
 - The application Ref DC/19/0833/FUL dated 26 February 2019, was refused by notice dated 3 April 2019.
 - The development proposed is described on the application form as "Retrospective application for change of use of ground floor staff room to self contained 1 bedroom flat (first floor has extant permission for self contained flat under ref C96/0979) with associated parking. (Resubmission of application DC/18/1996/FUL with additional information)".
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Decision

1. The appeal is dismissed.

Procedural matter

2. The description in the heading above is that given on the application form. The flat was in place at the time of my visit and reflects the details submitted. I therefore intend to treat the appeal as one for planning permission for development as carried out.

Background

3. The appeal site building ('the building') was granted planning permission under Council Ref C/96/0979 ('the original planning permission'), with the development described as "Part demolition and rebuilding of dwelling to form staff room and self-contained flat". The self-contained flat was at first floor level with the staff room on the ground floor. There is no dispute between the parties on this matter, or that the staff room was proposed in connection with the adjacent scrap/recycling yard use.
4. The appellant has not provided any evidence to demonstrate that the original planning permission was not lawfully implemented or that the approved staff room use was subsequently abandoned. In any event, the lawful use of the site is not a matter for me to determine in a section 78 appeal of the Town and Country Planning Act 1990 ('the Act'). It is open for the appellant to apply to have the matter determined under sections 191 or 192 of the Act or for the Council to take enforcement action if it considers the current use of the land to be unlawful. Any such application or enforcement action would be unaffected by my determination of this appeal.

5. I have as a consequence considered the appeal on the basis of the development description provided by the appellant, which confirms the use of the ground floor unit to be that of a staff room as granted under the original planning permission. As a consequence, and because the appellant has not disputed the Council's assertion that this staff room facility was granted permission in connection with the adjacent scrap/recycling yard business, I am treating the existing ground floor of the building as an employment use.
6. The current proposal is a resubmission of a previous application¹ following an enforcement investigation. It is not clear how the current scheme differs from this previous submission and I have therefore considered the appeal scheme on its own merits on the basis of the evidence before me.

Main issues

7. The main issues are:

- whether the development is in an appropriate location, with particular regard to the adopted development plan settlement hierarchy and access to shops, services and community facilities and transport choices other than the private car;
- whether the accommodation is no longer appropriate for an employment purpose.

Reasons

8. Dallinghoo is a small settlement surrounded by open countryside. The appeal site lies to its western periphery adjacent to an established scrap/recycling yard. It consists of a 2-storey detached building with residential flat to first floor level. At the time of my site inspection, the ground floor accommodation was in use as a separate self-contained apartment.

Whether the development is in an appropriate location

9. Policy SP19 and Table 4.1 of the Core Strategy² identify a settlement hierarchy, which defines Dallinghoo as falling within the countryside. Policies DM3, DM4 and SP29 of the Core Strategy and Policy SSP2 of the Site Allocations and Area Specific Policies Development Plan³ collectively restrict new residential development within the countryside to a limited number of categories, but the scheme does not fall within any of these. In particular, whilst I recognise that it may be a more affordable form of housing to rent or purchase, it does not meet any of the qualifying requirements to be considered as affordable housing as set out in Policy DM1 of the Core Strategy or the definition provided in the Framework⁴. Furthermore, although the building lies adjacent to a small cluster of dwellings (Sextons Cottage and Greenfield), I do not consider the properties known as Dallinghoo House, Karen Close and Freedom Farm to form part of this group given the large intervening distances. As a consequence, the scheme does not fall within an existing cluster of 5 or more dwellings, and neither does

¹ Council Ref DC/18/1996/FUL refused on 4 July 2018.

² Suffolk Coastal District Local Plan, Core Strategy & Development Management Policies, Development Plan Document, July 2013, Suffolk Coastal District Council.

³ Site Allocations and Area Specific Policies, Development Plan Document, January 2017, Suffolk Coastal District Council.

⁴ National Planning Policy Framework, Ministry for Housing, Communities and Local Government, February 2019.

it fall within 150 metres of a Major Centre, Town, Key Service Centre or Local Service Centre, both of which are requirements of Policy DM4.

10. I recognise that the development would not be physically isolated. However, this does not mean that it would be sustainable in terms of access to shops, services, community facilities and transport choices other than the private car, or that it should be approved.
11. The village hall and church in Dallinghoo could be accessed by walking from the appeal site, but these facilities are extremely limited in nature and future occupants would be heavily dependent on other settlements with a wider range of facilities further afield to meet their overall day to day needs, of which there are no interconnecting footways or streetlighting to enable safe walking. Whilst I recognise that such settlements could potentially be reached by cycling, I would only expect a small proportion of trips to be made in this way given the intervening distance and time it would take. There are also no details before me that would indicate the presence of a sufficiently frequent local bus service to these other settlements to significantly diminish the reliance of future occupiers on the private motor car.
12. I recognise that in rural locations access to sustainable rural transport solutions will be typically less than that of an urban area and that development in one village may support services in another nearby. However, in this case, I found the overall level of day-to-day access to shops, services and community facilities by walking, cycling and public transport to be of such a poor standard, and consequential reliance on the private motor car to be so high, that I consider the appeal site's location to be inappropriate for additional residential development.
13. I recognise that the environmental impact from vehicles would diminish as combustion engines are phased out and replaced by ultra-low emission and electric vehicles. However, even if a condition was imposed for an electric charging point, I consider it unlikely in the short to medium term that the majority of future occupants would use these vehicles. As a consequence, this cannot be relied upon as a means of mitigating the inaccessible location of the site.
14. Although the appellant states that the residential use of the ground floor accommodation is consistent with the historic use of the site as a larger single dwelling, this does not overcome the harm identified from the creation of an additional residential unit in this location for the reasons identified above.
15. I therefore conclude that the development would conflict with Policies SP1, SP19, SP29, DM1, DM3 and DM4 of the Core Strategy and Policy SSP2 of the Site Allocations and Area Specific Policies Development Plan, which collectively seek, amongst other things, to; (a) guide new development to sustainable locations via a defined settlement hierarchy; and (b) reduce the overall need to travel.
16. I also find that the scheme conflicts with Paragraphs 9 and 103 of the Framework⁵ as it would result in; (a) a planning decision not playing an active role in guiding development towards sustainable solutions; and (b) the planning system failing to actively managing patterns of growth in support of

⁵ National Planning Policy Framework, Ministry for Housing, Communities and Local Government, February 2019.

the transport objectives outlined in Paragraph 102; - namely, that it would be heavily car dependant and not promote walking, cycling and public transport.

Whether the accommodation is no longer appropriate for an employment purpose

17. Policy DM10 of the Core Strategy states that the change of use of existing sites from an employment use to a non-employment use will be granted subject to a number of caveats. The scheme does not fall within a settlement boundary and neither is there any evidence before me that the appellant has had difficulty in using, letting or selling the property for employment purposes. In the absence of such evidence, I am unable to conclude that there is no current or long-term demand for the retention of this employment use. I also do not consider the provision of a more affordable small residential flat to be a substantial benefit in accordance with the requirements of Policy DM10.
18. In view of the above, I conclude the scheme would be in conflict with Policy DM10 of the Core Strategy, which seeks, amongst other things, to ensure the retention of employment sites to meet existing and future business needs and secure the long term growth and resilience of the local economy.

Other matters

19. Although the Council is concerned about the noise impact on future occupiers from the apartment above, I am satisfied that the levels generated by the latter would be very limited and consistent with the residential use below and not be harmful to living conditions. A noise insulation scheme could also have been imposed by condition if I had been minded to allow the appeal.
20. The Council has raised concerns in respect of the impact of the scheme on nearby Special Protection Areas (SPA) and the need for a financial contribution to mitigate this. However, given that I am dismissing the development for other reasons, it has not been necessary for me to carry out an appropriate assessment of the scheme and consider the requested financial contribution as it would not alter the outcome of the appeal.
21. The appellant states that the Council had the option of identifying the site as a designated rural area requiring affordable units to be provided on developments of 5 units or fewer, following which they would have been willing to provide an appropriate financial contribution in lieu of this. However, even if this was the case, this does not overcome the harm identified above in terms of the site's inappropriate location and loss of the employment use. In any event, the onus on meeting the requirements of adopted planning policy in terms of the proposal falls squarely with the appellant.

Planning balance

22. The appeal site consists of a permanent structure and falls within the settlement of Dallinghoo. Because I do not consider this settlement to be a built-up area, it constitutes suitable Brownfield land in accordance with Framework's definition and I have accordingly given substantial weight to the value of using it for a new home in accordance with Paragraph 118.
23. The appellant states that the existing accommodation provides affordable accommodation for a single man, who has a business in the village. However, be that as it may, this does not overcome the harm identified and in any event,

there is no evidence before me as to why this need is not met by the existing first floor flat.

24. The appellant also states that there is a housing need for small affordable dwellings and referred to a number of developments where housing has been demolished or converted into larger units. However, this does not justify the harm associated with the creation of an additional unit of residential accommodation for the reasons identified.
25. Although the Core Strategy is over 5 years old, Paragraph 213 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework.
26. Policies SP1, DM1, DM4 and DM10 the Core Strategy are generally compliant with the Framework insofar as they relate to the main issues of this case. However, Policies SP19, SP29 and DM3 of the Core Strategy and Policy SSP2 of the Site Allocations and Area Specific Policies Development Plan adopt a restrictive approach to development in the countryside which does not fully accord with the more balanced and open position of the Framework. I have as a consequence attached only moderate weight to the scheme's conflict with these policies and consider them to be out-of-date.
27. I have as a consequence considered the development against the Framework's presumption in favour of sustainable development (Paragraph 11), but concluded that the environmental and economic harm arising from not guiding new development towards sustainable locations that are not reliant on the private motor car and the loss of employment land, would significantly and demonstrably outweigh the amount of social benefits that the development would contribute, namely:- (a) the provision of a more affordable dwelling; (b) increasing the range of local housing stock and contributing towards the Council's annual windfall allowance; and (c) the use of Brownfield land.
28. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.

Conclusion

29. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR