
Appeal Decision

Site visit made on 1 February 2021

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2021

Appeal Ref: APP/L2630/W/20/3259818

Venture Farm, Folly Lane, Carleton Rode, Norfolk NR16 1NJ

- 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 P Gilchrist against the decision of South Norfolk District Council.
 - The application Ref 2020/0445, dated 27 February 2020, was refused by notice dated 30 June 2020.
 - The development proposed is described as 'change of use of former stable/workshop building to holiday let unit.'
-

Decision

1. The appeal is allowed and planning permission is granted for the use of the stable/workshop building as a *sui generis* holiday let unit at Venture Farm, Folly Lane, Carleton Rode, Norfolk NR16 1NJ, in accordance with the terms of the application, Ref: 2020/0445, dated 27 February 2020, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Through his appeal submissions the appellant clarified that the application is for a change of use to a holiday let that would function as commercial leisure accommodation falling within a *sui generis* use¹. Interested parties, including the Council, had an opportunity to comment on this clarification through their appeal submissions and no concerns were raised. I have therefore considered the appeal on this basis and amended my formal decision accordingly.

Main Issue

3. The main issue in this appeal is whether the proposal would comply with local policies concerned with the conversion and use of buildings in the countryside.

Reasons

4. As part of the spatial strategy in the development plan, Policy DM 1.3 of the DMP² sets out the circumstances when development in the countryside outside settlement boundaries will be granted. These being where specific development management policies allow for this or where there are overriding benefits. Policy DM 2.12 of the DMP builds on this and explains that tourism

¹ Meaning a class of its own when applying The Town and Country Planning (Use Classes) Order 1987 (as amended)

² South Norfolk Local Plan Development Management Policies Document adopted 2015

accommodation will be permitted where it involves the conversion of rural buildings in accordance with Policy DM 2.10 of the DMP.

5. Policy 2.10 of the DMP states that the change of use and conversion of buildings in the countryside for employment uses (including holiday lets) will be supported subject to four criteria labelled a) – d). The existing appeal building is not in use and Venture Farm already benefits from a large barn type structure and therefore the proposed change of use is unlikely to result in the need for a new building. Moreover, the building would require minimal changes and no extensions to become holiday accommodation. The Council have not suggested that the proposal would harm its setting or effect the vitality or viability of any rural town or village, and I have no reason to disagree. As such, there would be no conflict with the first part of Policy 2.10.
6. The second part of Policy DM 2.10 relates to conversions in the countryside to residential uses falling within Class C3. This has resulted in some ambiguity as holiday accommodation is capable of falling within the C3 use class, but the policy appears to include holiday lets as an employment use. Thus, on the face of it, criteria e) and f) of Policy DM 2.10 can reasonably be interpreted as only applying to C3 uses not involving holiday accommodation, as the latter, for the purposes of the policy, are employment uses.
7. However, when the policy is read in the context of its supporting text, particularly Paragraph 2.54, I can see why the Council have interpreted the policy as they have. This is because Paragraph 2.54 explains that holiday accommodation will be encouraged in older character properties. It would therefore seem that Criteria e) and f) could be applied to holiday accommodation where it would fall within a C3 use class. These criteria require employment uses to be considered in the first instance and for a building to be historic and traditionally constructed. That said, supporting text is not policy.
8. The proposed accommodation would have many of the characteristics of a dwellinghouse because it would have the ability to afford those who used it the facilities required for day-to-day private domestic existence. This would include a kitchen, bathroom, independent access, a separate garden and a general sense of privacy. It would not lose this characteristic simply because it was occupied for only part of the year, at infrequent intervals or by a series of different people. It is therefore understandable that the Council considered the appeal scheme as proposing a dwellinghouse.
9. However, the appellant has subsequently clarified that he is not seeking permission for a dwellinghouse falling within the C3 use class. Instead, he is seeking permission to use the holiday let unit for commercial leisure accommodation. This could involve the frequent turnover of short stay lettings and the use by large groups from different households staying together. He is also seeking the flexibility to rent out rooms to couples/holiday makers from different households with the living space functioning as a communal area and the bedrooms as private space. Case law³ has established that commercial leisure accommodation is capable of being a distinct use outside the C3 use class i.e. a *sui generis* use.
10. Thus, with the foregoing in mind I share the view of the appellant that criteria e) and f) are not relevant in this instance because the appeal scheme is not

³ Moore v SSCLG [2012] EWCA Civ 1202

proposing a residential use falling within the C3 use class. Instead, it would be a holiday let unit functioning as commercial leisure accommodation and this would be an employment use adhering to Criteria a) to d) of Policy DM2.10.

11. I therefore conclude that the appeal scheme would result in the conversion and use of a building in the countryside that would adhere to Policy DM 2.10 of the DMP. This in turn results in no conflict with Policies 2.12 and DM 1.3.

Other Matters

12. It has been suggested that the appeal building has never been used as a workshop and stables. This may be the case, especially as stable doors have not been installed and the building is currently unused and empty. However, I have seen nothing of substance to suggest the building on site is unauthorised. The Council have not suggested that the building on site is not that approved and therefore requires planning permission. Instead, the Council apparently considered the application as a change of use of an extant and lawful building.

Conditions

13. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council. It is necessary in the interests of clarity to impose a drawings condition. In so doing I have omitted reference to the 'application form' and 'other documents' as otherwise suggested in the Council's draft conditions, as it is unclear what details the Council are trying to seek to secure and therefore this is unnecessary.
14. Given that the accommodation could easily function as a dwelling house it is necessary, in the interests of ensuring adherence to the development plan and to secure adequate living conditions, that the holiday let is demonstrably used as commercial leisure accommodation. In the interests of securing adequate drainage as required by Policy DM 4.2 of the DMP, it is necessary to impose a condition in this regard.
15. In its reason for the fourth suggested condition the Council has referred to the need to secure a water consumption rate of 105 litres/person/day. It is unclear whether this is an error. Nevertheless, I have not been provided with evidence to justify this requirement, a relevant development plan policy or clarification it can apply to a change of use. Therefore, I have not imposed this condition as its necessity has not been demonstrated. Similarly, I have not imposed the condition recommended by the highway authority as the development would be making use of an existing access and it has not been demonstrated that this is unsafe or that the proposal would result in a harmful intensification.

Conclusion

16. The appeal scheme would adhere to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should succeed.

Graham Chamberlain
INSPECTOR

Schedule of Planning Conditions

1. The development hereby permitted must be begun before the expiry of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No: RS/3496/20/01 Existing and Proposed elevation, floor plans and site plan.
3. The accommodation unit shall be for holiday use only and shall not be used as a sole or main residence. No person shall occupy any part of the accommodation for a period exceeding six weeks. Furthermore, no person shall occupy the accommodation within a period of two weeks following the end of a previous period of occupation by that same person. The owners/operators of the holiday accommodation shall maintain an up-to-date register of the names and main home addresses of all the individual holiday makers and shall make this information available for inspection at all reasonable times to the Local Planning Authority following prior written notification.
4. No means of foul water disposal shall be used other than the sealed system or private treatment plant indicated on the application details. The foul water disposal shall be implemented prior to the first occupation/use of the holiday let and retained as such thereafter.

END