
Appeal Decision

Site visit made on 9 February 2021

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2021

Appeal Ref: APP/X3540/W/20/3260370

The Groom's Flat, Melton Lodge, Yarmouth Road, Melton IP12 1LU

- 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 Mr A Gibbons against the decision of East Suffolk Council.
 - The application Ref DC/20/2474/ROC, dated 2 July 2020, was refused by notice dated 12 August 2020.
 - The application sought planning permission for the 'Change of use of first floor in existing stable block to groom's accommodation and various alterations' without complying with a condition attached to planning permission Ref C98/1140, dated 24 November 1998.
 - The condition in dispute is No 2 which states that: *'The development hereby permitted shall not be occupied or let as a separate dwelling but shall be used only for purposes incidental to the use of the dwelling house to which it relates or for occupation by a relative, employee or parent of the householder or his/her spouse.'*
 - The reason given for the condition is: *'The development is not such that the local planning authority would be prepared to approve as a separate dwellinghouse in its own right.'*
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of first floor in existing stable block to groom's accommodation and various alterations at The Groom's Flat, Melton Lodge, Yarmouth Road, Melton IP12 1LU in accordance with the application Ref DC/20/2474/ROC, dated 2 July 2020 without compliance with the conditions previously imposed on the planning permission Ref C98/1140, dated 24 November 1998.

Preliminary Matter

2. Local government in the area has undergone re-organisation. Since the application was determined, East Suffolk Council has adopted the Suffolk Coastal Local Plan 2020 (LP) which replaces the development plan policies which were used primarily to determine the application. The appellant was aware of the adopted LP policies and commented on them briefly in its final comments. Moreover, for the purposes of this appeal, the LP policies referred to in the Council's statement are broadly consistent with those cited in the decision notice. Therefore, I consider that it does not prejudice the appellant's case to make the decision on the basis of the LP policies.
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Main Issues

3. The main issues are:

- whether or not the removal of the condition in dispute would accord with development plan and national policies dealing with residential development in the countryside;
- the effect of the removal of the condition in dispute on the integrity of European protected sites.

Reasons

Residential development in the countryside

4. The appeal property is a self-contained flat above a stable block. The block forms part of a collection of buildings at Melton Lodge. The Lodge itself is a Grade II listed building and the site is within the Melton Conservation Area. There is no dispute that the site is within the countryside for the purposes of development plan and national policies.
5. The reason given for the condition was that the Council was not prepared to approve a dwelling in its own right. The underlying reason for that position is not provided in the decision notice. However, the Council's statement explains that its concern is that unrestricted occupation of the flat would be contrary to relevant policies.
6. LP Policy SCLP5.3 sets out the limitations on residential development outside of settlement boundaries. Amongst other things, it allows for the conversion of existing buildings in accordance with Policy SCLP5.5 as well as other residential development consistent with National Planning Policy Framework (the Framework) policies on residential development in the countryside. Framework paragraph 79 allows for the re-use of a redundant building which would enhance its immediate setting. The appeal flat is vacant and I have no reason to doubt the appellant's evidence that there is no longer a need for accommodation for relatives or employees of the occupier of the main house or for a use ancillary to the main house. The Council argues that the flat could be used for tourism accommodation. However, there is nothing in LP Policy SCLP5.5 or Framework paragraph 79 which requires alternatives to residential use to be considered first.
7. Removal of the disputed condition would allow unrestricted occupation of the flat. General residential occupation would prevent the flat from being redundant and remaining vacant for an extended period. This outcome would make a modest contribution to the supply of housing in the area and, therefore, is supported by Framework paragraph 59.
8. In terms of the requirements of LP Policy SCLP5.5 and Framework paragraph 79, the flat is located within an attractive stable building which makes a positive contribution to its immediate setting. Ensuring residential occupation would assist in the upkeep of the flat itself and provide an income which would help in the maintenance of its surroundings. I give this consideration additional weight in view of the location of the flat within a Conservation Area and within the setting of a listed building. The removal of the condition would not involve alterations to the building or its curtilage. I deal with the effect of the proposal on the wider natural environment in the second main issue below.

9. There is nothing to suggest that the existing access is not capable of serving the unrestricted occupation of the flat. The Council has expressed concern that the flat is not well located for local facilities and services and future occupiers would need to rely on use of a private car, contrary to the principles of sustainable travel. However, the flat is fully equipped and has independent access. As such, even under the terms of the disputed condition, its occupiers do not need to rely on its relationship with the main house in order to access local services and facilities. Consequently, there is no reason to expect that removal of the condition would lead to significant additional trips by private car.
10. The appeal proposal is for the removal of a condition, rather than the conversion of the building to residential use. Nevertheless, since a restricted form of residential use exists, the effect of the proposal on the underlying aims of Framework paragraph 79 and LP Policy SCLP5.5 would, if anything, be less than the creation of a new residential unit through the conversion of a building.
11. Therefore, subject to its effect on the natural environment, I find that the proposal would meet the requirements of Framework paragraph 79 and SCLP5.5. It follows that the proposal would also comply with Melton Neighbourhood Plan Policy MEL1 insofar as it allows for development outside the physical limits boundary provided that such development accords with Local Plan policies on appropriate uses in the countryside.

European Protected Sites

12. The appeal site is located within the recreational disturbance Zone of Influence for the European Sites as defined in the Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). The Habitats Regulations Assessment (HRA) of the LP has found that residential development in the Zone of Influence would lead to increased recreational disturbance of the European Sites. The in-combination effect would, without adequate mitigation measures, result in an adverse effect on the integrity of the Sites. The RAMS provides for strategic mitigation and the Council seeks a financial contribution for residential development to fund those measures. Whilst the appellant has indicated a willingness to provide a financial contribution, there is no evidence that the contribution has been made and no mechanism to secure it has been offered.
13. However, I have already found that, even under the terms of the disputed condition, the appeal flat is equipped to allow occupation without the need to rely on the occupiers of the main house for access to local services and facilities. The same is true of access to recreation facilities, including potential visits to the European Protected sites. There is no firm evidence to show that occupiers who are relatives or employees of the occupiers of the main house would be less likely to visit such sites than persons who could occupy the flat on an unrestricted basis.
14. As such, the proposal would not lead to increased recreational disturbance of the European Sites and would not affect their integrity. Consequently, there is no need to provide mitigation in the form of a financial contribution. Therefore, the proposal would not conflict with LP Policy SCLP10.1 which presumes against proposals that adversely affect a European Site. There is nothing to suggest that the proposal would have other adverse impacts on the wider natural environment.

Other Matters

15. The Council has expressed concern that allowing the appeal may set a precedent for the removal of conditions restricting the occupation of other residential annexes. However, each planning application and appeal must be determined on its own merits. My decision is based on the particular circumstances in this case which are unlikely to be directly applicable to other cases.

Conditions

16. In addition to the disputed condition, the original permission was subject to conditions dealing with the time limit for commencement of the development and the use of materials. Since the change of use has already taken place and no further alterations to the property are proposed, it is not necessary to re-impose similar conditions on this permission.

Conclusion

17. For the reasons set out above, the appeal should be allowed.

Simon Warder

INSPECTOR