



Appeal Decision

Site Visit made on 26 January 2021

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2021

Appeal Ref: APP/R2520/W/20/3261232

Waterloo Farm, Wilsford, Grantham NG32 3NZ

- 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 I MacArthur against the decision of North Kesteven District Council.
- The application Ref 20/0656/FUL, dated 28 May 2020, was refused by notice dated 24 August 2020.
- The application sought planning permission for change of use and extension to form holiday-let accommodation without complying with conditions attached to planning permission Ref 10/1134/FUL, dated 27 October 2010.
- The conditions in dispute are Nos 4, 5 and 6 which state that:
Condition 4: The barn conversion shall be occupied for holiday purposes only.
Condition 5: The barn conversion shall not be occupied as a person's sole, or main place of residence.
Condition 6: The owners/operators shall maintain an up-to-date register of the names of all occupiers of the barn conversion on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority
- The reasons given for the conditions are:
Condition 4: To ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation.
Condition 5: To ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation.
Condition 6: To ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation.

Decision

1. The appeal is allowed and planning permission is granted for change of use and extension to form holiday-let accommodation at Waterloo Farm, Wilsford, Grantham NG32 3NZ in accordance with the application Ref 20/0656/FUL dated 28 May 2020, without compliance with condition numbers 4, 5 and 6 previously imposed on planning permission Ref 10/1134/FUL dated 27 October 2010 and subject to the conditions in the attached schedule.

Preliminary Matters

2. Planning permission was originally granted in 2010 for the change of use and extension of an agricultural building to form a holiday let. It has been held by the Courts¹ that the distinctive characteristic of a dwellinghouse is its ability to afford to those who use it, the facilities required for day-to-day private domestic existence. It does not lose that characteristic if it is occupied for only

¹ (Gravesham BC v SSE and O'Brien [1983] JPL 30)

part of the year, or at infrequent intervals, or by a series of different persons. Notwithstanding the description of development, nor the conditions imposed, a one bed holiday cottage would still therefore be classed as a dwellinghouse under Use Class C3.

3. Works to the building approved in 2010 have clearly started. I saw that the extension has been built and internal changes made to facilitate the change of use to residential purposes, including internal sub-division, the creation of a first floor and the fitting of such features as a kitchen and heating appliances. The appellant has however stated that the works are not complete.
4. Application 20/0656/FUL applied for change of use from holiday let to a dwelling. However, the change from a holiday let to a dwelling would not therefore constitute a change of use and thus no development was proposed under this application. As such, I did not consider the appeal could be considered on this basis. As what was effectively being sought was the removal of conditions restricting the use to a holiday let, I wrote to the parties asking for their views on whether it would be more appropriate to determine the appeal under section 73 of the Town and Country Planning Act (1990). The parties agreed with this approach and I have considered the appeal on this basis. I am satisfied that no interests have been prejudiced because of this.
5. The description of development cannot be altered under section 73. Therefore, whilst the description in my formal decision still refers to the conversion of the barn to a holiday let, the effect of my decision is to allow the occupation of the building to be used as a permanent dwelling.

Background and Main Issue

6. The Council contend that the conditions remain necessary to ensure the dwelling would not become an isolated dwelling in the countryside, in contravention of local and national policy. Moreover, they consider that the use as a holiday cottage is important for the local economy and insufficient justification has been given to remove the restrictions.
7. The appellant considers that the conversion of a disused barn to a permanent dwelling would be acceptable under current local and national policy and thus there is no reason for the conditions to be maintained. He also considers that there is no prospect of the building being attractive or viable as a holiday cottage but that it is not necessary to demonstrate the holiday use is not viable in any event.
8. Based on the above, the main issues are whether the disputed conditions are necessary and reasonable, having regard to relevant local and national policies on the location of housing in the countryside and the strength of the rural economy.

Reasons

9. Paragraph 55 of the National Planning Policy Framework (the Framework) advises that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. As has been established, the original permission was effectively for a dwelling in the countryside. The change of use from a non-residential use to a residential use has therefore already been accepted in this location. In considering whether

the disputed conditions serve any planning purpose, I must consider whether the occupancy restrictions would still be necessary or reasonable in the current policy context.

10. I am required to consider the against the most up-to-date local and national policies. The relevant development plan policies are found in the Central Lincolnshire Local Plan (CLLP) (2017). CCLP Policy LP2 establishes the spatial strategy and settlement hierarchy for the area. This seeks to focus development into the most accessible locations. The policy identifies seven levels of settlement, from the Lincoln Urban Area through to Hamlets. The site is located outside any of these and is thus classified as being within the open countryside. In such locations, development is limited to a small number of categories. This includes development acceptable under policies LP7 and LP55.
11. Policy LP55 supports the principle of the conversion of non-residential uses to dwellings in the countryside in certain circumstances. The policy makes no reference to holiday cottages or suggests they are preferable to permanent dwellings. Criterion a. requires evidence that the building can no longer be used for the purpose which it was originally built or its last use. I have limited information about the use or state of the building at the time of the original permission. However, there is no strong evidence to suggest the building was being actively used or that it was fit for modern agricultural purposes. From what I have seen, I am satisfied that the conversion of a disused barn to a dwelling would meet the requirements of criterion a.
12. The Council have argued that to justify the removal of the conditions, the appellant would need to demonstrate that the building is not fit for the holiday cottage use or that there is no demand for it. However, this only relates to the change of use of a non-residential to residential use. Permission has already been granted for a residential use and the building is already able to be used as such. As such, this requirement is not directly relevant in this context. This policy makes no specific reference to tourism or that any change of use to residential should be limited to holiday cottage use only. There is no preference for holiday cottages over permanent residential uses in this policy. In the context of this appeal, I do not consider it is necessary to demonstrate that the holiday cottage use is redundant or unviable to meet the requirements of the policy or justify the removal of restrictive conditions.
13. Criterion b. requires any re-use to be achievable with minimal alterations to the building, including resisting inappropriate openings and new features. The Council contend that the extension that was permitted would have failed to meet this requirement. Again, I have little information about the original state or condition of the building. However, I note the officer report from 2010 concluded that the extension was significantly smaller than what had previously been refused, the fenestration would be appropriate and that there would be little visual impact.
14. The policy provides no indication of what scale of alteration might be considered 'minimal'. There is no suggestion in the policy or supporting text that it precludes any form of extension. Indeed, it would be reasonable to assume that in some cases this would be necessary to provide a satisfactory form of accommodation.
15. Notwithstanding the relative increase in the footprint of the building, the extension is modest in its own right. Considering the size of the original

- building, this may have been a case where additional floorspace may been necessary to provide an acceptable living environment while still ensuring the building could be put to beneficial use.
16. The scale of the extension does not appear excessive in this regard and does not constitute an inappropriate new feature. Indeed, the design and scale of the extension is such that it completely blends in with the original building, which was modest in scale itself. The original agricultural character of the building remains intact. In my view, this small and sympathetic extension is not of such a scale or design that it would necessarily have failed to meet the policy's requirements. I am therefore satisfied that the original proposal would have been broadly consistent with criterion b.
 17. However, even if I had concluded that the original development would have conflicted with this criterion, this would provide no clear reason to retain the holiday cottage conditions. There is no indication that the conditions were imposed in relation to any concerns over the scale of the building or the extent of the extension. Removing the conditions would have no impact on the character or appearance of the site or wider area.
 18. Criterion c. requires the building to be of notable historic or architectural merit and intrinsically worthy of retention. The Council raised no objections in relation to this criterion, either originally or in response to the change in approach set out above. The wider site is not prominent in public views, being located well away from the main road. However, the building appears to be a good example of a stone barn, which complements the agricultural character of the wider site and the cluster of buildings in the vicinity. There is no suggestion that buildings must be designated heritage assets to meet the criterion and thus I am satisfied the building would be considered worthy of retention. The change of use of the barn to a permanent dwelling would have met this criterion. As such, this also provides no reason to impose or retain the restrictive conditions in the current context.
 19. Similarly, while Policy LP7 is supportive of tourism related development, it makes no specific reference to holiday lets being acceptable in principle in the open countryside. Neither does it identify any preference for holiday accommodation over permanent dwellings or seek to place any restrictions of new dwellings in the countryside. Therefore, even where a holiday cottage would be acceptable under this policy, it does not preclude development consistent with other policies in the plan. Importantly, this policy also contains no criteria for considering the loss of tourist facilities or removal of conditions. This policy therefore provides no justification for the application or retention of the disputed conditions based on the location of the site.
 20. Paragraph 79c of the Framework states that the re-use of redundant or disused buildings for dwellings are acceptable in principle in isolated locations such as this. As above, my understanding is that the barn was either disused or redundant and thus conversion would be acceptable in principle. There are no provisions in this paragraph about the pre-existing use of the building or that any dwelling should be restricted to holiday accommodation. Irrespective of issues relating to the effect on the setting of the building, the Framework provides no justification for restricting the use to holiday accommodation.
 21. The building has never been used as holiday accommodation in the time since permission was permission was granted. Although the works may not have

been fully completed, this nevertheless does not indicate a strong desire or willingness to progress the proposal for holiday cottage use. I have had regard to the appellant's comments about the attractiveness of the site for holiday accommodation. However, this has not been tested through any marketing and thus I cannot conclude with certainty that the property would not be viable as a holiday let. Nonetheless, there is also no guarantee that refusal of the appeal would lead to the building being used in this way. The appellant cannot be compelled to use the building in accordance with the condition and so there must be some risk that refusal of the appeal would simply leave the building vacant and disused.

22. Therefore, if the barn was still disused, its conversion to a dwelling would accord with the aims of the Framework and the Local Plan regarding the conversion of non-residential buildings. Moreover, if the building remained unused in its current form, there is nothing in national policy to suggest its use as a permanent dwelling would be unacceptable in principle.
23. I am therefore satisfied that the original change of use from barn to a dwelling would have broadly met the requirements of Policy LP55. By extension, the conversion would be consistent with Policy LP2. There is nothing in Policy LP7 which requires restrictive conditions to be imposed or maintained based on the location of the site. Consequently, these policies provide no justification for maintaining the disputed conditions.
24. Turning to the issue of the economy, I acknowledge the general importance of tourism locally. Occupation of the building as a holiday cottage would support this, both by providing additional accommodation to attract visitors and through support to local businesses and facilities. However, the building currently provides no benefits in this regard and removing the conditions would not reduce existing levels of holiday accommodation in the district.
25. Residents of a permanent dwelling would also provide some support for local services and facilities. It would also be reasonable to assume these would be derived throughout the year, whereas a holiday cottage would be occupied transiently and mainly during holiday seasons. Therefore, while the benefits might be different, it would be wrong to conclude the removal of the conditions would deprive the local economy of any benefits. There also must be some uncertainty as to whether the building would be used as a holiday cottage if the appeal were dismissed. In this context, any benefits associated with maintaining the restrictions cannot be relied upon.
26. The appellant has drawn my attention to a recent permission² granted for the change of use of a holiday cottage to dwelling. In that case it was accepted that there was no policy basis for maintaining the restrictions and that the loss of a single unit would be offset by the growth in visitor accommodation coming forward. The Council have given no indication as to why the proposal before me should be considered differently. Even accounting for any cumulative issues, there is no strong evidence to suggest that the loss of a single one-bedroom cottage would have a material impact on the amount of accommodation available or the economy of the area.
27. I am therefore satisfied that the conditions restricting occupancy are not necessary or reasonable having regard to tourism and the local economy. In

² Application ref: 19/0397/FUL

coming to this conclusion, I have had regard to paragraph 83 of the Framework, which is supportive of a prosperous rural community. Nonetheless, this does not justify maintaining a restriction that is not required by other relevant development plan policies.

28. In conclusion, I find that the disputed conditions are not necessary or reasonable either in relation to the location of the site or the effect on the economy. Removing the conditions would not conflict with the aims of CLLP policies LP2 or LP55 which support the conversion of non-residential buildings to dwellings in the open countryside. There would also be no conflict with CLLP Policy LP7 which seeks to support new tourism related development.

Other Matters

29. The Council have made reference to Class Q of the General Permitted Development Order (GPDO) in their evidence. Class Q is not the only means by which an agricultural building can be converted to a dwelling. Whether or not the original proposal would have met the limitations of Class Q has no bearing on its consistency with local and national policy. Accordingly, the GPDO has had no bearing on my decision.

Conditions

30. The Planning Practice Guidance (PPG) states that, to assist with clarity, decision notices for the grant of permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. The PPG also states that in granting permission under section 73 new conditions can be imposed, provided they do not materially alter the development and could have been imposed on the earlier permission.
31. As the development has started, it is not necessary to reimpose the timescale condition. However, notwithstanding that development has started, I have no information before me about whether the original conditions were discharged. I shall therefore impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
32. I note that the original permission did not contain the standard plans condition. I have therefore imposed this to provide certainty and ensure any outstanding works that may be required comply with the approved plans.

Conclusion

33. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: PR/02, PE/03, PR/04.
- 2) No development shall take place on any part of the site to which any part of this permission relates until, samples of the materials to be used in the construction of the external surfaces of the extension to the barn hereby permitted have been submitted to and agreed in writing by the district planning authority. Development shall only be carried out in accordance with the approved details.
- 3) Adequate land shall be reserved within the curtilage of the site at all times for the parking, loading, unloading and manoeuvring of all vehicles expected to call at the permitted development at any one time.
- 4) All windows and doors shall be in timber and thereafter retained in that form. No development shall take place on any part of the site to which any part of this permission relates until, details of the windows and doors shall be provided at a scale of 1:20 for the agreement in writing of the district planning authority. The details shall also indicate the finish of the windows and doors
- 5) The development hereby permitted shall not be commenced until a scheme to deal with any contamination of land or pollution of controlled waters has been submitted to and approved by the Local Planning Authority (LPA) and until the measures approved in that scheme have been implemented. The scheme shall include all of the following measures unless the LPA dispenses with any such requirement in writing:
 - a) A desk-top study carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desktop study shall establish a conceptual site model and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two full copies of the desktop study and a non-technical summary shall be submitted to the LPA without delay upon completion.
 - b) If identified as being required following the completion of the desktop study, a site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed taking into account the sites existing status and proposed new use. Two full copies of the site investigation and findings shall be forwarded to the LPA without delay upon completion.
 - c) Thereafter, a written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters affecting the site shall be submitted and approved by the LPA, and all requirements shall be implemented and completed to the satisfaction of the LPA. No deviation shall be made from this scheme without the express written agreement of the LPA. If during

redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing with the LPA.

- d) Two full copies of a full closure report shall be submitted to and approved by the LPA. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met.
- 6) Adequate land shall be reserved within the curtilage of the site at all times for the parking, loading, unloading and manoeuvring of all vehicles expected to call at the permitted development at any one time.