
Appeal Decision

Hearing Held on 27 April 2021

Site visit made on 28 April 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 May 2021

Appeal Ref: APP/E9505/W/19/3240574

**Barn adjacent to Barn Cottage, The Mead, Church Loke, Coltishall,
Norfolk NR12 7DN**

- 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 Gordon Hall against the decision of Broads Authority.
 - The application Ref BA/2018/0012/CU, dated 17 November 2017, was refused by notice dated 4 June 2018.
 - The development proposed is change of use from B8 to residential dwelling and self contained annexe.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Local Planning Authority (the Authority) adopted the Local Plan for the Broads Plan period: 2015 to 2036 (the LP) on 17 May 2019 and I therefore give full weight to the relevant policies of the LP. The Authority's decision notice refers to Policy DP21 of the Development Management Policies Development Plan Document, which has been replaced by the LP and therefore has had no bearing on my decision. The parties have had the opportunity to comment on the relevant LP policies.
3. I have used the description shown on the Authority's decision notice in the heading above because it is more concise than that referred to on the planning application form. At the Hearing, the appellant stated that the proposed annexe for a dependent relative is no longer required. Nevertheless, I have determined the appeal on the basis of the description set out in the heading above and the details shown on the proposed drawings.

Main Issue

4. The main issue is whether the appeal building would be an appropriate location for residential use with regard to the development plan strategy for the area.

Reasons

5. Policy DM26 of the LP seeks to protect employment sites and properties by permitting: a) the re-use for employment uses in the first instance or, subject to demonstrating that such uses are unviable, b) community facilities or services in the second instance and, only if these are not required or feasible in these locations, tourism and recreation will be considered. Alternative uses will only be

permitted where, amongst other things, the use of the building for uses listed above cannot be continued or made viable in the longer term. Policy DM48 of the LP says that the change of use of buildings to employment, tourism, recreation and community uses will be supported subject to 9 specific criteria. It states that the conversion of a building to a residential use outside a development boundary will only be acceptable when all the criteria are met and when it is clearly demonstrated that employment, recreation, tourism and community uses would be unviable.

6. In respect of alternative uses, the supporting text for both policies refers to the need for a report to be undertaken by an independent chartered surveyor, which demonstrates why employment, recreation, tourism and community uses would not be viable. Amongst other things, this should include evidence of attempts to market these uses at a reasonable price or rate for a sustained period of 12 months.
7. The appeal building is located outside the development boundary of Coltishall, and its existing use is for employment purposes for storage & distribution and an office. The appellant's Viability Study (VS) and accompanying letter prepared by Arnolds Keys Chartered Surveyors¹ state that the conversion of the appeal building to holiday accommodation, or a community use, would not be viable. The Authority does not dispute the appellant's position regarding community use, and it indicates that viability for holiday accommodation would be marginal. Consequently, the main point of dispute between the parties relates to whether employment use of the building would be viable.
8. I observed the interior of the building, which is light, airy and in good condition. The walls and ceiling are painted plaster, and it has a concrete floor which is not finished. Internal fixtures include lighting, a boiler and electrical sockets (some of which were not fitted to the wall). It has double-glazed timber windows, which are in good condition. There was not a W.C. at the time of my site visit, part of the building was being used for storage and I noted that there was an area comprising desks, computers, and office paraphernalia.
9. I have had regard to the financial figures contained in Appendix B of the VS, which, based on the schedule of works, appears to relate to converting the building to an office use. The Authority's consultant states in their report of 3 May 2018 that whilst they do not necessarily agree with all aspects of the conversion costs, it is considered overall to be a fair estimate, and the proposed annual income is reasonable based upon the works proposed. However, they assert that a significant proportion of the annual running costs will normally be borne by the tenant on the assumption that the premises is let on a conventional commercial basis.
10. I find that the repairs/maintenance/gardening running costs figure of £7200 per annum is too high given the modern construction of the building and the modest size of the appeal site, indicated in the planning application form at around 0.15 hectare. I note that there is a wider area of land outside the appeal site, which is under the ownership of the appellant, comprising a landscaped garden, meadow and trees. However, any inclusion of the maintenance costs of this land would not be reasonable given that it would not be associated with the commercial use of the building. Furthermore, the VS does not contain details indicating the projected costs and income for letting the building in its current condition. As such, the financial figures contained in the VS do not provide a sound basis for concluding that employment use of the appeal building would not be viable.

¹ Dated 5 April 2018

11. Regarding the marketing requirements of LP Policies DM26 and DM48, the evidence before me includes an online marketing brochure produced by Arnolds Keys, which shows that the appeal building was advertised for a rent of £8,000 per annum exclusive. Whilst the appellant commented at the Hearing that the building was marketed for many months, precise details of the length of marketing were not provided. The Authority suggests that the marketing would have been likely to be a period between Arnolds Keys' Marketing Report and Valuation dated 24 August 2018, which sets out recommendations for marketing, and the submission of a subsequent planning application, Ref BA/2019/0019/FUL, on 17 January 2019. A period of around 5 months. In the absence of specific details to indicate otherwise, I consider that this was the likely situation.
12. The appellant indicates that a marketing period of around 6 months was agreed by the Authority. However, the Authority disputes this and refers to the Committee Meeting Minutes, which shows that a motion to defer determination of the application for a period of 6 months to enable marketing to be carried out failed, and subsequently a motion to refuse planning permission was carried. As such, there is no substantive evidence before me to show that the Authority agreed to a marketing period of less than 12 months.
13. During the short period that the appeal building was marketed (after the date of the Authority's decision of planning application Ref BA/2018/0012/CU), there was evidently some interest from potential occupiers, as indicated in the appellant's email dated 28 January 2019. At the Hearing, the appellant referred to a further enquiry for use of the building for veterinary purposes, which was not pursued. The appellant said that a potential playgroup tenant offered the advertised annual rent of £8000. However, the appellant did not consider the advertised rent to be high enough due to the maintenance costs of the site, and he indicated that the prospective tenant was not willing to contribute towards these costs. As referred to above, I find the maintenance costs in the VS to be too high. The interest from potential occupiers was gained despite the building being marketed at a rate significantly higher than the market rent valuation of £6,000 per annum shown in the appellant's Report and Valuation dated 9 March 2018².
14. The evidence does not include information from Arnolds Keys to show precisely how long they marketed the property, the steps that they took to market it (rather than recommendations), or a schedule of enquiries. The information before me indicates that the appeal building was marketed for a period of significantly less than 12 months and drawing the above factors together, I am not persuaded that adequate marketing has been carried out for the use of the appeal building for employment purposes.
15. I therefore conclude that the proposal would not be an appropriate location for residential use with regard to the development plan strategy for the area. It would be contrary to Policies DM26 and DM48 of the LP, the aims of which are set out above.

Other Matters

16. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. The appeal site is located in the Coltishall and Horstead Conservation Area. This comprises the villages of Coltishall and Horstead, which are linear in form and include attractive individually designed buildings. No external alterations are proposed to the appeal

² Prepared by Robert Sterling Surveyors

building and there are other residential properties nearby. The Authority has raised no concerns regarding the effect of the proposal on the significance of the designated heritage asset and I see no reason to take a different view.

17. At the Hearing, the appellant explained his personal circumstances and the significant importance of the land to him. The appellant set out that the sale of the appeal building would not be an option due to his connection to the site and the presence of a family memorial garden. Furthermore, the appellant referred to his physical requirements and indicated that the appeal building would provide more accessible accommodation to meet his needs. The appellant also said that noise from the nearby Norfolk Mead Hotel causes him disturbance due to the holding of wedding receptions, amongst other things, and this has been subject of Environmental Health investigations. He affirmed that the appeal building would be less vulnerable to noise.
18. I have had regard to the personal circumstances referred to by the appellant and I appreciate his evident emotional attachment to the land. Nevertheless, the appellant resides in an adjacent 2 storey dwelling at Barn Cottage and there is nothing before me to suggest that this would not continue should the appeal scheme fail. Furthermore, there is no evidence from medical practitioners that may support the appellant's use of the appeal building as a dwelling, or information to show that the appellant's existing home could not be adapted to accommodate his physical needs for normal day-to-day activities should this be necessary.
19. Regarding noise from the hotel, the Environmental Protection Act 1990 provides legislative controls outside the planning system to protect neighbouring occupiers from statutory nuisance. Barn Cottage, along with the adjoining properties at Nos 2 & 3, are near to the garden and function room building at the hotel. However, the appeal building is also close and vulnerable to noise from the garden/function room and comings and goings along the access road. I also note the appellant's VS which comments that self-catering accommodation at the appeal building would not be viable, citing its proximity to the function room of the adjacent Norfolk Mead Hotel. Consequently, based on the information before me, I am not convinced that noise and disturbance experienced from the hotel would be materially different at the appeal building than the appellant's current residence at Barn Cottage.
20. Having regard to the above, whilst I am sympathetic to the appellant's personal circumstances, I find that this would not outweigh the conflict with the development plan.

Conclusion

21. The proposal would conflict with the development plan as a whole and the other considerations would not outweigh this conflict. Therefore, for the reasons given, the appeal is dismissed.

C Osgathorp

INSPECTOR

APPEARANCES

For the Appellant	
Gordon Hall	
Dan Chapman	Solicitor/Partner Leathes Prior
For the Authority	
Jack Ibbotson	Planning Officer
Cheryl Peel	Senior Planning Officer
Cally Smith	Head of Planning