
Appeal Decision

Site visit made on 21 October 2021

by David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 November 2021

Appeal Ref: APP/K2610/W/21/3273694

Autumn Cottage, Back Lane, Cawston, Norwich NR10 4HL

- 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 Esther Gertner against the decision of Broadland District Council.
 - The application Ref 20202085, dated 30 October 2020, was refused by notice dated 8 January 2021.
 - The application sought planning permission for erection of dwelling for use as holiday accommodation and erection of associated stable block without complying with a condition attached to planning permission Ref 20121396, dated 12 December 2012.
 - The condition in dispute is No.3 which states that: "The holiday accommodation unit shall be for holiday use only and shall not be used as the sole or main residence of the occupiers. 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 occupiers and shall make this information available for inspection at all reasonable times to the Local Planning Authority following prior written notification."
 - The reason given for the condition is: To prevent the occupation of seasonal holiday accommodation on a permanent basis in accordance with the requirements of Policy HOU7 of the Broadland District Local Plan (Replacement) 2006.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues in this appeal are firstly whether it has been sufficiently demonstrated that the holiday let use is not viable, and secondly, whether the appeal location is sustainable for permanent residential occupation.

Reasons

Viability of the Holiday Let Use

3. The appeal site occupies a tranquil, rural location at the edge of a small cluster of houses in the countryside. It is situated on a quiet, narrow lane where the property has a pleasant outlook over open countryside to the north. Elsewhere the appeal site is generally adjoined by a patchwork of small fields, adding to the agreeable rural character. The appeal property is a well-built modern construction, which is clearly maintained to a good standard. The property comes with an associated stable block to the rear, which would serve a niche

holiday market. The Local Planning Authority (LPA) emphasise that the site is a conveniently situated rural base from which occupants can readily access the North Norfolk Coast, the Broads and the historic city of Norwich. The property is also well-placed to access the Norfolk countryside, including for horse-riding. Overall, I find the appeal location and the appeal property should have reasonable prospects to support a viable, rural holiday let use.

4. The principal evidence before me on the demand for the property is the 'Holiday Lettings Log' which covers the period April 2019 to August 2020 (some 18 months). This shows that a total of 9 bookings were secured, amounting to 59 nights of occupation. On this basis, I would accept the revenue generated would not amount to a viable business given the potential overheads. That said, it is important to look at how the property was marketed, and the period covered by the log, together with other activities to sell the property as a going concern.
5. The appellant states that the holiday let was marketed by two local agencies¹ as well as on Airbnb. It is put to me that this accords with advice given by the LPA. Most of the evidence with this appeal relates to Airbnb, which has generated 30 out of the 59 nights of bookings, including the vast majority of bookings in 2020. There is very limited information before me about the two local agencies used by the appellant. For example, the details of the agencies, how they marketed the property, at what rates (and the reasonableness of those rates) and their profile in terms of the national market for rural holiday accommodation. Accordingly, I find the lack of evidence on the activities of the local agencies gives rise to concerns about the adequacy of efforts to generate a viable holiday let enterprise.
6. In terms of the presentation of the property on Airbnb, I note it is comparable to similar properties in the area² such that I do not consider the property has been presented negatively. Whilst I note that initial information about the appeal location is limited on Airbnb such that it requires clicking on a further link, I do not consider this unduly awkward for prospective holidaymakers or would materially deter those interested in-principle in a holiday in rural Norfolk. Overall, I find Airbnb, in broad terms, can be considered as part of the efforts for the purposes of satisfying Policy H2. I have reservations, however, that a reliance on Airbnb alone would be sufficient. I am not advised that there is any exclusivity with Airbnb and as such that it would be reasonably expected as part of any concerted endeavour to make a holiday home use viable, that other companies, specifically geared to the rural holiday home market, would have been engaged. Whether or not the 'large local agencies' satisfied this, cannot be determined on the limited evidence before me.
7. The holiday property has its unique selling point in terms of the equestrian offer³. There is very little in the lettings log, or the evidence more generally, about the demand or take-up for this aspect of the accommodation at Autumn Cottage. In my view, the niche equine dimension would reasonably warrant a bespoke marketing approach. I am unsure that anyone seeking holiday accommodation with stabling for horses would consider Airbnb an obvious search point. Overall, I am not persuaded, on the evidence before me, that the

¹ "two large local companies" as stated in the Lettings Log

² The Buttery, Booton – Appellant Statement of Case Appendix D

³ Planning permission was granted for holiday accommodation "with associated stable block"

property has been marketed to its full potential as a holiday let, including the associated equine facilities.

8. In terms of the time period covered, this includes two summers. I accept the data for Summer 2019 would appear to evidence low demand, but much will depend on how the property was marketed and any contextual activity in preceding years (giving rise to the potential for repeat bookings). The 2019 data represents only one complete summer's worth of data and on its own would not represent a sufficient period, given the evidence shows that the property was constructed (and being marketed for sale) some time before April 2019.
9. In respect of 2020, this is clearly an anomalous year, involving a national lockdown with the Covid-19 pandemic, which affected most of the Spring of that year. This would have negatively impacted on demand in April, May and June. The appellant submits that the subsequent demand for staycations in 2020 should have resulted in a strong uptick. I agree and the lettings log points to reasonable occupancy levels coinciding with the school holiday period. Whether or not this should have been stronger ratchets back to my concerns above around how the property has been marketed. The LPA refer to another holiday property in the vicinity which appears to have sustained a better rate of bookings. I appreciate it is a different size of property and without the equine facilities, but it nonetheless shows a demand for accommodation at the appeal location. It would be premature, in my view, to extinguish the holiday let business based on the atypical events of 2020 and the resurgent staycation demand in 2021 and beyond. Whilst I note there is no detailed guidance⁴ from the LPA on how to demonstrate sufficient marketing of properties with occupancy conditions, evidence on the viability of the use should be taken over a sufficient time period that is not prejudiced by negatively abnormal circumstances.
10. Efforts have also been made between 25 January 2017 and 11 April 2019 to sell the property with the occupancy condition, which have not succeeded. I have very little information to gauge whether the sale value sought, which was reduced, reasonably reflected the restrictive occupancy condition and whether the property was appropriately marketed for its lawful use⁵. Overall, I do not find the efforts to dispose of the property sufficiently demonstrate a lack of demand for holiday accommodation at the appeal location.
11. The appellant refers to paragraphs 117 and 118 of the National Planning Policy Framework (*NPPF*) in terms of the need to make an effective use of land, and to support the use of under-utilised land and buildings. As set out above, there is insufficient evidence to demonstrate that a holiday use would be ineffective at the appeal location and that a proportionate effort has been engaged to optimise the operation of the holiday property resource.
12. I therefore conclude that it has not been sufficiently demonstrated that the holiday let use is not viable. Consequently, the appeal proposal would result in the harmful loss of a property that has the potential to positively contribute to the rural economy in this part of Norfolk. The proposal would be contrary to Policy H2 of the Broadland Development Management Development Plan

⁴ Noting the appellant's comments on the withdrawal of guidance accompanying Policy H2

⁵ The submitted sales details consistently describe the property as a "3 Bedroom Detached House for sale" with little reference to the occupancy condition

Document 2015 (*the DMDPD*). It would also conflict with the aims of the NPPF to support a prosperous rural economy including at paragraph 84 in respect of rural tourism.

Sustainable Location

13. The appeal site is situated at the edge of a small cluster of dwellings, which are part of a wider scattering of development forming the hamlet of Eastgate, approximately 1 mile to the south-east of the village of Cawston. The site is outside of an established settlement boundary in the development plan.
14. The appeal site is adjacent to a cluster of approximately 28 dwellings. Having regard to the *Braintree*⁶ judgment this small group of houses can reasonably be described as 'settlement' where there is likely to be a modest degree of community. Accordingly, the appeal proposal would not result in an isolated dwelling in the countryside. That said, the adopted development plan does not identify the dispersed pattern of development in Eastgate as a 'settlement' for the purposes of a securing a sustainable pattern of growth in what is a predominantly rural area.
15. Cawston is the nearest settlement offering most day-to-day services and the likely connecting route from the appeal site into Cawston would be via Old Friendship Lane. At approximately 1 mile, Cawston would be at the margins of a reasonable regular walking distance. It is notable that there is no safe footway or street lighting until you reach the primary school in Cawston. This includes a precarious length of the busier B1145 Aylsham Road between the Old Friendship Lane turn and the school. Large parts of Old Friendship Lane are remote, with limited natural surveillance from residential properties. Overall, I find the quality of the connecting route between the appeal site and facilities in Cawston would not be attractive or particularly safe for pedestrians.
16. Old Friendship Lane is narrow and twisting but it is within a 30mph speed limit and any gradients are relatively gentle. The remoteness of the lane and lack of lighting, especially in winter months, would deter some from using a bicycle but it would be reasonable to conclude that there would be a limited prospect that cycling into Cawston could be an occasional option. Whilst there is some public transport in Cawston it is unlikely, for the reasons set out above, that future occupants of the appeal site would walk or cycle into the village to connect to public transport. Whilst there is a school bus to Reepham from nearby Easton Way, there is no other public transport in the immediate vicinity of the appeal site. Overall, and taking account of the limited prospect of cycling into Cawston, I find a residential dwelling at the appeal location would result in a heavy reliance on the use of the private car.
17. I am mindful that a dwelling has been constructed at the appeal site and that the permitted use results in vehicle movements. The Local Highway Authority (LHA) consider that holiday lets generally generate 50% of the vehicular trips engendered by an unrestricted dwelling. On this basis the LHA advise that, notwithstanding the sub-standard nature of the immediate road network, a highway objection based on the marginal increase in traffic would be very difficult to sustain. That said, the LHA also advise that the site would be remote from everyday services, unsustainable in transportation terms and contrary to general aims to provide new dwellings at locations where

⁶ Braintree District Council v. SSCLG et al. 2018 EWCA Civ610 – Appellant Statement of Case Appendix B

alternative transportation modes are readily and safely available other than the private car. Overall, the appeal proposal, due to its location, would result in a material increase in vehicle movements above the existing use.

18. The NPPF recognises, at paragraph 105, that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. As set out above, the distance of the appeal site from service provision, and the quality of connecting routes, precludes any realistic opportunity of encouraging a modal shift away from private car use. As such, I do not find paragraph 105 to necessarily support new housing development in locations such as the appeal site where there would be such a heavy reliance on the use of the private car, even over relatively short distances such as those to Cawston or Aylsham. The NPPF at paragraph 152 states that the planning system should support the transition to a low carbon future in a changing climate, including amongst other things, contributing to radical reductions in greenhouse gas emissions.
19. The general aim to focus development in rural areas to villages and other settlements is set out in the development plan. This approach is consistent with paragraph 11a of the NPPF which requires all plans to promote a sustainable pattern of development, including the need to mitigate climate change. Importantly, paragraph 79 of the NPPF states that sustainable development in rural areas will comprise housing where it is located to enhance or maintain the vitality of rural communities or where development in one village may support services in a village nearby. Eastgate is not an identified village and permanent residential occupation of the appeal property, at one dwelling, would have only a very minor impact on enhancing or sustaining services or community well-being in either Cawston or Eastgate.
20. The appellant refers to the emerging Greater Norwich Local Plan (eGNLP) and the proposal for village clusters. Cawston is identified as the hub of one such cluster including the villages of Brandiston and Swannington which are located further from Cawston than the appeal location. The operative word in the final sentence of NPPF paragraph 79 is 'village', including within the concept of 'groups of smaller settlements'. As a hamlet, Eastgate is not one of the identified 'villages' considered to comprise part of the proposed Cawston cluster. As such I find little in the eGNLP to support the submission that dispersing housing into Eastgate would form part of a sustainable pattern of development, as promoted at NPPF paragraphs 11a and 79. I also note proposed Policy 7.5 in the eGNLP in respect of small-scale windfall housing on sites within or adjacent to a recognisable group of dwellings which do not have a development boundary. The text around proposed Policy 7.5 states it is to be implemented post adoption of the GNLP and that the number of dwellings is to be specifically limited, with a positive emphasis on facilitating self-build and custom-build. The intent and detail of Policy 7.5 remains to be fully examined. This also applies to the policy for the village clusters. As such I attach only limited weight to the proposed policy framework in the eGNLP.
21. Policy GC2 of the DMDPD is one of the most important policies for this appeal main issue. As part of the benefit of certainty through a plan-led system, the policy seeks to focus new development within defined settlement boundaries and to only permit development outside these limits where there would be no significant adverse impact and it accords with a specific policy of the development plan. The LPA states that Policy H2 is a route to engaging the

second part of Policy GC2. As set out above, the appeal proposal would not accord with Policy H2. Policy GC2 is consistent with the NPPF, including those paragraphs of national planning policy as set out above, such that it is up-to-date and carries full weight.

22. I therefore conclude the appeal location would not be sustainable for permanent residential occupation. It would be contrary to Policy GC2 of the DMDPD. It would also conflict with Policy 1 of the Joint Core Strategy for Broadland, Norwich and South Norfolk which requires development to minimise the need to travel. Policy GC2, in combination with Policy H2, provide a broad continuation of the objective of Policy HOU7 of the Broadland Replacement Local Plan 2006, applied at the time of granting consent in 2012, in terms of supporting the particular occupation of dwellings in the countryside, outside of settlement boundaries. As such, Policies GC2 and H2 of the DMDPD provide a continuous policy basis to justify the planning purpose for imposing the disputed condition.

Conclusion

23. On both main issues in this appeal, the proposal would be contrary to the relevant, up-to-date policies of the development plan that apply to the appeal proposal. From consideration of the matters raised, including the number of vehicle movements likely to be generated above and beyond the existing holiday accommodation use and the emergent GNLP, there are not the material considerations in this case, which justify a decision other than in accordance with the development plan. The harm arising from the proposed development, including the conflict with the development plan, means the removal of the disputed condition would not result in sustainable development for which there is a presumption in favour of, in the terms set out in Policy GC1 of the DMDPD.
24. For the reasons set out above the disputed condition continues to serve a justified planning purpose. Accordingly, the appeal is dismissed.

David Spencer

Inspector.