



Appeal Decision

Site Visit made on 19 October 2021

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2021

Appeal Ref: APP/D2510/W/21/3277842

Flintwood Farm, Keepers Corner, Main Road, Belchford LN9 5QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mrs Angie Bonnett against East Lindsey District Council.
- The application Ref S/013/00599/21, dated 25 March 2021, was refused by notice dated 2 June 2021.
- The application sought planning permission for the erection of one holiday bungalow and parking in accordance with amended plans received by the Local Planning Authority from the applicant's agents on 12th December 2011 without complying with a condition attached to planning permission Ref S/013/00329/11, dated 10 February 2012.
- The condition in dispute is No 2 which states that: The accommodation hereby permitted shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence. The owners/operators of the site shall maintain an up-to-date register of the names of all owners/occupiers of accommodation on the site, and of their main home addresses, and shall make this information available to the Local Planning Authority upon request.
- The reason given for the condition is: To ensure that the development is restricted to holiday use only and that the accommodation is not used for residential purposes and in accordance with the advice in Planning Policy Statement 7 – Sustainable Development in Rural Areas which seeks to restrict residential development in the open countryside to that which is necessary to serve proven agricultural needs.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note the appellant's evidence regarding the Green Belt. The evidence from the Council confirms that the appeal property does not lie within the Green Belt. I have dealt with the appeal on this basis.

Background and Main Issue

3. The appeal property is a detached single storey building located just to the north west of the main buildings at Flintwood Farm, which also includes a number of holiday cottages collectively called Poachers Hideaway. Condition 2 of the permission restricts occupation of the property to holiday purposes. The appellant has used the property as her permanent home and is seeking to remove condition 2 so that the property can be occupied as a sole or main place of residence. Removing the condition would allow its use as unrestricted residential accommodation. Given that the property has been occupied as a

sole or main place of residence, I have dealt with the appeal under section 73A of the Town and Country Planning Act 1990.

4. The main issue is whether condition 2 is necessary and reasonable to restrict the occupation of the property to holiday purposes having regard to the accessibility of the development to services and facilities.

Reasons

5. Policy SP1 of the East Lindsey Local Plan Core Strategy adopted 2018 (the Local Plan) sets out a settlement pattern to guide the distribution, scale and nature of future development. This is based on towns and large, medium and small villages. The appeal property is located in the open countryside, as defined by Policy SP1. The open countryside is not specifically referred to in the settlement pattern set out in Policy SP1.
6. The reason given for imposing condition 2 is to ensure that the development is restricted to holiday use only and that the accommodation is not used for residential purposes and in accordance with the advice in Planning Policy Statement 7 – Sustainable Development in Rural Areas which seeks to restrict residential development in the open countryside to that which is necessary to serve proven agricultural needs. Although Planning Policy Statement 7 is no longer in place, paragraph 80 of the National Planning Policy Framework 2021 (the Framework) continues to restrict the development of isolated homes in the countryside, albeit with a wider range of exceptions than just serving agricultural needs.
7. In the context of the Framework, the word “isolated” would be taken to mean a dwelling that is physically separate or remote from a settlement. The Framework does not define what constitutes a settlement for these purposes, nor does it specify a minimum number of dwellings or population for a settlement. Whilst the surrounding area is not free from development, the nearby properties do not in my judgement constitute a settlement and are surrounded by open countryside. The property would therefore represent an isolated home in the countryside. None of the five listed circumstances in the Framework for such development in the open countryside would apply to the development.
8. The nearest settlement to the property is Belchford, approximately 1.2km to the south east. Belchford is defined in Policy SP1 of the Local Plan as a small village and has very limited services and facilities. The distance between the property and Belchford, together with the need to use an unlit A class road without a pavement for part of the distance or an unlit public right of way, would be disincentives to journeying even short distances on foot or by bicycle. This would be especially so during darker winter months or in inclement weather. In order to access the level of services and facilities needed on a day to day basis, residents would be likely to have to travel further afield. Given the distance and nature of roads between the property and larger settlements, it seems even less likely that journeys would be made by cycling or walking. From the information before me, bus services operating to/from Belchford appear very limited and would not provide a genuine alternative to the car. Residents using the property as a permanent residence would therefore be heavily reliant on the private car to meet their day to day needs.

9. The removal of the holiday occupancy restriction would alter the travel requirements of future residents. Both holiday makers and permanent residents may have to travel for facilities such as shops. However, the range of facilities used by holiday makers and the frequency of trips generated is likely to be less than that of permanent residents. Traffic movements would be generated by the arrival and departure of holiday makers, trips to recreational/visitor destinations and the servicing of the accommodation. The use of the property as a permanent home would require closer association with local facilities such as places of employment, health services, education, recreation and leisure facilities and religious venues. Whilst the appellant may not always go out every day, this may not be the case for future occupiers of the property.
10. I note that, given the limited services and facilities in Belchford, residents in the village would also be reliant on the private car for at least some of the day to day requirements. Nonetheless, this does not provide justification for what would be an unrestricted residential use in the open countryside that would create additional trips.
11. On this basis, the use of the property as a sole or main place of residence would not be appropriate due to the lack of accessibility to services and facilities which would not support the locational aims of the Local Plan or the Framework to avoid unsustainable patterns of development. Accordingly, the proposal would be contrary to the settlement pattern set out in Policy SP1 of the Local Plan. It would also conflict with the social and environmental objectives for sustainable development set out in paragraph 8 of the Framework, given the property's location and distance from services and facilities as well as Policy SP2 of the Local Plan which reflects the sustainable development principles of the Framework.
12. The appellant argues that the use of the property for permanent residential occupation would meet the requirements of Policy SP8 of the Local Plan which relates to rural exceptions. However, the property is not located in or adjoining a medium or small village and no evidence has been presented about a proven local affordable housing need. Furthermore, no evidence has been presented that demonstrates that the requirements of part 2 of the policy relating to rural workers would be satisfied and part 3 of the policy does not appear to be relevant. The use of the property as a sole or main place of residence would not therefore satisfy the requirements of Policy SP8 of the Local Plan.

Other Matters

13. I note the appellant's argument that the use of the property as a permanent residence is the only viable option to stop her from becoming homeless. I have therefore had regard to Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998. However, this claim has not been substantiated by evidence and this consideration would not outweigh the harm caused by the use as a permanent residence of a building that is in the open countryside and remote from services and facilities. In the light of this lack of evidence, having regard to the well-established planning policy aims to restrict the development of isolated houses in the countryside, a refusal of permission would be proportionate and necessary.
14. Removal of the occupancy restriction would make a contribution to housing provision in the District. However, it would be a small contribution and the

Council can demonstrate a five year housing land supply. This contribution would not outweigh the harm which I have identified.

15. The appellant highlights the findings of the Inspector who considered the appeal against the refusal of a Certificate of Lawful Use for the property¹. The Inspector in that case did not find that the character of usage as a holiday let would have been perceived to have been any different from its use as a permanent dwellinghouse. However, in this previous case, the main issue was to establish whether the use of the property as a permanent residence amounted to a material change of use and therefore whether it was lawful or not. Different considerations apply in this current appeal, notably conformity with the development plan, which is not addressed in applications for Certificates of Lawful Use.
16. I note the agreement between the parties that the proposal would not impact the Area of Outstanding Natural Beauty. However, a lack of harm is a neutral factor in any balance and accordingly, it would be incapable of weighing against harm. Policies SP4 and SP19 of the Local Plan do not appear to be relevant to the proposal. Whilst noting the supporting comments and lack of objection to what is proposed, this does not outweigh the harm that I have found.

Conclusion

17. The proposal would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations that indicate the decision should be made other than in accordance with it. Therefore, for the reasons given, I conclude that the appeal should not succeed.

F Wilkinson

INSPECTOR

¹ Certificate of Lawful Use to determine the existing use of Keepers Corner, Flintwood Farm as a dwellinghouse in Use Class C3 for a period in excess of 4 years, appeal reference APP/D2510/X/20/3251963