



Appeal Decision

Site visit made on 7 March 2023

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 21st March 2023

Appeal Ref: APP/V2635/W/22/3302958

Twelve Acre Farm, Moor Drove (East), Hockwold cum Wilton IP26 4JU

- 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 Brian Rutterford against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 21/01127/F, dated 3 June 2021, was refused by notice dated 15 June 2022.
 - The development proposed is proposed conversion of agricultural building to dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of my site visit I was offered entry to the building in order that I might view the interior. I accepted the offer on the basis that no new evidence would be provided and thus no injustice would result to either of the parties as a result of my doing so.
3. There is no dispute between the parties that the upper floor of the building has been used as a residential dwelling, and during my site visit I observed that this was so. I have determined the appeal on this basis.

Main Issues

4. The main issues in this appeal are whether: -
 - The appeal site is a suitable location for a dwelling, with particular regard to local and national policy for the delivery of housing; and -
 - The proposal would provide satisfactory living conditions for future occupiers.

Reasons

Suitable location for a dwelling

5. The appeal site (the site) contains a building of substantial, barn-like appearance (the building) with two floors lying within an area of paddocks separated by post and wire fencing, with occasional sporadic hedging, and containing modest single storey sheds. The building is of block construction with a lightweight single storey lean-to added to the front. A number of storage containers have been placed close to one end of the building.

6. The site lies close to Moor Drove (East), a narrow unlit track running between Bridge Road, the B112, and Church Lane, from which the site gains access. Bridge Road is lit and has a narrow footway on one side. It is subject to a 40 MPH speed limit. Church Lane is a narrow unlit road without footways and is subject to a 60 MPH speed limit, although vehicular speeds would be likely to be constrained by the nature of the road.
7. Policy CS01 of the King's Lynn and West Norfolk Borough Council Local Development Framework Core Strategy -2011- (the Core Strategy) sets out the Council's overall Spatial Strategy, which seeks to strike a balance between protecting and enhancing the built and natural environment whilst facilitating sustainable growth in the most appropriate locations. Policy CS02 of the Core Strategy sets out a hierarchy of settlements based upon access to services and transport. The site is situated outside the development boundary of Hockwold-cum-Wilton which, with Feltwell, are identified by Policy CS02 as a Key Rural Service Centre in which limited growth could be accommodated. As it is outside any identified Development Boundary it is defined under Policy DM2 of the Site Allocations and Development Management Policies Plan -2016- (the SADMPP) as being in the countryside for planning purposes where development will only be permitted subject to the exceptions set out in the Council's countryside policies.
8. Policy CS06 sets out a strategy for development in rural areas which, amongst other things, promotes sustainable communities whilst safeguarding the intrinsic character and beauty of the countryside. The policy seeks to limit conversion to residential use to where the building makes a positive contribution to the landscape, a non-residential use is proven to be unviable, the accommodation to be provided is commensurate to the sites relationship to the settlement and the building is easily accessible to existing housing, employment and services.
9. These policies set out the Council's Spatial Strategy for rural development and are broadly consistent with the aims of the Framework of promoting sustainable development in rural areas by requiring housing to be located where it will enhance or maintain the vitality of rural communities as set out in Paragraph 79 of the Framework.
10. The original building is a simple steel framed building with blockwork walls and, whilst reflecting the rurality of its setting and agricultural activity associated with its surroundings, makes a neutral contribution to the area.
11. There is little substantive evidence before me to demonstrate that the building has no viable use for alternative, non-residential uses. The appellant has stated that the building could be used, as previously, as a hatchery or for agricultural storage.
12. Hockwold-cum-Wilton is the closest settlement which, with Feltwell, is identified within the Core Strategy as containing a range of services that can meet basic day-to-day needs and a level of public transport that can enable access to and from the settlement.
13. However, the unlit nature of the intervening roads, with their lack of footways and vehicular speeds would be likely to deter pedestrians and cyclists, particularly after dark, with children or during inclement weather and so

residents of the site would almost certainly rely very heavily on the private car to meet their day-to-day needs or to access public transport.

14. The Framework recognises that sustainable transport solutions will vary between urban and rural areas and that rural housing development in smaller settlements can enhance or maintain the vitality of rural communities. However, in this case, there is no meaningful alternative to using the private car to satisfy these needs. With, for such a limited scale of development, no real scope to improve connexions for walking, cycling or public transport, dependency upon private motor vehicles would be almost total. The building would, therefore, not be easily accessible to existing housing, employment and services.
15. I conclude that the appeal site would not be a suitable location for a dwelling. The development is therefore contrary to the provisions of Policy CS06 of the Core Strategy and DM2 of the SADMPP.

Living conditions of occupiers

16. The building is of a layout and scale such that it could be used as a family dwelling. The site includes some external space outside of the building, including areas to the sides and rear, whilst to the front lies the accessway to the site and nearby paddocks.
17. The spaces to the rear and sides are limited in width and, on one side, occupied by storage containers. There is, therefore, limited scope within the site for the provision of residential amenity space. Further, whilst these units are currently used for domestic storage, there is no certainty that such use will continue and thus the use of the storage units themselves may give rise to noise and disturbance, particularly to those seeking to enjoy the limited outdoor amenity space.
18. The external spaces shown within the site are long, narrow spaces and there is limited evidence before me to demonstrate that these would provide private external spaces that would be fit for use as private amenity space for a family home. The lack of outdoor amenity space would result in a lack of opportunity for outdoor play within the site and this would be detrimental to the amenity of those living there.
19. Whilst the building was originally used for agricultural purposes, prior notification has been given for use of the ground floor as a tack shop under Class R of the General Permitted Development Order -2015- (the GPDO).
20. Such a use would, generally, be more compatible with residential use and there are many locations where residential uses co-exist with retail uses. Whilst I am mindful of other uses allowed under Class R, to which the ground floor could convert, including storage and distribution and assembly and leisure, given the location and access arrangements to the site it is unlikely that the site would attract such alternative uses.
21. Bringing these matters together I find that the proposal would be compatible with the current use of the ground floor as a tack shop, but the outdoor space would not, by virtue of its limited size, layout and proximity to potential sources of noise and disturbance, provide suitable outdoor amenity for future occupiers of the dwelling.

22. I therefore conclude that, whilst the existing retail use is likely to be compatible with the proposed residential use, the proposal would not provide adequate living conditions for future occupiers. It would thus be contrary to the aims of Policy CS08 of the Core Strategy and Policy DM15 of the SADMPP in as much as these, together, seek to promote healthy lifestyles and safeguard the amenity of future occupiers.
23. For similar reasons the proposal would be contrary to the aims of the National Design Code and those sections of the Framework which promote healthy and safe communities and achieve well designed places and with which Policies CS08 and DM15 generally conform.
24. I find no conflict with Policy CS06 of the Core Strategy in regard to the effect on living conditions of future occupiers as this policy deals with more general matters, including external appearance of the building and this would remain largely unaltered by the proposal.

Other Matters

25. The appellant considers that there is a fall-back position available to him whereby the development could be delivered under Class Q of the GPDO. However, Prior Approval (PA) would be required for this to take place.
26. The appellant proposes that additional provision for outdoor amenity could be made at that time, and identifies that, for conversion under Class Q, the building would not need to be demonstrated as being redundant. Further the additional residential amenity would be provided outside of the proposed development red line and so could not be secured within the proposal before me.
27. PA has not been applied for, nor is there certainty that the Council would approve it. Therefore, whilst the fallback development is a theoretical possibility, there is no certainty of it being able to take place and so I give this matter limited weight.
28. The site lies within the zone of influence of the Breckland Special Protection Area (SPA) and RAMSAR site and is in a location where occupiers of the development are likely to use the SPA for recreational purposes. Thus, I cannot rule out the possibility that the development would have adverse effects on the integrity of the designated area, either alone or in combination with other planned development. In those circumstances, having regard to the Habitats Regulations, planning permission should not be granted unless an Appropriate Assessment (AA) has been undertaken to assess the likely effects. Such an assessment is necessary regardless of the status of the existing or emerging policies of the development plan.
29. The Court of Justice of the European Union ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the framework of an AA. This responsibility now falls to me within this appeal.
30. The AA is required on a case-by-case basis to determine whether or not the project would adversely affect the integrity of the European Site. It would also have required a consideration of whether or not any proposed mitigation would be adequate, effective, could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not

need to consider the matter further as it would not change the outcome of this appeal.

31. The appellant has drawn my attention to two appeal decisions¹ which he considers are relevant to the appeal. I note that, in those cases, the Inspectors recognised the lack of public transport availability in their decisions. Whilst, in those cases the Inspectors found in favour of the proposals, they lie some distance from the site which is the subject of this appeal and do not directly inform its context in terms of access to sustainable transport. In the case of Manor Farm the Inspector recognised that the proposal had a fallback position in the form of a PA permission under Class Q. of the GDPO. However, in this case, PA has not been granted for conversion of the building. Further the appeal sites lie in areas controlled by different local planning authorities and will not be subject to the same Development Plans. I have, in any case, determined this appeal on its own merits.

Planning Balance

32. The development would provide benefits in terms of delivering an additional home to boost local housing supply, re-using an existing building, which gains some support from Paragraph 120 of the Framework. Paragraph 69 of the Framework provides some support for development of limited scale, as these have potential to be built-out relatively quickly, and this development has already been made habitable and occupied in the past. There would be benefits to the local economy in terms of short term employment in the construction industry and longer term support to local shops and businesses in the nearby villages, including the farm holding which the site forms a part of. It is likely that the future occupants will participate in local events and societies.
33. Taken together, and given the scale of the development, these benefits carry limited weight.
34. Whilst the matter of the effect of the proposal on the European Designated Site remains unresolved, this could only have, at best, a neutral effect on my considerations.
35. Given the location of the site and the lack of access to safe walking and cycling routes and public transport it is likely that future occupants of the development would be heavily reliant on private motor vehicles to access local shops and services. The proposal would also undermine the Council's Spatial Strategy. These are significant factors weighing against the scheme.
36. In conclusion the identified harm would outweigh the limited benefits provided by the scheme when considered against development plan policies and the Framework when read as a whole.

¹ PINS Ref: APP/W0530/W/16/3152125 and APP/P0240/W/3249635

Conclusion

The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

I A Dyer

INSPECTOR