The Planning Inspectorate

Appeal Decision

Site visit made on 24 April 2023

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th May 2023

Appeal Ref: APP/A2525/W/22/3306658
46 Hall Lane, Moulton Seas End, Spalding, Lincolnshire PE12 6LB

- 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 Mrs Ann Colwell against the decision of South Holland District Council.
- The application Ref H13-0441-22, dated 27 April 2022, was refused by notice dated 23 June 2022.
- The development is described on the application form as: *'This is an application to divide the one property into two residences. Planning permission was granted in 2016 to convert the garage of the existing house into a self contained annex. At the end of the conversion, we paid sperate council tax on the 'annex' and it was given the number 46A. At the time, a condition was imposed where only relatives could live in the annex. After my daughter's family left, we moved into the Annex (we call the garage) the house has been rented out for the last couple of years. All utilities as far as Electricity and water are separate, the two gardens are separated and fenced, and as stated we pay separate council tax on each property. Historically we share the septic tank with both ourselves and number 48 and this has been the case since it was built. There is parking for 6 cars on the drive and additional parking on the road.'*

Decision

1. The appeal is dismissed.

Preliminary Matters

2. For the purposes of determination, in the interests of clarity and conciseness, I have used the description of development[1] given on the Council's Decision Notice as opposed to that stated on the application form. As confirmed on the application form, a sub-division of a dwelling has already occurred such that two independent dwellings (No 46 and No 46A) are in existence. Accordingly, I shall consider the appeal on a retrospective basis.

Main Issue

3. Whether or not the site represents an appropriate location for an additional independent dwelling, having particular regard to the relevant provisions of the development plan.

Reasons

4. Policy 1 of the South East Lincolnshire Local Plan 2011-2036 (adopted March 2019) (the LP) sets out a spatial strategy for where development is to be directed and ranks settlements deemed to be most sustainable in descending

[1] Change of use to 2 independent dwellings

order. As confirmed in the policy's supporting text, a number of different factors have influenced the spatial strategy. These include infrastructure capacity and needs; proximity to local shops, services and community facilities; access to public transport; and flood risk.

5. Moulton Seas End falls under the 'Other Service Centres and Settlements' categorisation, where, within its designated settlement boundary, development will normally be limited to committed sites and infill. Whilst closely located to the designated settlement boundary, the site is not positioned within it and thus comprises Countryside as defined in local planning policy terms.

6. Policy 1 sets out that Countryside development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits. Whilst I shall come on to weigh the scheme's benefits in my Planning Balance, it has not been clearly substantiated that the development is necessary to a Countryside location nor that any specific rural exception endorsed by the LP applies.

7. I acknowledge that the site's sub-division has not comprised an incursion into the Countryside. Indeed, the development under consideration has necessitated no change to the physical limits of land in residential use or to the extent of built form upon the site. However, an additional independent unit of living accommodation has been created in a location where such development is contrary to the clear expectations of the Council's adopted spatial strategy. Moreover, at odds with the promotion of sustainable transport modes, the site comprises Countryside located to the outer periphery of a small settlement that contains limited infrastructure and a narrow range of facilities and services.

8. My attention has been drawn to the National Planning Policy Framework (July 2021) (the Framework), where it is stated that planning decisions should avoid the development of isolated homes in the countryside unless, amongst other provisions, the development would involve the subdivision of an existing residential building. Whilst the subdivision of a residential building is under consideration, the site, owing to its proximity to other rural development and to the defined settlement boundary of Moulton Seas End, cannot fairly be found to represent an isolated location. This particular provision of the Framework therefore is not directly applicable and is of limited relevance. In any event, it must be noted that the development plan, not the Framework, has statutory status as the starting point for decision-making.

9. It has been stated that both No 46 and No 46A were in place prior to the LP's 2019 adoption, and I have no reason to disagree. However, planning permission[2] was granted for the conversion of an outbuilding to an annexe on the basis that the use of No 46A remains incidental to the use of No 46 for reasons related, in-part, to the site's open countryside location and associated conflict with relevant development plan policies now superseded. Notwithstanding the understood existence of separate utility supplies and Council Tax bills, the aforementioned planning restriction continues to apply and be material to my considerations. It has not been clearly demonstrated otherwise.

[2] H13-0012-13, granted 28 February 2013

10. For the above reasons, having particular regard to the relevant provisions of the development plan, namely Policy 1 of the LP, the site does not represent an appropriate location for an additional independent dwelling. I thus identify harm and conflict with the development plan.

Other Matters and Planning Balance

11. Upon inspection, I observed No 46A to contain all the core facilities typically expected of a self-contained unit of residential accommodation, in conjunction with a relatively spacious internal layout. There was also no clearly identifiable threat to acceptable living conditions for the occupiers of either No 46 or No 46A. Indeed, to guard against any possible undue overlooking, the precise position and specification of external boundary treatment could be secured via condition in the event the appeal be successful. I also have no reason to doubt that sound proofing measures have been installed.

12. Whilst it has been asserted that an affordable dwelling is the focus of this appeal, the Framework's definition of affordable housing is not met. Even so, the Framework reaffirms the Government's objective of significantly boosting the supply of homes. The weight to be attached to the benefit of an additional general market dwelling is meaningful, yet still somewhat limited given that merely one additional housing unit is under consideration.

13. Furthermore, occupation of No 46A as an independent dwelling, when compared to occupation as a subordinate annexe, can be fairly assumed to provide some additional support to the local economy and local community facilities. Such benefits, given the scale of development under consideration, are attractive of limited weight.

14. In my judgement, the scheme's benefits do not outweigh the harm and associated conflict with the development plan that I have identified by virtue of the site not representing an appropriate location for an additional independent dwelling. Moreover, the scheme conflicts with the development plan when read as a whole and material considerations do not lead me to a decision otherwise.

Conclusion

15. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR