

Appeal Decision

Site visit made on 8 June 2023

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 July 2023

Appeal Ref: APP/X3540/W/22/3313518

Patience Acre, Chenerys Loke, Weston NR34 7XH

- 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 Lucy Oram against the decision of East Suffolk Council.
 - The application Ref DC/22/3482/FUL, dated 2 September 2022, was refused by notice dated 4 November 2022.
 - The development proposed is use of existing dwelling for permanent residential occupancy.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. As the proposed use for permanent residential occupancy has started, I have dealt with the appeal on the basis that it involves an application for retrospective permission.

Main Issue

3. The main issue is the effect on existing tourist accommodation and related to this the suitability of the location for the proposed use.

Reasons

4. The appeal property is a detached single storey property located within a small group of predominantly residential buildings. The surrounding area is rural in character and appearance, although the Beccles southern relief road runs to the north of the group of properties. The property's current use is as a holiday let, with a condition imposed on the original permission that restricts its use for holiday accommodation and that it shall not be used for any residential purposes¹.
5. The appellant contends that the proposal does not constitute development, but nonetheless an application and subsequent appeal have been made. Consequently, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, I am required to determine the application in

¹ Ref DC/08/0936/COU and DC/11/1174/EXT.

- accordance with the development plan, unless material considerations indicate otherwise.
6. Policy WLP1.1 of the East Suffolk Coastal – Waveney Local Plan (2019) sets out the scale and location of growth across the plan area, while Policy WLP7.1 defines the rural settlement hierarchy and planned growth. Policy WLP1.2 of the Local Plan concerns settlement boundaries and states that land which is outside defined boundaries or development allocations is considered as countryside where new residential development will not be permitted, except where specific policies indicate otherwise. The appeal site is not within an identified settlement and, therefore, is located within the countryside.
 7. I have had regard to the appellant's contention that as the dwelling already exists and there is no material change of use, the proposal does not involve new development in the terms of these policies and, therefore, the policies are not relevant. However, a footnote to Policy WLP1.2 clarifies that new residential development does not include dwellings restricted by condition for use as holiday lets, as is currently the case with the appeal property. Therefore, it is reasonable to take the view that any unrestricted residential use of an existing property as proposed here would not be permitted in accordance with the policy, unless there are specific policies that indicate otherwise.
 8. Policy WLP8.17 is relevant in this regard as it concerns existing tourist accommodation. It says that such accommodation will be protected and that a change of use will only be considered in exceptional circumstances where it can be fully and satisfactorily demonstrated that there is no demand for the tourist accommodation. The policy requires evidence of marketing of a property for a minimum of 12 months.
 9. The appellant argues that as Policy WLP8.17 refers to 'change of use' it should not apply in this case as no material change is involved and only occupancy is restricted. However, the proposal involves the loss of a dwelling currently used as tourist accommodation, where the usual means of controlling such a use is by an occupancy condition (as noted in the footnote referred to above). As such, the policy is directly relevant to the appeal proposal and is an important policy in this regard, against which the application should be determined in accordance with the statutory requirement.
 10. There is no evidence that the marketing required by Policy WLP8.17 has been undertaken, although I have had full regard to the circumstances and supporting evidence referred to by the appellant. The construction of the relief road has clearly changed the setting of the appeal property, particularly as a result of increased noise, which was apparent at the site inspection. The screening to the front of the site helps to reduce the visual impact of the road, although I acknowledge its urbanising effects and that these may be increased by the allocated Beccles and Worlingham Garden Neighbourhood development north of the road.
 11. Evidence is provided of flooding caused by the construction of the relief road and I accept that this resulted in fairly extensive repairs, which was a contributory factor to the property not being marketed. However, the correspondence provided appears to demonstrate that the necessary flood alleviation measures have been addressed, although I note the appellant's

contention that it is currently unknown if the situation has been satisfactorily resolved. Nonetheless, action appears to have been taken that could reasonably be expected to address the flooding resulting from the new road. I note also the appellant's contention that the site is not in a typical tourist area, although this of itself does not alter the established use as holiday accommodation.

12. Taking these matters as a whole, there are clearly changed circumstances arising from the new relief road; however, in the absence of any evidence of marketing to test the effects of any such changes in accordance with Policy WLP8.17, it is not possible to conclude that there is no demand for the tourist accommodation in this location.
13. Consequently, in the current circumstances, I conclude that this is not a suitable location for the proposed permanent residential occupancy, which is contrary to Policies WLP1.1, WLP1.2 and WLP7.1 of the East Suffolk Coastal – Waveney Local Plan, as described above. Given that there are relevant development plan policies, as found above, there is no basis to find that the presumption in favour of sustainable development included in the National Planning Policy Framework should be engaged.

Conclusion

14. The proposal is contrary to the development plan and there are no other material considerations that outweigh this conflict. Accordingly, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR