



Appeal Decision

Site visit made on 18 November 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Appeal Ref: APP/K2610/W/24/3341401

**Piglets Lodge, South Burlingham Road, Lingwood, Norwich, Norfolk
NR13 4ET**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ellen Harris and Robert Barlow against the decision of Broadland District Council.
 - The application Ref is 2024/0094.
 - The development proposed is described as the “change of use of annex from holiday let back to residential”.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the continued use of the appeal building as a holiday let is still relevant.

Reasons

3. The appeal site lies outside the settlement limit. The appeal relates to a single storey, detached building, located adjacent to the northerly boundary of the appeal site (the appeal building). It is sited close to the appellants main residence, known as Piglets Lodge.
4. The appeal scheme seeks to utilise the appeal building as an annex, ancillary to the residential use of Piglets Lodge. Irrespective of the size of the development proposed and whether an approach is deemed proportionate or not, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise.
5. The permitted use of the appeal building is a holiday let, granted under planning application reference 20101857 on the condition that it is for holiday use only and not as the sole or main residence of the occupiers. While the appellants assert that there is no statutory definition of a material change of use and highlight that the appeal building will remain residential, within Use Class C3, the use of the appeal building as a holiday let is, nevertheless, controlled by a planning condition.
6. Policy H2 of the Development Management DPD 2015 (DPD) requires applications for the removal of occupancy conditions to demonstrate why an occupancy condition is no longer relevant.

7. The supporting text to this policy highlights that the Framework seeks to promote a strong rural economy through supporting the sustainable growth and expansion of all types of business and enterprise in rural areas, with housing located where it will enhance or maintain the vitality of rural communities. It further advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.
8. The appellants highlight that the previous owner of the holiday let regarded the business as a hobby. Moreover, they assert that a single maximum two person holiday let could never generate a sustainable and living income. However, while having regard to these matters and the Guardian newspaper article, dated 7 April 2024, limited substantive evidence specific to the holiday let use of the appeal building has been provided to substantiate these claims and demonstrate why the occupancy condition is no longer relevant.
9. While the appellant states that any loss of economic activity would be negligible, nevertheless, the loss of a holiday let would not promote the sustainable growth and expansion of business and enterprise in rural areas.
10. I understand that the proposed annex is to be occupied by the father of one of the appellants. The family member has a protected characteristic as set out in Section 149, of the Public Sector Equality Duty (PSED), contained in the Equality Act 2010. The PSED sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. As such, I am obliged to have due regard to this consideration in my assessment of the positive effect of the proposed development on the family member's wellbeing.
11. The proposal would provide living accommodation for the father of one of the appellants. The appellants have advised that he is not in the best of health and will require their assistance in the future. I have therefore afforded greater weight to the benefits of the proximity of the appellants to the father's wellbeing as required by the PSED. The DPD also states and recognises that annexes often allow families to provide a degree of care and supervision for a relative, while allowing a degree of independent living.
12. Nonetheless, even with additional weight applied to this effect, there is, in the absence of substantive evidence to the contrary, no overriding reason to allow the loss of a holiday let to address the appellants personal family circumstances. As such, this does not amount to a material consideration of sufficient magnitude to outweigh the primacy of, and conflict found with, the development plan.
13. For these reasons, I conclude that it has not been adequately demonstrated that the continued use of the building as a holiday let is no longer still relevant, contrary to DPD Policy H2, as set out above.

Other Matters

14. The Council, in their delegated report, state that a Grade II listed building lies to the north of the appeal site. In determining this appeal, I am required to have special regard to the desirability of preserving the setting of this listed building, as set out by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

15. The significance of the listed building is derived, in part, from its siting within large, landscaped grounds. Given that the proposed development does not involve any physical works to the appeal building and having regard to the physical separation between the appeal site and the designated heritage asset and the intervening features, including Gardeners Cottage, I am satisfied that the setting of this listed building, and its significance, would be preserved.
16. The appellant states that the proposal would result in reduced disturbance and noise and would also reduce the need to travel, which would support the DPD policies in respect of climate change. While this may be, there is limited substantive evidence to demonstrate the use as a holiday let causes such nuisances. In any case, given the modest amount of development proposed, these matters carry limited weight.
17. Compliance with all other planning policies and an absence of harm in respect of privacy, daylight, direct sunlight or outlook carry neutral weight in the planning balance. Unanimous support from the Parish Council does not outweigh the harm identified.
18. The appellants sought advice from the Council prior to buying the property, in addition to submitting formal pre-application advice, which did not raise any significant foreseen concerns. However, pre-application discussions are not binding on any future decision the Local Planning Authority may make once a proposal has been subject to the formal planning process. In any case, I have considered the proposal on its own merits.

Conclusion

19. For the above reasons, I conclude that the proposed development would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Consequently, I conclude that the appeal is dismissed.

S Pearce

INSPECTOR