

Appeal Decision

Site visit made on 21 February 2017

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28th March 2017

Appeal Ref: APP/A2525/W/16/3162106

Bleu Raye Farm, Mill Gate, Whaplode, Spalding, PE12 6RY

- 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 M Compton against the decision of South Holland District Council.
 - The application Ref H23-0880-16, dated 30 August 2016, was refused by notice dated 5 October 2016.
 - The development proposed is retrospective change of use of stable to dwelling.
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Decision

1. The appeal is dismissed.

Background

2. Retrospective planning permission is sought for the development which has been occupied since 2012. In 2016 the appellant applied for a Lawful Development Certificate (LDC) from the Council in respect of the change of use of the building, however this was refused as there is currently a valid Enforcement Notice in place in respect of the residential occupation of the site. Following the refusal of the LDC, the appellant sought full planning permission and it is that matter to which this s78 appeal relates to.

Main Issue

3. The main issue is whether the appeal proposal would constitute an acceptable form of development with particular regard to the provisions of local and national policy in respect of the location of development, the living conditions of occupants, and the character and appearance of the countryside.

Reasons

Location of Development

4. As located in the open countryside away from a settlement with services and facilities, I accept that the development would be isolated and would be likely to rely on the private car. Consequently, it would not usually amount to a suitable location for residential use, and would not accord with saved Policies SG1, SG2 and H7 of the South Holland Local Plan 2006 (LP) which seek to direct new development towards settlements and restrict development in the open countryside in order to protect its rural character. The development would also conflict with paragraph 17 of the National Planning Policy
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Framework (the Framework) which seeks to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.

5. However, the residential accommodation has been created through the conversion of an existing stable block. Saved LP Policy HS16 permits the conversion of redundant rural buildings to residential use, subject to a number of criteria. The supporting text to this policy recognises that such buildings in the countryside represent a valuable resource. This is consistent with paragraph 55 of the National Planning Policy Framework (the Framework) which permits the development of isolated dwellings in the countryside where there are special circumstances. One such circumstance is where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting. While LP Policy HS16 is of some age, I therefore consider that it fully accords with the Framework in this respect.
6. The conversion of an isolated rural building to residential accommodation would therefore, in principle, be acceptable as a special circumstance. However, in accordance with the Framework, this is subject to it enhancing setting. LP Policy HS16 also has various other criteria that need to be met. These are matters to which I now turn.

Living Conditions

7. Saved LP Policy HS16 permits the conversion of redundant rural buildings to residential use provided that the provided that the building is of a permanent and substantial construction and is capable of conversion without significant rebuilding (criterion 2) and the building is capable of conversion to provide a reasonable standard of residential amenity without the need for significant extension or alteration (criterion 5). One of the core planning principles of the Framework is also to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17).
8. The former stable block is a small building of timber construction with a corrugated sheet roof. It has been built on a concrete hardstanding. At my site visit I saw that the property is connected to mains water and has mains electricity. It is also understood that the appellant has a postal address at the property and a TV licence.
9. The accommodation comprises of a lounge and separate kitchen area. There is a raised floor area above the kitchen which serves as a bedroom. While the submitted floor plans (ref SD16-040/1) indicate that bathroom facilities are provided in a separate store, at my site visit I saw that a small shower room with basin and toilet was located within the main building, to the bottom corner of the lounge, adjacent to the main access into the property.
10. I have considerable concern in respect of the accommodation. The appellant is currently occupying the building and has made very few structural changes, and due to its materials and form, I do not consider that the building itself, while suitable for an agricultural use or as stabling, is of a substantive construction which is suitable for residential occupation. Accordingly, I consider that the existing building would not be likely to be structurally appropriate to take any necessary future works to provide for a satisfactory standard of residential use.

11. Furthermore, the layout and configuration of the accommodation, particularly in respect of the bedroom and bathroom facilities is also poor and indicative of the confined and substandard nature of the accommodation. Consequently the internal space of the dwelling is deficient, leading to a cramped and claustrophobic environment to the detriment of the living conditions of the occupiers.
12. I appreciate that the appellant has lived in the accommodation for a number of years and considers this to be adequate for their personal needs. However, the particular circumstances of the occupants will change over time whereas the occupation of the appeal property would be permanent. Moreover, in my view, it would not be appropriate to grant a personal or temporary permission, in light of the harm I have identified above.
13. On this matter, I therefore conclude that the permanent occupation of the development for residential use would cause harm to existing and any future occupants. The proposal also conflicts with LP Policy HS16 and paragraph 17 of the Framework in this regard.

Character and Appearance

14. In supporting the conversion of buildings in the countryside to residential use, Policy HS16 requires that the building is of architectural or historic merit and makes a positive contribution to the character and appearance of the landscape (criterion 3). As identified above, paragraph 55 of the Framework also requires the reuse of isolated buildings to lead to an enhancement to the immediate setting.
15. The building is relatively well screened within the landscape, due to its location behind neighbouring dwellings along Mill Gate and due to trees and hedgerows. However, the building is a modern and basic structure which has no architectural merit and the conversion has entailed a degree of domestication of the curtilage in terms of the erection of picket fencing and other domestic paraphernalia.
16. Its conversion does not therefore have any positive effect on the rural landscape character and as such I conclude that the principle of the retention of this former stables building does not accord with criterion 3 of saved LP Policy HS16. In light of my findings, the development also fails to enhance the setting of the former stables. As such, the development does not constitute a special circumstance under paragraph 55 of the Framework in respect of isolated homes in the countryside.

Other Matters

17. My attention has been drawn to the development of neighbouring properties in respect of changes of use and extensions. However, I do not have full details have in respect of such works so I cannot be sure of the circumstances of such cases. In any case, I have determined the appeal on its own merits, based on the evidence before me.
18. The appellant notes that the building was erected before the 2006 LP. However planning law¹ requires that applications for planning permission must

¹ S38(6) of the Planning and Compulsory Purchase Act 2004 and s70(2) of the Town and Country Planning Act 1990.

be determined in accordance with the development plan unless material considerations indicate otherwise. The LP therefore is the starting point in my determination of the appeal and, in light of the age of the plan and as the Council has acknowledged the lack of a 5-year housing land supply, the Framework is a material consideration to which I have had regard.

Conclusion

19. In terms of the main issues, I have found conflict with LP Policy HS16 and paragraph 55 of the Framework in respect of harm to living conditions, and to character and appearance. Even with the creation of a dwelling in an area where a 5-year housing land supply cannot be demonstrated, I consider that the balance of considerations is against the appeal proposals.
20. The appellant resides exclusively at the appeal premises and in light of the extant enforcement notice I recognise that the failure of this appeal would put the occupation of the dwelling by the appellant at risk. This would represent an interference with their rights under Article 8 of the European Convention on Human Rights on Human Rights, as incorporated by the Human Rights Act 1998.
21. However, having regard to the legitimate and well-established planning policy aims to protect the living conditions of occupants and harm to the character and appearance of the rural landscape, in this case I consider that greater weight attaches to the public interest. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the appellant.
22. Moreover, given the conflict with those policies of the Framework identified above I find that the proposal cannot therefore be considered sustainable development in accordance with paragraph 14 of the Framework.
23. For the reasons above, taking into account all other matters raised, the appeal should be dismissed.

C Searson
INSPECTOR