



Appeal Decision

Site visit made on 8 May 2018

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 24 May 2018

Appeal Ref: APP/M2325/W/18/3195723

Wrea View, Weeton Road, Westby with Plumpton PR4 3PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Mark Taylor against the decision of Fylde Borough Council.
 - The application Ref 17/0451, dated 25 May 2017, was refused by notice dated 13 December 2017.
 - The application sought planning permission for the erection of a single storey mono-pitch residential annexe on land to rear following removal of existing outbuildings without complying with conditions attached to planning permission Ref 14/0728, dated 13 March 2015.
 - The conditions in dispute are Nos 3 and 6 which state that:
 - 3. *Notwithstanding the provisions of the Town & Country Planning (General Permitted development) Orders, the existing curtilage of Wrea View shall not be subdivided by fencing, walls, hedging or any other means to provide a separate garden area to the annexe accommodation hereby approved.*
 - 6. *The proposed development shall only be occupied as part of an extended family unit at the application property and shall not be sold off or sublet as a separate unit of accommodation.*
 - The reasons given for the conditions are:
 - 3. *To prevent the establishment, or give the appearance and characteristics of, a separate residential planning unit as any additional, separate dwelling units would be contrary to the adopted countryside policies in the Fylde Borough Local Plan and would require separate consideration.*
 - 6. *The proposed development site lies in a countryside area and any additional, separate dwelling units may be contrary to the adopted countryside policies in the Fylde Borough Local Plan and would require separate consideration.*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission for the erection of a residential annexe included 2 restrictive conditions subject to this appeal. One condition ensures that the annexe is occupied as part of an extended family unit, not to be sold off or sublet as a separate unit of accommodation. The other condition restricts the subdivision of the curtilage by the erection of boundary treatments.
3. Accordingly, the main issue is whether the conditions are necessary and reasonable, having regard to the description of the development.

Reasons

4. Based on the evidence before me, the intention behind the appeal is to remove the conditions in order to allow occupation of the building as a separate residential dwelling.
5. A residential annexe is generally regarded as being part and parcel of the main dwellinghouse use, even if it is entirely self-contained. The development that the Council approved was for a residential annexe and the Council assessed that proposal only. Having found it to be acceptable, the Council sought to restrict the occupation of the annexe to extended family members, along with controlling any future subdivision of the garden, in order to ensure that the building was not occupied independently as a separate residential dwelling. Having regard to the original act of development, these conditions are entirely necessary and reasonable to ensure that the development remains to be a residential annexe.
6. Correspondingly, National Planning Practice Guidance¹ advises that, although conditions can be used to make a minor modification to a proposal, conditions that would make a development substantially different from that set out in the application should not be used. By extension there may be cases where removing conditions would significantly change the proposal.
7. The appellant is seeking to remove conditions 3 and 6. This would facilitate unrestricted occupation of the building and the erection of boundary treatments to subdivide the curtilage. The appellant believes that this would enable the use of the building as a separate residential dwelling, yet the difference between that and an annexe would not be material. I disagree. To remove the conditions would modify the development in such a way as to make it substantially different from that set out in the original application. It would be tantamount to the creation of a separate planning unit, materially different to its permitted use as a residential annexe; and for these reasons, a Section 73 application is unsuitable.
8. This being the case, the issues raised by the main parties regarding the accessibility of the site and the effect upon rural character and appearance are not before me to decide.

Conclusion

9. For the reasons set out above, the appeal is dismissed.

Katie McDonald

INSPECTOR

¹ Paragraph: 012 Reference ID: 21a-012-20140306 Revision date: 06 03 2014