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Appeal Decision

Site visit made on 1 December 2014

by **Jim Metcalf BSc DipTP MRTPI**

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

Decision date: 30 January 2015

Appeal Ref: APP/N2739/A/14/2224013

Lavender Cottage, Broad Lane, Appleton Roebuck, YO23 7DS

- 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 John Passmore against the decision of Selby District Council.
- The application Ref 2014/0528/FUL, dated 5 June 2014, was refused by notice dated 1 August 2014.
- The application sought planning permission for the formation of self contained accommodation in existing double garage to provide annex for elderly relative without complying with a condition attached to planning permission Ref 8/79/66J/PA, dated 25 June 1998.
- The condition in dispute is No 2 which states that: 'The annex accommodation hereby approved shall be used solely as accommodation ancillary to the main dwelling or as a holiday accommodation and shall not be occupied as an independent dwelling unit'.
- The reason given for the condition is: 'The site is within an area of Green Belt where the creation of an independent dwelling unit is not considered to be appropriate'.

Procedural Matter

1. The address of the site given on the application form is Lavender Cottage, and this was used at the time of the previous application in 1998. However, for the avoidance of doubt, the appellant explains that the converted garage formed following the grant of planning permission is known as The Stables.

Decision

2. The appeal is allowed and planning permission is granted for the formation of self contained accommodation in existing double garage to provide annex for elderly relative at Lavender Cottage, Broad Lane, Appleton Roebuck, YO23 7DS, in accordance with the application Ref 2014/0528/FUL, dated 5 June 2014, without compliance with condition number 2 previously imposed on planning permission Ref 8/79/66J/PA, dated 25 June 1998.

Main Issue

3. The main issue is the effect of the proposal on the supply/provision of affordable housing in the Selby area.

Reasons

4. Planning permission was granted in 1998 for the formation of living accommodation in a double garage at the side of Lavender Cottage. A condition was attached that prevented occupation of the annex as an independent dwelling unit, because the site is located in the Green Belt. Until recently the small, one bedroom self contained unit has been the home of the appellant's mother. Removing the condition would effectively lead to the creation of a new dwelling without restriction on occupation.
5. The Selby Core Strategy (CS) includes policies on affordable housing provision, based on evidence of a housing market assessment for the area. CS Policy SP9 explains the Council will seek to achieve a 40/60% affordable/general market housing ratio within overall housing delivery. For developments with less than 10 dwellings the policy requires that a commuted sum be sought to provide affordable housing within the District.
6. The Council have adopted a Supplementary Planning Document 'Affordable Housing' (SPD) that sets out the basis for the calculation of such commuted sums. The SPD makes it clear that the requirement for a contribution applies to refurbishments and conversions where additional units are added to the housing stock. This is the case with regard to the converted garage at Lavender Cottage. SPD Table 2 explains that a 'nominal' contribution of £5000 is needed where the housing scheme involves one dwelling.
7. On 28 November 2014 the Minister of State for Housing and Planning at the Department for Communities and Local Government, issued a written ministerial statement regarding support for small-scale developers, custom and self-builders. The Minister explained that due to the disproportionate burden of developer contributions on small-scale developers, sites of 10-units or less, affordable housing and tariff style contributions should not be sought.
8. Consequently the Government's Planning Practice Guidance, 'Planning Obligations', (PPG) has been amended. Paragraph 012 has been added to explain that there are specific circumstances where contributions for affordable housing should not be sought, including when developments involve 10 units or less. In light of the revised PPG the Council have advised that they are now giving only limited weight to CS Policy SP9, with respect to contributions from development involving 1-9 dwellings, and that their decision to refuse planning permission has been superseded by the new advice.
9. Although the CS and SPD were adopted in 2013 and 2014 respectively, the revision to PPG, with clear reference to the circumstances where contributions should not be sought for affordable housing, is more recent and is a material consideration that carries significant weight. Accordingly I find that permitting the unfettered occupation of the self-contained converted garage at Lavender Cottage without requiring a contribution to affordable housing provision across the district would not have a significantly adverse effect on the supply/provision of affordable housing in the Selby area.
10. When planning permission was granted in 1998 the only condition imposed on the consent, other than the standard condition specifying the time available to commence development, was the condition in dispute. The Council have suggested that, in the event the appeal is upheld, another condition, removing

the rights normally available to extend dwellings without permission, as defined in the Town and Country Planning (General Permitted Development) Order 1995 (as amended), should be imposed. The Council suggest this is needed because the site is in the Green Belt. However, PPG, 'Use of Planning Conditions', makes it clear that such a condition, restricting the future use of permitted development rights, will rarely pass the test of necessity and should only be used in exceptional circumstances. The location of the site in the Green Belt does not amount to such a circumstance and the condition suggested is not necessary or reasonable. No other conditions need to be imposed.

Jim Metcalf

INSPECTOR

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