
Appeal Decision

Site visit made on 5 December 2016

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 13 January 2017

Appeal Ref: APP/E9505/W/16/3158503

50 Riverside Estate, Brundall, Norwich, Norfolk NR13 5PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr David Hilburn against the decision of The Broads Planning Authority.
 - The application Ref BA/2016/0026/COND, dated 9 February 2016, was refused by notice dated 24 March 2016.
 - The application sought planning permission for the erection of replacement riverside lodge without complying with a condition attached to planning permission Ref BA/2012/0394/FUL, dated 28 February 2013.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the submitted plans (drawing numbers 1 (measured survey), 2 (floor plan and site plan), 3 (north and south elevations), 4 (east and west elevations and section A-A), 5 (setting out and piling), photographs of existing chalet, location plan, letter from applicant of 24-12-2012, protected species survey, building regulation notes, flood risk assessment and preliminary notes received by the local planning authority on the 31 December 2012, letter from applicant of 3 February 2013 received by the local planning authority on the 5 February 2013, letter from applicant of 12 February 2013 received by the local planning authority on the 15 February 2013 and email from applicant of the 20 February 2013).
 - The reason given for the condition is: For the avoidance of doubt and to ensure the satisfactory development of the site in accordance with the specified approved plans.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of replacement riverside lodge at 50 Riverside Estate, Brundall, Norwich, Norfolk NR13 5PU in accordance with the application Ref BA/2016/0026/COND made on the 9 February 2016 without complying with condition Nos 1, 2, 5 and 6 set out in planning permission No BA/2012/0394/FUL granted on 28 February 2013 by The Broads Planning Authority, but otherwise subject to the conditions set out in the schedule to this decision letter.

Procedural Matter

2. At my site visit I saw that the replacement chalet had already been constructed, although this differed from the plans submitted with the appeal. The Council, in their officers report, have outlined the differences between the previously approved development and what has been built on site. The Council also determined the application on the basis of retaining the development as built. Therefore, notwithstanding the submitted plans, given that the intention
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of the application was to retain the development as built I have dealt with the appeal on this basis.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site is located along the eastern bank of the River Yare where there is a ribbon development of waterside chalets. The chalets are accessed via a private road beyond which there are various commercial buildings.
5. Planning permission was granted on 28 February 2013¹ for a replacement chalet building. During the course of the consideration of that application, the materials proposed for the window and door frames were amended from uPVC to timber. The replacement chalet was subsequently constructed using uPVC frames. The chalet also differs in terms of its size, height and fenestration. However, the Council have not raised any objection these changes and I have no reason to disagree.
6. From my site visit I saw that there were numerous other chalets along the eastern bank which also had uPVC window and door frames. These frames included ones with a standard white finish to various brown and wood effect finishes. I also noted that some of the commercial buildings on the opposite side of the private road also utilised uPVC.
7. The overriding character of this area is chalets which have uPVC window and door frames. I do however acknowledge that some chalets have timber or metal frames.
8. Given the character of the existing chalets, in this case, I consider that the use of such a material does not give rise to any material harm the overall character and appearance of this attractive area. In coming to that conclusion, I acknowledge that uPVC has some contrasting properties to timber, including having a flatter and bulkier appearance. Furthermore, the use of a wood effect finish to the frames, together with recycled timber for the exterior trim, presents a higher standard of appearance than the other chalets I saw with uPVC.
9. Policy BRU1 of the Site Specific Policies Local Plan 2014 (LP) and Policy DP4 of the Local Development Framework Development Management Policies 2011-2021 Development Plan Document 2011 (DMPDPD) seek to ensure that development achieves a high design quality which integrates effectively with its surroundings and reinforces local distinctiveness. Given the appearance of the windows and doors, and in combination with the rest of the development, I consider that the proposal accords with aims and objectives of these policies.
10. I have also had regard to the Brundall Neighbourhood Plan 2016-2026 (NP). Whilst the NP does not include any specific policies which are relevant to the appeal development, one of the objectives of the NP is to protect and enhance local distinctiveness in the built and natural environment. In this case, the development accords with that objective.

¹ BA/2012/0394/FUL

11. My attention has been drawn to other appeal decisions which also dealt with the issue of the use of uPVC². Whilst the Hoveton case considers works at a riverside chalet, I am unaware of the full details of this case or the character of the surrounding area. The Fleggburgh decision considered a conservatory and is a significantly different form of development to the current appeal. Whilst the sustainability conclusions relating to the use of uPVC in that decision is noted (and its compliance with Policy DP4 of the DMPDPD), the Council in this appeal have also stated that there is no development plan policy which does not allow the use of uPVC. Notwithstanding these decisions, I have considered this case on its individual merits.
12. For the above reasons I conclude that the uPVC used in the development does not harm the character and appearance of the area. The development would still therefore accord with Policy BRU1 of the LP, Policy DP4 of the DMPDPD and the objectives of the NP.

Conditions

13. As the development has already been implemented it is not necessary to impose a time limit condition for the implementation of the development. Given that the submitted plans do not accurately reflect the as built development, and that the development has already been implemented, a condition specifying the approved details is not necessary.
14. In relation to biodiversity matters, it is necessary to include a condition relating to a bat box as per the protected species survey report from the previous permission.
15. Conditions relating to the void beneath the dwelling and the retention of the finished floor level at 2.00 AOD are necessary to ensure that the occupants of the dwelling are not at undue risk of flooding and that there is adequate flood storage to minimise risk both on and off site. Given that the development has already been completed, and what is on site, it is not necessary to include the flood proofing measures detailed on drawing no 5 of permission BA/2012/0394/FUL.
16. In respect of the restriction of permitted development rights, it is necessary to restrict development under Schedule 2, Part 1, Classes A, D, and E of The Town and Country Planning (General Permitted Development) (England) Order 2015 to protect the character and appearance of the area. However, I consider it unnecessary to restrict minor roof alterations under Class C, and no permitted development rights exist under Class B as the site is located on Article 2(3) land.

Conclusion

17. For the reasons set out above, I conclude that the appeal should be allowed and planning permission granted to retain the replacement riverside lodge as built.

Chris Forrett

INSPECTOR

² APP/E9505/A/13/2191650 & APP/E9505/D/12/2186568

SCHEDULE OF CONDITIONS

- 1) One bat box shall be retained on the replacement dwelling for the life of the development in accordance with the details at section 6 of the approved Protected Species Survey (submitted in respect of application BA/2012/0394/FUL).
- 2) The development hereby permitted shall be retained with a minimum finished floor level of 2.00m AOD.
- 3) The void beneath the dwelling shall remain open and clear of obstruction for the lifetime of the development.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) no building or structure permitted by Classes A, D and E of Schedule 2 Part 1 shall be erected unless planning permission has first been granted by the local planning authority.