

Appeal Decision

Site visit made on 24 January 2017

by R W Allen B.Sc PGDip MRTPI

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

Decision date: 31 January 2017

Appeal Ref: APP/L2630/W/16/3162061

Crown Bungalow, Lower Street, Gissing, Diss, Norfolk IP22 5UJ

- 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 Kevin Greenacre against the decision of South Norfolk District Council.
 - The application Ref 2016/1558, dated 22 June 2016, was refused by notice dated 19 August 2016.
 - The application sought planning permission for erection of a detached annexe without complying with a condition attached to planning permission Ref SW07/03/1418/F, dated 26 August 2003.
 - The condition in dispute is No 6, which states that: *The occupation of the development (annexe) hereby permitted shall be limited to use as a domestic accommodation ancillary or incidental to the main dwelling and it shall not be occupied as a separate unit of accommodation.*
 - The reason given for the condition is: *To enable to the Local Planning Authority to retain control development [sic] which has been permitted in this instance to meet a specific personal need and where occupation of the development (annexe) as a separate dwelling would be in conflict with settlement policy and/or result in a sub-standard layout of land.*
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Decision

1. The appeal is allowed and planning permission is granted for erection of a detached annexe at Crown Bungalow, Lower Street, Gissing, Diss, Norfolk IP22 5UJ in accordance with the application Ref 2016/1558 dated 22 June 2016, without compliance with condition number 6 previously imposed on planning permission Ref SW07/03/1418/F dated 26 August 2003, subject to the following conditions:
 - 1) Within three months of the date of this permission, details of the provision for car parking shall be submitted to the Local Planning Authority for approval in writing. The approved parking area shall be laid out, demarcated, levelled, surfaced and drained in accordance with a timetable to be agreed by the Local Planning Authority.
 - 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development shall take place within Schedule 2, Part 1, Classes A, B and E, or with Part 2 Class A of that Order without the prior written approval of the Local Planning Authority.
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Main Issue

2. The main issue is the effect that removing the condition would have on the living conditions of the future occupiers of the annexe and the viability of the public house.

Reasons

Background

3. The Council granted planning permission for the annexe in 2003, and imposed six conditions. Its reasoning for the imposition of condition 6, which the subject of the appeal, was to retain control of the development because a separate dwelling would conflict with its settlement policy, and/or result in a sub-standard layout of land. The Council is no longer pursuing these grounds as its reasons for objection. It instead is concerned about what it sees as a conflict of use between the future occupiers of the annexe as an independently occupied dwelling and the operation and use of the public house, as well as the future viability of the public house. I have confined my decision only to these matters.

Effect on living conditions and viability of the public house

4. The Council has not substantiated its concerns as to what specifically the source of noise would be from the public house which would cause a nuisance to the future occupiers of the annexe. In my judgement and from my observations at my site visit, I find that this is most likely to occur from general comings and goings and outdoor congregation.
5. I observed that the entrance to the public house faces away from the annexe. There is no current garden associated with the public house. Outdoor seating is largely confined to the area to the front of the public house, both in an area immediately adjacent to its front elevation and in a covered shelter further towards the road, adjacent to the boundary with the adjoining neighbour Wilkes Cottage. Some informal seating exists on an adjacent green space which is not in the appellant's ownership or control, but this space is separated from the annexe by an informal parking area.
6. I am satisfied that sufficient distance exists between the annexe and the entrance and outdoor seating areas of the public house that any potential noise nuisance caused by outdoor congregation of patrons would not have any significant harm on the living conditions of the future occupiers of the property. It follows that noise complaints against the public house, and any subsequent ramifications that may follow, would in my judgement be unlikely.
7. The Council considers the loss of the garden area and informal car park would harm the versatility of the public house. However, in respect of the garden, as it is already closed and not used by its patrons, I do not find that its permanent loss would be considerably harmful, and no evidence is before me which suggest that current outdoor facilities enjoyed by patrons of the public house are inadequate or unpleasant. The appellant makes no mention of whether the informal car park would be closed once the community centre opens its own car park in the spring of 2017. As such, I cannot conclude with any degree of certainty whether this occur. However, even if it were to be the case, I observed that sufficient areas for parking on the site would remain to the front

and side; and that it would not reduce facilities or significantly harm the versatility of the public house.

8. I find no conflict with Policy DM3.13 of the South Norfolk Local Plan Development Management Policies Document 2015 (Local Plan). This states that development should ensure a reasonable standard of amenity, and avoid the introduction of incompatible neighbouring uses in terms of noise, and that development will not be permitted where the proposed development would generate noise which would be significantly detrimental to the amenity of nearby residents.

Other Matters

9. The Council identifies that the appeal site lies within the Conservation Area, and the public house is a listed building. Neither party expresses a view regarding any effect of the proposal on either significance. Moreover, I have not been provided with any relevant development plan policies relating to such matters. Nonetheless, I have had special regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the significance of the Conservation Area and the setting of the listed building. In this respect, having regard to the nature of the proposal and its relationship with the public house, the host property, I am satisfied that those interests would be preserved.

Conditions

10. The Council has suggested two conditions from the previous planning consent should be imposed on this new permission, which relate to restricting the permitted development rights of the property. The appellant does not dispute their inclusion. Having considered the tests in paragraph 206 of the National Planning Policy Framework (the Framework), I concur, though I have merged them into a single condition. I do not however share the Council concerns that permitted development rights for porches and flues and chimneys are necessary to be withheld, and have deleted this restriction.
11. A new condition in respect of car parking is necessary in the interests of highway safety and management. However whether this can be provided on-site provision is not clear from the drawings before me, and I have reworded it to allow it be provided where appropriate. I have reviewed the other conditions from the previous permission and I am satisfied that it is not necessary to re-impose them here.

Conclusion

12. For the reasons given above I conclude that the appeal should be allowed.

R Allen

INSPECTOR