
Appeal Decision

Site visit made on 22 March 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: 4th April 2017

Appeal Ref: APP/V2635/W/16/3163079

Meadow View, Black Horse Road, Clenchwarton, PE34 4DN

- 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 and Mrs Statham against the decision of Borough Council of King's Lynn and West Norfolk.
 - The application Ref 16/01478/F, dated 11 August 2016, was refused by notice dated 10 October 2016.
 - The application sought planning permission for construction of dwelling and change of use of existing bungalow into offices, meeting room and staff facilities related to existing associated servicing and ground works business without complying with a condition attached to planning permission Ref 16/00395/F, dated 2 August 2016.
 - The condition in dispute is No 8 which states that: *The occupation of the dwelling hereby approved shall be limited to a person solely or mainly working, or last working in the associated surfacing and groundworks business, or a widow or widower of such a person, and to any resident dependants.*
 - The reason given for the condition is: *Given that the new dwelling would lie within a collection of business uses and buildings, its use as an independent dwelling would be significantly affected in terms of residential amenities; and to accord with the provisions of the NPPF, Core Strategy Policy CS08 and emerging Policy DM15 of the SADMPD.*
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the condition restricting the use of the accommodation is reasonable or necessary having regard to the effect upon living conditions of future occupants in respect of privacy, noise and disturbance.

Reasons

3. The appeal site currently consists of a bungalow located in the countryside which is accessed via a long track from Black Horse Road. The approved dwelling would be 2-storey in height with 5 bedrooms and it has been designed to reflect the rural character of the area. The development would be located in the existing garden area of the bungalow, positioned at right angles to this. The new dwelling would effectively replace the existing bungalow; this would be retained and would become an office as part of an existing groundworks business which operates from the site.
 4. Due to the proximity between the existing bungalow and the new dwelling, there would be a close relationship between these properties. The positioning,
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layout and design of the new dwelling would mean that there is a significant degree of overlooking between the two properties. In particular, there would be a severe loss of privacy for future occupants as direct views from the bungalow would be gained to the north-west elevation and into the lounge, as a main habitable room.

5. Furthermore, the approved plans indicate that there would be a shared parking area serving both the offices and the new dwelling. At my site visit I saw that a number of vehicles currently use this area for parking and while no specific details of the nature and operation of the business have been provided, I consider that the nature of and proximity of this shared space would be highly likely to give rise to noise and disturbance due to the comings and goings of vehicles associated with the business. I am also mindful that the dwelling would face out towards the access track, thus further compounding the harm from noise and disturbance and loss of privacy.
6. I note that the existing business does not have any restrictions in terms of hours of operation and such impacts could therefore occur during anti-social hours and during the weekend, in addition to any typical Monday-Friday working. While such operations would be acceptable to any occupants associated with the business, I consider that the use of the new dwelling independently of the business would not be compatible.
7. The current bungalow is not currently tied to the existing business and it is understood that there was an agricultural occupancy condition attached to the bungalow which was removed in 2012. However I do not have full details of the circumstances which led to this being accepted. In any case, from my observations made on site and based on the information before me, the current arrangement in respect of the bungalow and business are relatively separate and as such, would not harm the living conditions of occupants.
8. The appellants also submit that the condition would prevent the commercial viability of the business changing ownership in the future and places unfair restrictions onto the investment of the dwelling. However, there is no evidence before me in respect of such claims and in any case, this would be unlikely to outweigh the harm I have identified.
9. Overall I consider that the occupation of the dwelling independently of the existing business would cause harm to living conditions of future occupants due to loss of privacy and noise and disturbance. This would not accord with Policy CS08 of the King's Lynn and West Norfolk Borough Council Core Strategy (2011) and Policy DM15 of the Site Allocations and Development Management Policies Plan (2016). These policies seek to secure sustainable design and resist proposals which would have a significant adverse impact upon amenity. I therefore conclude that the disputed condition is necessary and reasonable.

Conclusion

10. For the reasons given above, taking into account all other matters raised, I conclude that the appeal should be dismissed.

C Searson
INSPECTOR