
Appeal Decisions

Site visit made on 18 September 2019

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2019

Appeal Refs: APP/V2635/C/18/3210733 & 3210734

Land to the South Side of Washington, 46 The South Beach, Heacham, King's Lynn

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Michael Palmer and Ms Diana Palmer against an enforcement notice issued by King's Lynn and West Norfolk Borough Council.
 - The enforcement notice, numbered 18/00006/UNOPDE, was issued on 26 July 2018.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of a beach hut/store as described in planning application 18/00449/F.
 - The requirements of the notice are to ensure that:
 - i) The unauthorised building is permanently removed from the Land.
 - ii) All resultant materials and waste are permanently removed from the Land.
 - The period for compliance with the requirements is two months.
 - The appeals are proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Summary Decisions: the appeals are dismissed and the enforcement notice is upheld as corrected.

Procedural matter

1. The enforcement notice as drafted includes the superfluous wording of 'Land at' in the description of the land to which the notice relates at paragraph 2. I am satisfied that I can correct the notice in respect without causing injustice.

Reasons

2. The appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The Council has stated one substantive reason for issuing the enforcement notice, from which the main issue raised is whether the erection of the beach hut/store has increased the number of people at risk of flooding.
3. The appellants explain that the purpose of the beach hut/store is to provide toilet and shower facilities with storage, all in connection with the occasional use of the building and land for days out at the beach. The appellants maintain that there is no intention to use the building to provide habitable accommodation, and are willing to accept conditions relating to the function of the beach hut/store and the times when it may be used. I am prepared to accept the appellant's submissions on this matter albeit, as the Council points out, this does then raise a more fundamental question about the lawful use of the land now that the plot appears to form a separate planning unit.

4. The latter is not a matter that is before me and it is neither necessary nor appropriate for me to reach a conclusion on it. The salient point is, as the appellants accept, that the appeal site is within Flood Zone 3. The appellants dispute the need for a flood risk assessment on the grounds that the building would not provide habitable accommodation. However, the National Planning Policy Framework (Framework) is very clear in stating that a site-specific flood risk assessment should be provided for *all* development in Flood Zones 2 and 3 (my emphasis)¹. The Framework also makes it clear that this applies equally to applications for some minor development. No such flood risk assessment has been provided in this case. In the absence of a site-specific flood risk assessment, I am unable to reach an informed conclusion on the implications for flood risk arising from the development subject to the notice. Moreover, in the absence of a site-specific flood risk assessment, I am unable to determine whether the conditions advanced by the appellants would be sufficient to overcome any risk from flooding that might arise from the development.
5. The Council cites Policy DM18 of the Site Allocations and Development Management Policies Plan (Policies Plan) in the reasons for issuing the notice. On my reading, that policy relates only to certain types of development as set out in the policy itself. In view of the appellants' confirmation that the beach hut/store would not be used to provide habitable accommodation, I am not convinced that the breach of planning control alleged in the notice is one of the types of development listed in Policy DM18 of the Policies Plan and therefore contrary to that policy. Nevertheless, the development does not accord with the requirement in the Framework for a site-specific flood risk assessment and on that basis alone planning permission should not be granted for it.

Conclusion

6. For the reasons set out above, I conclude that the appeal should not succeed and that planning permission ought not to be granted for the deemed planning applications.

Formal Decisions

7. It is directed that the notice be corrected by deleting the words 'Land at' at the beginning of paragraph 2 of the notice.
8. Subject to that correction, the appeals are dismissed and the enforcement notice is upheld. Planning permission is refused on the applications deemed to have been made under section 177(5) of the Act as amended.

Paul Freer
INSPECTOR

¹ Footnote 50 of the National Planning Policy Framework, February 2019