



Appeal Decision

Site visit made on 1 July 2020

by David Spencer BA(Hons) DipTP MRTPI

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

Decision date: 6 July 2020

Appeal Ref: APP/Y2620/W/20/3244406

Blackwater House, Vale Road, High Kelling, Holt NR25 6RA

- 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 Ms Geraldine Carratu against the decision of North Norfolk District Council.
 - The application Ref PF/19/0861, dated 17 May 2019, was refused by notice dated 17 July 2019.
 - The application sought planning permission for retention of garden room as constructed for use as temporary living accommodation/site office without complying with a condition attached to planning permission Ref PF/13/0312, dated 12 November 2013.
 - The condition in dispute is No. 2 which states that: "The Development hereby permitted shall not be used other than for temporary living accommodation, site office and studio during the construction period of the dwelling approved under 12/0278, and shall not be used for any business or commercial use. Upon first occupation of the dwelling approved under 12/0278 the development hereby permitted shall not be used other than as ancillary accommodation in association with the main dwelling and shall not be used as a separate dwelling for any business or commercial use."
 - The reason given for the condition is: "The site lies in the Countryside policy area as defined in the North Norfolk Core Strategy whereby proposals for independent dwellinghouses are not normally permitted. The restriction is also required in the interests of the residential amenities of the area and highway safety in accordance with Policies SS2, EN4 and EN13 of the adopted North Norfolk Core Strategy."
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Decision

1. The appeal is dismissed.

Procedural matters

2. The site address in the decision banner above is taken from the Local Planning Authority's (LPA) decision notice and is the same as used on the appellant's appeal form and accurately identifies the appeal site.
3. The appeal proposal seeks to enable the appellant to remove the disputed condition restricting the garden room for ancillary accommodation in association with the main dwelling only in order to allow for a bed and breakfast business to operate from the garden room building.

Main Issue

4. The main issue is the effect of the appeal proposal on highway safety and function with specific regard to the junction of Vale Road with the A148 Cromer Road.

Reasons

5. Vale Road is an unadopted cul-de-sac which can only be accessed from the A148 Cromer Road. The evidence provided by the Local Highway Authority (LHA) of relatively recent traffic counts on the A148 in the adjoining village of Bodham demonstrate average daily flows of just below 9,800 vehicles. From my own observations, bearing in mind that current Coronavirus restrictions may well be reducing overall traffic levels, it is evident that the A148 is a busy road. This is unsurprising as it forms the main arterial road route connecting communities in north Norfolk to the west of the county and to destinations beyond. Accordingly, the road is appropriately identified as a 'Principal Route' in the North Norfolk Local Development Framework Core Strategy 2008 (the NNCS) where the route hierarchy objectives are to maintain traffic flow and reduce risk.
6. The A148 Cromer Road through High Kelling is principally restricted to 30mph, which is reinforced by regular signage including a set of speed reactor signs in both directions. There is no street lighting, no road markings to restrict overtaking and no road layouts that protect right hand turns on the A148 against the flow of on-coming traffic. Through High Kelling the alignment of Cromer Road is straight although gentle undulations restrict longer views in places, particularly to the east of Vale Road. Despite the presence of buildings and the number of junction turnings in High Kelling, the standard of highway, its straight alignment and the investment that has gone into warning signs it would be reasonable to assume that there are issues of speed limit exceedance as outlined by the LHA. This leads me to apply a more cautious approach to assessing highway safety along this part of the A148. This is borne out in the accident data provided by the LHA where excessive speed and overtaking appear to have been factors in a 'serious' accident in April 2018 directly adjacent to the Vale Road junction (accident #2).
7. Given the established function of the A148 as a principal route and the nature of the highway at the appeal location the LHA has applied the more stringent Design Manual for Roads and Bridges (DRMB) visibility standards as opposed to the alternative visibility requirements in Manual for Streets (MfS). I note the recent appeal decision in Suffolk (3193223) where my colleague dismissed the use of DRMB in that case as being "manifestly out of date". However, I find the circumstances are not comparable given the access in that appeal was described as being onto an "unclassified, lightly trafficked, narrow rural lane". That is in stark contrast to the character and function of the A148 principal route in this appeal. Moreover, the LHA has clearly evidenced that it has recently reviewed its formal procedures and requirements for development management (November 2019) recognising that principal routes such as the A148 are strategic routes where the ability to carry traffic safely and freely should not be prejudiced. Accordingly, the LHAs latest development management guidance (at G2.3) is that it will apply DRMB standards on routes such as the A148. The LHA has demonstrated in this case that its use of DRMB has been carefully considered and is up to date.
8. In terms of visibility egressing from Vale Road onto the A148, whether DMRB or MfS visibility standards are applied, the visibility at this junction clearly fails against both standards. The presence of tall boundary vegetation and a telegraph pole mean there is an acutely restricted visibility to the east. In my view, having experienced the junction, the restricted visibility onto such a busy

highway makes right hand turns out of Vale Road towards Holt, the nearest market town and a likely destination for occupiers of the garden room, particularly perilous. Similarly, vegetation to the west, including mature trees, appreciably impedes visibility in that direction. There is no evidence that the appellant has control to remove the vegetation or telegraph pole to achieve the necessary visibility. Against the prudent DMRB standards, which I consider the appropriate standards to apply in this case, the extent of the restricted visibility is particularly unsafe. As such I share the view of my colleague in the 2006 appeal on Vale Road (2021051) that even a small increase of traffic using this substandard junction would be dangerous.

9. Looking more widely at the safety and disruption of vehicles turning into Vale Road there is no right-hand turn protection against the flow of oncoming traffic. In contrast to some other side roads, the Vale Road turning is not signed, nor does it benefit from good visibility splays to demarcate the junction. It is a generally inconspicuous turning tucked between the boundaries of residential properties. The modest marker posts and the set-back position of a Royal Mail post box do not make the Vale Road turning prominent to users of the A148 or its approach particularly safe.
10. Consequently, I am concerned that additional vehicles slowing down and stopping to use this junction would not only unduly constrain the free flow of traffic on this principal route but would unacceptably increase risk of accidents at this location. I arrive at this view having regard to nearby accident data (the LHAs accident record #3 (August 2016)) where a vehicle waiting on the A148 in High Kelling to make a right-hand turn, at the more prominent junction with Selbrigg Road, resulted in other vehicles colliding in what was graded a 'serious' accident. Notwithstanding the presence of the various other side roads in High Kelling, given the volumes of traffic on the A148, there is a heightened risk of similar incidents arising from increased vehicle movements stopping and turning into what is an unassuming side junction.
11. The appellant has provided evidence that the A148 at this location is generally considered to be a safe road and that no fatal accidents have recently occurred nor any accidents directly at the Vale Road junction. Be that as it may, I find the data provided by the LHA on the degree to which the Vale Road junction falls below both the DMRB and MfS visibility standards and the recent A148 accident data for High Kelling means there would be a significant risk to highway safety from the intensified use of the junction generated by the appeal proposal. The LHAs detailed accident record data also demonstrates that there are clear safety issues on the A148 in High Kelling.
12. I note the appellant submits that current under-occupation and car ownership levels at Blackwater House indicates a capacity to safely accommodate the likely additional vehicle movements and that the intended bed and breakfast use would be restricted to just one private vehicle at any time. However, in seeking to remove the condition, the garden room would no longer be ancillary accommodation to Blackwater House. Whether or not bed and breakfast accommodation generates similar or fewer vehicle movements compared to a dwellinghouse, in an attractive location (an Area of Outstanding Natural Beauty) it would be reasonable to assume the appeal proposal would generate an appreciable number of independent vehicle movements, generally coinciding at a point when traffic levels on the A148 would be at their busiest. These movements would be in addition to any change of circumstances and future car

ownership levels at Blackwater House. In this regard I share the view of my colleague in a recent appeal decision at Hainford (3174353), that a new independent use even where it would generate only a modest intensification in vehicle movements would not be acceptable via a substandard access onto a principal route in the county.

13. I note the appellant has proposed that current under-occupation at Blackwater House could be secured by condition to create the vehicular capacity to support the appeal proposal. Given the size of the host property and its rural location I am not persuaded that such a condition would be either enforceable or reasonable in all other respects. The appellant also submits that the proposed bed and breakfast use would be a scale and type of home-run business not normally requiring planning permission. The appellant asserts that the fallback would be to use spare bedrooms (up to 3) in Blackwater House to carry out a potentially greater level of bed and breakfast activity. It is far from certain that the suggested fallback would not generate a requirement for a planning application and so I attach only very limited weight to it.
14. The appellant submits the LPA has been inconsistent and other developments have been approved on Vale Road and for holiday accommodation at other locations where side roads in High Kelling access onto the A148. I find the reference to the recent Tudor Lodge appeal (3211022) in 2018 to be of little applicability as it allows for ancillary accommodation (the same as the current arrangement at the appeal site) and therefore would not generate a material change in vehicle movements. In terms of the other permissions, I have relatively little detail on their circumstances to enable direct comparison with the appeal proposal. Moreover, I have assessed the appeal proposal on its own merits and on the particular highways evidence before me.
15. In conclusion I find the proposed intensification of the junction of Vale Road with the A148 Cromer Road would harmfully interfere with the strategic function of the A148 as principal route. Moreover, by intensifying the use of a demonstrably substandard junction the proposed removal of the condition would result in an unacceptable risk to highway safety. Accordingly, the proposal would be contrary to Policy CT5 of the NNCS which seeks, amongst other things, to secure safe access to the highway network and to maintain traffic flow and reduce risk on principal routes. It would also fail to accord with National Planning Policy Framework 2019 which states at paragraph 109 that development refused where there would be an unacceptable impact on highway safety.
16. I have considered all other matters raised, including the support for the principle of rural tourism in both the NNCS and NPPF but this do not lead me to conclude other than that the appeal should be dismissed on overriding highway safety concerns. Accordingly, the disputed condition should be retained for the reasons given.

David Spencer

Inspector.