
Appeal Decision

Site visit made on 17 February 2022

by David Spencer BA(Hons) DipTP MRTPI

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

Decision date: 3rd March 2022

Appeal Ref: APP/V2635/W/21/3278211

37 South Moor Drive, Heacham, Norfolk PE31 7BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Beecroft against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 20/01978/CU, dated 23 November 2020, was refused by notice dated 15 April 2021.
 - The development proposed is change of use from annex to holiday let.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from annex to holiday let in accordance with the terms of the planning application Ref 20/01978/CU and the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: DWG H6725-01A
 - 2) The approved parking area shown on DWG H6725-01A shall be retained thereafter for the specific use of the development hereby permitted.
 - 3) The holiday let hereby approved shall be held at all times and owned in conjunction with 37 South Moor Drive, Heacham.

The accommodation shall be limited to occupation for holiday purposes only and shall be limited for short stay accommodation only (no more than 28 consecutive days per single let); and shall not be occupied as a person's sole or main place of residence.

The owners/operators shall maintain an up-to-date register of lettings/occupation and shall make the register available for inspection at all reasonable times to the Local Planning Authority.

Preliminary Matters

2. Since the Local Planning Authority (LPA) made its decision it has confirmed as part of this appeal that it no longer wishes to pursue its first reason for refusal regarding construction quality and fire risk. Given the appellant's evidence that the building was satisfactorily inspected by King's Lynn North Fire Station in September 2019 and that fire safety is generally addressed by other mechanisms I do not consider it to be a main issue for this appeal.
3. The appeal site is located close to designated Natura 2000 sites (European Protected sites for biodiversity). The planning application was accompanied by a Habitat Regulations Assessment report, including an appropriate assessment

to determine whether any likely significant adverse effects could be adequately mitigated. The appellant has made a direct payment of a Habitat Mitigation Fee (HMF) to the Borough Council in accordance with the LPAs approach for small-scale developments. On my request, the appellant has subsequently provided proof of this direct payment as part of this appeal. I return to the issue of the HMF payment under other matters below.

Main Issue

4. The main issue is whether the appeal proposal contributes to the objective of achieving well-designed places, having particular regard to the standard and quality of access to the building and its relationship to pattern of development in this part of Heacham.

Reasons

5. The annex building is located to the rear of No.37 South Moor which is a detached bungalow property occupying a generously sized corner plot at the end of a quiet residential cul-de-sac. The annex building is separated by a reasonable area of garden from the host dwelling and from the boundaries of adjacent properties such that the spacious character of the rear gardens in this part of Heacham is maintained. The annex building is a modestly sized single storey building with an attached veranda style covered outdoor seating area. In terms of scale, appearance and position it is characteristic of an ancillary building, typical of many residential garden settings. The holiday let use would not harm the pattern of development in this part of Heacham.
6. Access to the holiday accommodation would be achieved via a side path alongside the property of No.37 and across the rear garden. The width of the path is not particularly constrained and has a generally even, hard surface. Overall, it would provide a safe, suitable and manageable means of access to the holiday accommodation proposed.
7. No development plan policies are cited in the LPAs decision notice. From the policies considered in the LPAs officer report and provided as part of this appeal, in relation to the main issue, the appeal proposal would accord with the design objectives in Policy CS08 of the King's Lynn and West Norfolk Core Strategy 2011. The proposal would also accord with the design objectives at paragraphs 126 and 130 of the National Planning Policy Framework (NPPF). This includes ensuring developments function well and add to the overall quality of the area, are sympathetic to local character and create places that are safe, inclusive and accessible.

Other Matters

8. Reference is made to the emerging Heacham Neighbourhood Plan (eHNP) and a proposed policy aimed at inhibiting additional holiday accommodation in the village in response to local concerns. I have little information before me about progress on the eHNP and the proposed holiday accommodation policy in particular. I note a recent appeal decision¹ for an identical proposal at the appeal site addressed similar concerns regarding the eHNP at paragraph 20. I have not been made aware that matters have materially changed since that decision. In my assessment, the adopted development plan policy framework referred to in the LPA officer report, including Policy DM11 of the Borough

¹ APP/V2635/W/20/3252842, issued 13 November 2020

Council's Site Allocations and Development Management Policies Plan 2016 (*the SADMP*), which supports new holiday accommodation subject to criteria, is consistent with the NPPF on supporting a prosperous rural economy, including sustainable rural tourism. Overall, I give very little weight to any conflict with the eHNP.

9. Concerns are raised about parking provision and vehicle manoeuvring. Again, this matter was dealt with comprehensively in the recent appeal decision at paragraphs 12-19. I have very little before me to indicate that matters have materially changed since that decision and that I should arrive at different conclusion on highway safety. I attach significant weight to the absence of an objection from the Local Highway Authority². From my observations of the appeal site and the surrounding environment within South Moor Drive I would concur with the assessment at paragraphs 16 and 18 of the previous appeal decision. Overall, the appeal proposal would not give rise to an unacceptable risk to highway safety and would accord with Policies DM15 and DM17 of the SADMP.
10. As set out above the appellant has undertaken a Habitats Regulation Assessment³ and submitted a payment for a Habitat Mitigation Fee (HMF). Proof has been provided as part of this appeal that the payment has been made. I am mindful that the previous appeal decision for the same development considered that a direct payment would not meet the necessary tests in terms of ensuring that it is a justified amount (to be effective). The same decision also raised concerns whether a direct payment would be spent for its intended purpose, including being clearly linked to mitigation measures necessary to conclude no adverse effect on the integrity of The Wash Special Protection Area (SPA) and Ramsar site and The Wash and North Norfolk Coast Special Area of Conservation (SAC).
11. I have very little information of what evidence was before my colleague in the previous appeal, but the issue has been addressed in some length as part of the LPA officer report for this proposal. This includes the formal process in which HMF payments are ring-fenced for specific mitigation measures determined through the HRA Monitoring and Mitigation and GI Coordination Panel (a group including the Borough Council, Norfolk Wildlife Trust, RSPB and North Norfolk Coast Partnership.) This approach to mitigation and the relatively modest HMF amount sought are in accordance with Policy DM19 of the SADMP. Whilst I share my colleague's concerns regarding the fact that is now approximately 5 years since the approach was established and further monitoring and review may indicate a need to update the approach and the HMF, the LPA Officer report sets out that this will be addressed as part of the current Local Plan review. I accept this would be the most appropriate way forward and in the interim the current HMF arrangements for small-scale developments would constitute effective mitigation for the additional recreational pressure likely to arise from the appeal proposal.
12. The alternative to a direct payment would be a legal obligation through a mechanism under Section 106 of the Town and Country Planning Act 1990 (as amended). I share, however, the LPAs assessment that the costs around such a mechanism is very likely to be greater than the HMF amount itself and therefore potentially counterproductive. As set above I am reassured by the

² Correspondence dated 22 December 2020

³ Hillier Ecology, February 2021

evidence provided by the LPA that the HMF payment would be solely used for mitigation measures agreed by those with a sound understanding of what is required to manage visitor pressure on the local coastal environment. Accordingly, I have taken the proof of the HMF payment into account.

13. In terms of an appropriate assessment under the Habitats Regulations I am satisfied that the HMF payment would be effective in mitigating any likely significant effect arising from additional recreational/visitor pressure (especially dog walkers) associated with the appeal proposal. The payment would contribute to those measures identified in the Borough Council's Natura 2000 Sites Monitoring and Mitigation Strategy 2015⁴. These measures are readily recognised and well-established forms of mitigation, effective in managing increased visitor pressure. Furthermore, I attach significant weight to the fact that Natural England, the statutory advisor on biodiversity matters, advised that the appeal proposal would not have a significant adverse impact on statutorily protected biodiversity sites and accordingly did not object.
14. I therefore conclude that, as the requisite HMF has been secured, the proposal would not adversely affect the integrity of European designated habitats. The proposal would protect the natural environment as required by Core Strategy Policy CS12 and SADMP Policy DM19.

Conclusion and conditions

15. For the reasons given above, and having taken into account all other matters raised, I conclude that the appeal should be allowed.
16. I have imposed the conditions suggested by the LPA making only minor changes to the wording to ensure that the tests set out in the NPPF are met. It is necessary to specify the approved plans to provide certainty. A condition requiring the approved parking space to be laid out and retained for use of occupants of the appeal proposal is necessary to avoid obstruction to the highway and for wider highway safety. To ensure that the annex is solely used as a subservient scale of holiday accommodation linked to No.37 South Moor Drive it is necessary to impose a suitable occupancy condition in accordance with Policy DM11 of the SADMP.

David Spencer

Inspector.

⁴ Detail set out at paragraph 4.10 of the appellant's Habitats Regulations Assessment