



Appeal Decision

Site visit made on 30 August 2022

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th September 2022

Appeal Ref: APP/V2635/W/21/3285247

The Hideaways, 3A South Beach Road, Hunstanton, Kings Lynn, Norfolk PE36 5BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Patricia Richardson against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 20/01529/F, 28 September 2020, was refused by notice dated 23 September 2021.
 - The application sought planning permission for the construction of five holiday chalets and a swimming pool without complying with a condition attached to planning permission Ref 05/01381/F, dated 14 October 2005.
 - The condition in dispute is No 2 which states that *the occupation period of the holiday chalets hereby permitted shall be restricted to between 1 April and 30 September in any year.*
 - The reason given for the condition is *to prevent loss of life during winter storm tides.*
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the condition is reasonable and necessary in the interests of reducing the risk of coastal flooding for existing and future occupants.

Reasons

3. The appeal site is a back land development of single storey chalets set behind No 3 South Beach Road. It lies within the Coastal Flood Risk Hazard Zone (CFRHZ) as it is defined by the SADMP¹. Specifically, Policy DM 18. The SADMP recognises that the Norfolk coast has seen numerous inundations over time and although it is defended, financial and practical challenges associated with its maintenance represent an ongoing and future problem. The associated effects of climate change therefore mean, in this context, that managing coastal flood risk is one of the borough's key challenges. This is reflected, broadly, by the aims of section 14 of the Framework².
4. In regard to seasonal occupancy, and as informed by the Strategic Flood Risk Assessment (SFRA) for safety purposes, DM 18 states that such will be limited

¹ Kings Lynn and West Norfolk Site Allocations and Development Management Policies Plan 2016

² The National Planning Policy Framework 2021

to between 1 April and 30 September. Applications to remove, relax or vary any existing seasonal occupancy condition will be resisted. This appears, in the absence of any exceptions, to be a definitive development plan position. The Council's evidence explains that such restrictions exist because of the risks associated with the seasonality of each of the highest astronomical tides, the probability of storm surges, and wave action severity.

5. I am therefore inclined to agree with the Council that extending the occupancy of the appeal building to eleven months, and over the closer winter period, would expose occupiers to a greater risk of storms, higher tides and wave action that could have a greater threat to their lives. With this in mind, the implications of any action to increase occupancy should not be taken lightly.
6. As well as being outside the Tidal Hazard Mapping (THM) extent for the 1 in 200 breach scenario. The evidence suggests that the appeal site is, whilst being within the CFRHZ, between two modelled breaches and close to sea defences. The combination of these two factors means that the exact location of the modelled breach can have a highly influential effect on the extent of any flood event. That being so, it may also be likely that further modelled breach analyses may reveal that the site remains at risk. An additional breach scenario could be carried out, albeit the results thereof are not before me, and the Environment Agency (EA) seem to be of the view that such work would be disproportionate to a scheme to vary or remove a planning condition.
7. The EA suggest that a temporary relaxation of the occupation period could be granted to allow for work on the THM and other modelling to take place to get a more up to date picture of identified risk. Putting aside the appellant's lack of agreement over such an approach and precisely how that would be a workable solution for the purposes of a condition's wording, I would be reluctant to grant a temporary planning permission with the possibility that any modelling could still conclude that the appeal site would be at the same level of risk. It could potentially be a case of allowing the appeal site to be at a greater risk (due to known variables at the time I make such a decision) during the time any new modelling takes place. I am also acutely aware that the implications of any decision in this regard would extend to occupants of five self contained residential units.
8. The provision of holiday accommodation for a longer period or all year round would no doubt have some benefits for both the appellant and the local economy more generally. This would however be limited given the scale of the development, at the expense of exposure of persons to a higher degree of flood risk. Moreover, I am unsure as to how much of the wider tourist offer in the town remains open to visitors during the winter months. I would therefore ascribe only limited weight to this potential benefit.
9. The removal of the EA's objection was, as I have explained and from the evidence, conditional on the granting of a temporary planning permission to allow further work to ascertain a clearer, more site specific picture of coastal flood risk. With what I have before me and my own concerns on the matter, I do not feel these conditions have been met. I do not agree, largely for this reason, that the EA's most up to date position acknowledged, tacitly or otherwise, that theirs or the Council's objections to the appeal scheme were unsound.

10. I have been passed details of a planning permission granted for the siting of caravans at South Beach Road, Council reference 20/02097/FM. Whilst in the same general area as the appeal site and for a longer time period, this planning permission was for the temporary use of land which expires in December this year. It is not therefore a sufficiently comparable case to the scheme before me. My conclusions are therefore unchanged.

Conclusion

11. For the reasons I have set out above, there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan, Policy DM 18 specifically. It seeks, amongst other things, to reduce the risk of flooding for occupiers of dwellings within the CFRHZ. It aligns with the aims of section 14 of the Framework in this regard. The appeal should therefore be dismissed, and the disputed condition should remain given that it is both reasonable and necessary to achieve the required objectives.

John Morrison

INSPECTOR

