



Appeal Decision

Site visit made on 25 May 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2023

Appeal Ref: APP/E9505/W/22/3294205

Broadgate, Horsefen Road, Ludham, Norfolk NR29 5QG

- 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 Alan Gepp against the decision of Broads Authority.
 - The application Ref BA/2021/0211FUL, dated 2 June 2021, was refused by notice dated 8 February 2022.
 - The development proposed is application to erect a single storey extension, of internal area 30 sq.m. to existing house. Permission for change of use of the proposed extension to an artisan bakery with retail sales.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The appellant's evidence states that the bakery element has already commenced. I could see on my site visit advertisements for the bakery and witnessed customers purchasing baked goods. Nonetheless, as the proposed extension, which is not built, would result in a significantly larger floorspace where the bakery would operate, I have considered the development as a proposed scheme.
4. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the property has a lawful use as a C3 Dwellinghouse for permanent residential accommodation as claimed by the appellant and disputed by interested parties. It is also not within my remit to determine if the bakery operating from the site is lawful. If the appellant wishes to ascertain whether the uses of the property are lawful, they may make an application under section 191/192 of the Act.
5. There is a disagreement between the main parties with regard to the term artisan baker. Defining the term would not alter my analysis or findings based on the submitted evidence as such, there is no reason for me to conclude on this matter.

Main Issues

6. The main issues are:

- The effect of the proposed development on highway safety;
- The effect of the proposed development upon the living conditions of neighbouring occupiers with particular regard noise, odour and other nuisance; and
- Whether the appeal site is a suitable location for the proposed development having regard to local and national planning policy for the location of new retail development

Reasons

Highway Safety

7. At my site visit, which I appreciate is only a snapshot in time, I observed how the access from Horsefen Road closest to Yarmouth Road only provides a short section of dedicated footway. From this point onward to the appeal site, the road width reduces, and customers would need to travel along a narrow country lane curved in places with no footway or lighting along much of its length. Along the route, there are limited passing places for vehicles or pedestrian refuge areas.
8. I also observed a steady volume of ramblers using Horsefen Road and a vehicle close to the appeal site having to manoeuvre around a parked car. As a result, pedestrians had to wait on the road close to its edge for the vehicle to pass. I also observed customers standing in the road reading the signage associated with the appeal site resulting in the need for a car to slow down and pass on the opposite side of the road.
9. The appellant has provided figures in relation to the number and types of sales and ratio of customers who currently purchase from the bakery. The appellant has also provided an indicative number of predicted future sales. However, there is no substantive evidence before me to conclude that the figures provided are a good indication that additional baking facilities would not result in additional customer numbers due to the increased availability of baked goods. Indeed, the appellant's statement acknowledges the business is in a fledgling state which leads me to believe that an increase in sales is to be expected. The figure also fails to include the potential custom from ramblers not staying at the nearby caravan or holiday properties. Furthermore, this increased availability would likely draw not only tourists/ramblers but also the potential for customers from nearby Ludham and surrounding towns resulting in greater demand on Horsefen Road.
10. I note that the main parties agree on the existing good road safety record of the surrounding area. Nonetheless, there would be increased customer numbers in the form of pedestrians and vehicles. Given the distance from the junction at Yarmouth Road to the appeal site, it is highly likely that pedestrians and vehicles visiting the appeal premises would meet other vehicles on the road, notably as there are other premises which use the road and are outside the control of the appellant.

11. As there are presently limited passing places, this would force road users to have to stop or reverse to a passing place or the proposed passing place outside of the appeal site. This could be a long distance depending on where the vehicles meet on the road. As a result, the reversing of motor vehicles would give rise to conflict with other motor vehicles, walkers, cyclists and horse riders. It would also have a severe impact on the free flow of traffic.
12. Furthermore, whilst the introduction of a passing place outside of the appeal site would allow space for two vehicles to pass, there are no parking restrictions proposed to keep this section of road free of vehicles. Customers parking who either cannot or choose not to park in the bays to be provided would likely park on this section of the road closest to the appeal site. As such, the introduction of a short passing place would not overcome the conflicts further along the road.
13. The appellant's submitted plans indicate that a vehicular loop and parking would be created within the site to allow vehicles (including deliveries) to enter and exit the site in forward gear. The Authority has raised concerns as to whether this could be achieved. Based on my site observations, some site clearance would be required, but I see no reason why a suitably worded condition requiring these details would not be acceptable. Providing parking within the site would likely reduce the demand for off-site parking close by but would not overcome the conflicts I have found above.
14. I acknowledge that the National Planning Policy Framework (the Framework) recognises that sustainable transport solutions will vary between urban and rural areas. However, this does not override the significant harm identified above with regard to highway safety.
15. For the reasons set out above, the proposal would have an unacceptably harmful effect on highway safety contrary to Policy DM23 of the Broad Authority Local Plan for the Broads (BLP). This seeks, amongst other things, new development to avoid having an impact upon the highway network in respect of traffic capacity and highway safety. It would also be contrary to the Framework in so far as it seeks new development to be safe and accessible.

Living conditions

16. To the northeast of the appeal site lies a boat mooring area with a retail shop. Slightly further to the south are public toilets. Located close by the appeal site are a number of other dwellings. These timber-clad style chalets of varying sizes have an informal layout and are located at various angles set back from the road but in close proximity to each other. On the opposite side of the road are open fields bounded by hedges.
17. At the time of my site visit, which I recognise is only a snapshot in time, the section of Horsefen Road close to the appeal site was quiet in direct contrast to the activity taking place near the boats and shop. I observed how noise from pedestrians and vehicles was largely transient apart from the customers at the bakery I observed. The limited surrounding development and countryside setting close to the water result in a tranquil rural character which these properties benefit from.
18. The proposed opening hours are 0600 to 1800, 7 days a week. The business would operate to allow customers to purchase baked goods from the site and

take them away. Premises such as this have the potential to adversely affect the living conditions of nearby residents by virtue of noise and odour caused by cooking inside the premises. Additional noise and general disturbance can also be caused by customers and collecting vehicles outside the premises, particularly when these take place early in the morning or late into the evening and night.

19. The close proximity of residential properties to the appeal site, even if they are restricted to holiday occupation, creates a sensitive relationship and would mean that occupiers are likely to experience such disturbance and subsequent material harm to their living conditions.
20. The established character of the immediate vicinity of the appeal site is predominantly residential and materially different to, and distinct from, the tourist area of the boat moorings and shop. Notwithstanding that Horsefen Road is heavily walked by ramblers, the levels of noise generated from customers visiting the bakery, which would be open from early morning 7 days a week, would be materially different to that of passing pedestrians and motor vehicles. The additional noise and disturbance would be located close to nearby dwellings and gardens. Such that the noise and disturbance generated from vehicles manoeuvring and customer voices, which could include large groups, would give rise to an unacceptable level of harm to the living conditions of these occupiers.
21. I have no reason to doubt that some people enjoy the smell of baked goods, but similarly, there will be those who do not. For this reason, had I been minded to allow the appeal, a condition requiring details on odour extraction would have been necessary. The condition could also have required details on noise generated from the baking process within the extension to be agreed upon with the Authority as is acknowledged in their evidence.
22. Additionally, I accept that there may not have been formal complaints sent to the Authority about the bakery use currently taking place. However, the nature of the activity and associated disturbance associated with the proposed scheme would be more intense and therefore result in additional noise and disturbance than the existing situation.
23. Consequently, I consider that whilst a condition could be used to require details on odour and noise generated from the baking of goods within the bakery, the appeal proposal would nevertheless cause significant harm to the living conditions of the occupants of neighbouring dwellings through noise and other disturbance generated by customers visiting the site. The proposal would therefore conflict with Policy DM21 of the BLP.

Suitable location

24. The appeal site is located outside of any designated town or local centre. In such a location, Policy DM51 of the BLP requires compliance with all relevant criteria for retail uses outside of town centres. This includes criterion c) which requires proposals to accord with other policies of the development plan.
25. Based on the evidence provided by the appellant it is clear the proposed bakery would be seeking to attract business from tourists. As such, Policy DM44 of the BLP is relevant to consideration of the scheme. Policy DM44 amongst other things at criterion f) requires visitor and community facilities and services

including shops to be in a sustainable location, accessible by a choice of transport modes and is of an appropriate scale. For the purposes of this appeal, the closest centre would be Ludham village centre.

26. The Council have raised no concerns with regards to the scale of the proposal and given the limited size of the extension proposed I see no reason to disagree. Furthermore, public transport is available to the centre of Ludham.
27. However, the closest bus stop would be located some distance from the appeal site on Yarmouth Road. In order to reach the appeal site, when not using a private motor vehicle, customers would have to navigate along a narrow country lane with no footway or lighting along much of its length. As I have established, along this route, there are limited passing places for vehicles or pedestrian refuge areas. Therefore, this route would not provide an appropriate environment for customers walking to the site. As such, the appeal scheme would not be well connected to the centre of Ludham and therefore would not be accessible by a choice of transport modes.
28. Overall, I conclude that the appeal site is not in a suitable location for the proposed development having regard to local and national planning policies for the location of retail development. The proposal would conflict with Policies DM44 and DM51 of the BLP. Together, these policies seek, amongst other things, to locate retail development within existing settlements that are accessible by a choice of transport modes. The proposal would also fail to comply with requirements within the Framework that sites are well connected to local centres.

Other Matters

29. In reaching my decision, I have had regard to the fact that there would be some benefits from the potential environmental enhancements by way of bat and bird boxes. There would also be some economic benefits associated with the construction of the extension. Given the scale of the proposed development, these contributions would be modest. As such, I ascribe these benefits limited weight.
30. The appeal site is located within the Ludham Conservation Area (CA). As such, I have had regard to the duty to pay special attention to the desirability of preserving or enhancing its character or appearance.
31. The significance of this part of the CA lies largely in the form, scale, detailing and materials of its historical buildings of different ages and styles. Closer to the village centre of Ludham, buildings are more densely packed together. Moving away from the village toward the appeal site, the character changes to dispersed detached dwellings again of varying style and age that are widely spaced out with intervening tourist development.
32. For the purposes of the Framework, the CA is a designated heritage asset. The introduction of a modestly sized extension to match the appearance of the host dwelling would preserve the character and appearance of the CA. This would match the findings of the Authority, and I see no reason to disagree.

Conclusion

33. The proposal conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
34. Therefore, I conclude the appeal should be dismissed.

A Hickey

INSPECTOR