



---

# Appeal Decision

Site visit made on 22 August 2023

**by Luke Simpson BSc MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 September 2023**

---

**Appeal Ref: APP/V2635/W/22/3313502**

**Land west of 6 Birch Grove, West Winch, Norfolk PE33 0PQ**

- 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 Maya Hammond against the decision of King's Lynn and West Norfolk Borough Council.
  - The application Ref 22/00681/F, dated 15 April 2022, was refused by notice dated 9 September 2022.
  - The development proposed is two storey detached single family dwelling house.
- 

## Decision

1. The appeal is allowed and planning permission is granted for a two storey detached single family dwelling house at Land west of 6 Birch Grove, West Winch, Norfolk PE33 0PQ, in accordance with the terms of the application Ref 22/00681/F, dated 15 April 2022, subject to the conditions in the attached schedule.

## Main Issue

2. The main issue is whether the proposed dwelling would result in an acceptable standard of living accommodation with particular regard to the effects associated with the nearby cattle farm.

## Reasons

3. The appeal site is located on Birch Grove, which is a cul-de-sac comprising of various dwellings. The site is an area of grassland which is located between two existing dwellings. Directly to the south of the appeal site is a cattle shed which is part of Myrtle Farm.
4. The appellant has submitted an odour risk assessment with this appeal. This concludes that the prevailing south-westerly wind would be likely to carry odour towards the proposed dwelling. However, the assessment also concludes that 'source odour potential' is low given the limited duration which the cows are likely to be within the cattle shed. The report concludes that there would be a 'slight adverse effect' on the dwelling and that such effects would be considered insignificant based on Institute of Air Quality Management Guidance.
5. There are differing assertions made by the Council and Interested Parties with regard to the number of months (annually) which cattle spend in the shed. However, even if cattle did reside in the shed all year-round (which the evidence suggests they do not), there is no substantive evidence of any complaints arising as a result. Given the prevalence of residential receptors within close proximity to the cattle shed, the lack of formal complaints strongly

- indicates that the occupiers of the future dwelling would not be subjected to unacceptable living conditions.
6. The Council has made general assertions regarding complaints with regard to noise, odour and pests but there are no site-specific examples of complaints made by any of the occupiers of the dwellings which already surround the cattle shed.
  7. I note that the proposed dwelling would be located in slightly closer proximity to the shed than neighbouring properties. However, the Council has not provided any technical evidence to rebut the conclusions reached in the appellant's odour assessment. The Council assert that the surrounding dwellings would have been granted permission in a different legislative and planning policy context. Nonetheless, I have not been directed to any legislation or policy which objectively prohibits the proposed development in this location.
  8. Indeed, Site Allocations and Development Management Policies Plan (2016) (SADMPP) Policy DM15 simply states in part that, in considering effects on amenity, development will be assessed against various factors, including odour and noise. Framework Paragraph 130 is relevant insofar as it requires that new development results in a 'high standard of amenity' for 'future users'. Framework Paragraph 134 relates to design and is not relevant to this main issue. Paragraph 174e outlines in part that planning decisions should prevent new development from being put at risk air and noise pollution amongst other things. Framework Paragraph 187 requires in part that Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. As such, all of the policies referred to in the Council's reason for refusal require a degree of planning judgement.
  9. In applying this planning judgement, I conclude that the evidence demonstrates that the proposed development would not result in substandard living conditions for future occupiers. Indeed, whilst there is a cattle shed in close proximity to the appeal site, the site is also located within a relatively built-up residential area and there is no substantive evidence of previous complaints arising. Any adverse impacts associated with noise, odour or pests are therefore likely to be minimal and no greater than what one might expect in a rural location in close proximity to agricultural uses.
  10. The proposed development would therefore comply with Policy DM15 and the aforementioned Framework paragraphs.
  11. Whilst not referred to within the Council's reasons for refusal, I have been provided with a copy of North Runcton and West Winch Neighbourhood Plan<sup>1</sup> Policy WA07, which seeks in part to ensure that new development results in an adequate level of protection from noise in relation to neighbouring properties. The proposal complies with this policy for reasons already given.

## **Other Matters**

12. The appellant has clarified that the application form was amended during the process of the planning application to reflect the correct ownership of the

---

<sup>1</sup> North Runcton and West Winch Neighbourhood Plan – Plan Period 2016-2026 (Made October 2017)

appeal site. There is no substantive evidence before me to indicate that these details are incorrect.

13. The Parish Council has indicated that the access road between the appeal site and the highway is privately owned. Whilst that may be the case, taking a reasonable approach I am satisfied that access could be provided to the appeal site on the basis that the existing private access serves a significant number of dwellings including that which is under the appellant's ownership. Indeed, there is no evidence before me to suggest that such permission would be withheld and on that basis there is no reason to believe that the planning permission could not be implemented. The site location plan clearly identifies the appeal site and indicates how access would be achieved onto the public highway.

### **Conditions**

14. I have considered the Council's suggested conditions in light of advice contained in the Planning Practice Guidance and the tests within the Framework. As a result, I have amended some of the conditions so that they are enforceable, precise, relevant, necessary and reasonable in all other respects. I have also combined some of the recommended conditions where they seek to meet the same aims or are overly repetitive.
15. Conditions relating to timeliness [1] and the identification of plans [2] are necessary to provide certainty. In the interests of preserving any archaeological remains, a condition requiring submission and approval of a written scheme of investigation is necessary [3]. Details of materials are required in the interest of character and appearance [4]. A condition requiring the laying out of parking and turning areas is necessary in the interest of highway safety [5].
16. I have included an additional condition [6] to require submission and approval of details for the collection of waste in accordance with the requirements of West Winch Neighbourhood Plan Policy WA13.

### **Conclusion**

17. The proposed development complies with the development plan taken as a whole. There are no material considerations raised which indicate that a decision should be made other than in accordance with it. As such, the appeal is allowed.

*Luke Simpson BSc MSc MRTPI*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:  
  
Drawing no. 1 – Site Location Plan dated 14/06/22  
Drawing no. 2 – Proposed Block Plan dated 14/06/22  
Drawing no. 4 – Proposed Ground Floor and First Floor Plans dated 14/04/22  
Drawing no. 5 – Proposed Roof Plan dated 14/04/22  
Drawing no. 6 – Proposed Front and Rear Elevations dated 14/04/22  
Drawing no. 7 – Proposed North and South Elevations dated 14/04/22  
Drawing no. 8 – Proposed Section A dated 14/04/22
- 3) No development shall take place until an archaeological written scheme of investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and 1) The programme and methodology of site investigation and recording, 2) The programme for post investigation assessment, 3) Provision to be made for analysis of the site investigation and recording, 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation, 5) Provision to be made for archive deposition of the analysis and records of the site investigation and 6) Nomination of a competent person or persons/organization to undertake the works set out within the written scheme of investigation. The development shall thereafter be carried out in accordance with the approved details and the approved measures (1 to 6) implemented prior to first occupation of the dwelling hereby approved.
- 4) No development shall take place on any external surface of the development hereby approved until details of the type of facing bricks to be used for the external surfaces of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter carried out in accordance with the approved details.
- 5) Prior to the first occupation of the dwelling hereby approved, the proposed access, on-site car parking and turning areas shall be laid out, levelled, surfaced and drained in accordance with the approved plans and retained thereafter available for that specific use.
- 6) Prior to the first occupation of the dwelling hereby approved, details of the design and location of bin storage shall be submitted to and approved in writing by the local planning authority. The bin storage area shall be implemented in accordance with the approved details prior to first occupation of the dwelling hereby approved and shall be retained as such thereafter.