



Appeal Decision

Site visit made on 21 February 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 March 2024

Appeal Ref: APP/Y2620/W/23/3328121

Red Lion, 44 Wells Road, Stiffkey, Norfolk NR23 1AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Cooke against the decision of North Norfolk District Council.
 - The application Ref is RV/22/1002.
 - The application sought planning permission for erection of ancillary holiday accommodation without complying with a condition attached to planning permission Ref RV/21/2924, dated 30 March 2022.
 - The condition in dispute is No 1 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans and documents, except as may be required by specific condition(s):
 - Block Plan received by the Local Planning Authority on the 02 November 2021
 - Plan No. 1602/22 - Proposed Elevations, Roof Plan and Floor Plan received by the Local Planning Authority on the 18 February 2022
 - Location Plan received by the Local Planning Authority on the 25 March 2022
 - Plan No. 2803/22 - Proposed Site, Location and Section Plan received by the Local Planning Authority on the 28 March 2022.
 - The reason given for the condition is: For the avoidance of doubt and to ensure the satisfactory layout and appearance of the development in accordance with Policy EN 4 of the adopted North Norfolk Core Strategy.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form erroneously states that it was Condition No 3 which was in dispute. However, it is clear from the other evidence before me that it is in fact Condition No 1 at issue, as set out in the banner heading above.
3. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. Both parties have had the opportunity to comment on the new Framework during the course of the appeal. References hereafter in the decision to the Framework are to the December 2023 version.

Background and Main Issues

4. The application was made to substitute the approved plans under permission Ref RV/21/2924 to permit various design changes, including additional windows, solar panels and a terrace on the roof, electric vehicle charging points and an air source heat pump. For clarity, that permission was itself a variation of the original planning permission PF/11/1257, granted 19 October 2011. It is common ground between the main parties that works to implement this

permission have taken place on site, albeit my visit indicated that the approved building is not yet actively under construction.

5. Paragraph 56 of the Framework states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The Planning Practice Guidance provides further advice in this respect, confirming that these six tests must all be satisfied each time a decision to grant planning permission subject to conditions is made.¹
6. Therefore, having regard to the reasons for refusal, the main issues are the effect that varying the disputed condition would have on i) the character and appearance of the area, including the effect on the landscape and scenic beauty of the Norfolk Coast National Landscape (NCNL)² and the setting of the Stiffkey Conservation Area (SCA), and ii) the living conditions of neighbouring occupants, with respect to privacy and overlooking.

Reasons

Character and appearance, including effect on NCNL

7. The appeal site includes the Red Lion public house fronting Wells Road and an existing tourist accommodation building to the rear of the pub. There is vehicular access to the side of both buildings to a rear car parking area, which also serves parking spaces for adjacent cottages on Wells Road. The site extends deeply to the rear in a narrowing, triangular shape. An existing, flat-roofed structure open to the ground level at the front occupies the rear part of the site on the plot of the approved holiday accommodation building to which the appeal relates.
8. As originally approved in 2011, the two storey building was to be constructed over the existing structure, with a flat roof and access at the front via external staircases. The plans show first floor balconies to the front and rear elevations.
9. In 2021, amended plans were approved which included various design changes, including the incorporation of the existing structure as bin storage and a laundry room, changes to the balcony design and internal layouts. Amendments were also made to the fenestration, including the addition of slender, high level first floor windows to the south-east elevation. Proposals for larger windows, solar panels and a roof terrace were omitted during the course of the application, each of which are reintroduced by the current scheme.
10. The site lies within the NCNL, the special character of which includes dark night skies and a sense of remoteness, tranquillity and wildness. The site also lies within the River Valley Landscape Character Area noted for its nocturnal character, with the guidelines of the North Norfolk Landscape Character Assessment (2021) being to maintain the rural character, including through avoiding suburban features.
11. The approved scheme, both in 2011 and 2021, maintained a low profile through its flat roof which helps to offset its otherwise elevated position to the rear of the site and directly adjacent to the open countryside within the NCNL.

¹ Paragraph: 003 Reference ID: 21a-003-20190723

² Previously the Norfolk Coast Area of Outstanding Natural Beauty (AONB). All AONBs were renamed National Landscapes in November 2023. Where AONB is still used in the decision, it is a verbatim reference to the wording of a relevant development policy or the Framework which, at time of writing, still refer to AONBs.

The proposed solar panels are indicated to be capable of sitting at around 400mm above the flat roof. I agree with the Council's position that, by themselves, they would be capable of integrating into the overall roof design if such a shallow profile could be provided and the panels are laid out in a consistent pattern to appear as a deliberate design element.

12. However, I must consider the scheme as proposed, which would see the panels surround a centrally located rooftop terrace. The materials to enclose the terrace are not specified, but they would be required to be at least 1.1m high to satisfy the Building Regulations. At this height, metal railings or other forms of fencing would be clearly visible and glass, whilst transparent, would draw the eye through glare. Furniture would also be visible. Therefore, the terrace would form a conspicuous feature protruding above the flat roof and the proposed solar panels.
13. The appellant points to the terrace being needed for safe access to the roof to maintain the panels, but no evidence has been adduced that this is the only feasible means of achieving this. Moreover, this claim is undermined by the plans showing the terrace would be accessed internally from the first floor accommodation, which suggests it is instead intended to be a private outdoor recreation space for its occupants.
14. Both the solar panels and terrace would appear as disjointed add-ons that would undermine the overall design quality by adding visible height and clutter in place of an understated, flat roofline. The roof additions would render the building more prominent in the landscape, particularly in views from the public footpath to the east of the site, where it would detract from the generally open, rural character.
15. The proposal also includes enlarged windows to the south-eastern elevation, which would face towards the neighbouring dwelling at Hill Crest and beyond to the built-up area of Stiffkey and would increase the propensity for noticeable light pollution. This increased visibility of the building, particularly during hours of dusk and darkness, would add to its undue prominence and undermine a key characteristic of the NCNL.
16. Overall, I conclude that the proposal would reduce the design quality of the approved building and so would harm the character and appearance of the area. It would also fail to conserve or enhance the landscape and scenic beauty of the NCNL. This results in conflict with Policies EN1, EN2 and EN4 of the North Norfolk Core Strategy (September 2008) (the NNCS), which together require developments of high design quality that do not detract from the special qualities of the Norfolk Coast AONB; that protect, conserve and, where possible, enhance the special qualities and local distinctiveness of the area and nocturnal character.
17. There would also be conflict with the Framework which sets out that good design is a key aspect of sustainable development and that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.

Setting of Conservation Area

18. The boundary of the SCA runs along the site boundary with Hill Crest. I am not provided with detailed analysis of the SCA, but from my observations there is significance in the historic dwellings and organic layout of the village evoking a

long history of settlement and development within an open, rural setting. From my observations, the SCA is experienced primarily from within, with glimpses of the rural hinterland through gaps in the built form. This presently includes the appeal site when viewed at close range from Hill Crest and from dwellings along a short stretch of Wells Road.

19. The principle of a building on the site is established through the extant permissions, and thus the presently open site will experience change irrespective of whether this proposal is granted. The proposed rooftop alterations and enlarged windows would be visible in the aforementioned views, but these would mainly be at a distance, from where the viewer would not observe a significant increase in overall massing compared to the approved scheme. In that respect, the proposal would not be demonstrably more intrusive into the rural surroundings of the SCA, and the contribution of the site to the wider rural setting of the SCA, which is limited in terms of the conservation area as a whole, would not be materially worsened when compared to the approved scheme.
20. For these reasons, I conclude that the proposal would not cause harm to the setting of the SCA. No conflict therefore arises with Policies EN2 and EN8 of the NNCS, which require proposals to preserve or enhance the character and appearance of designated assets, their settings and views from within them through high quality, sensitive design.

Living Conditions

21. The existing high level windows to the first floor of the south-eastern elevation were negotiated as part of the existing planning permission to address the Council's concerns with potential overlooking from the larger windows initially proposed. The proposal effectively seeks the larger windows again.
22. From my observations on site, these windows would afford views over the adjacent dwelling, Hill Crest, and in particular its rear garden, which at present is a private space not subject to overlooking, contrary to the appellant's claims that mutual overlooking already exists. Moreover, the size of the windows means activity within the building would be visible from outside, particularly at night when rooms are illuminated, which would add to the perception of overlooking for neighbours, alongside disturbance from light spillage.
23. Both first floor rooms would be served by large glass doors to other elevations, and therefore the proposed windows are not essential to achieve a suitable standard of accommodation within the proposed development. The approved high level windows strike an appropriate balance between allowing more daylight in and preventing overlooking.
24. In addition, the proposed roof terrace would afford more elevated views over Hill Crest. The height of the terrace would also permit views to Mill Pightle House over the top of the intervening outbuildings on the neighbouring land. These views would erode the privacy presently enjoyed by occupants of both dwellings. Activity on the roof terrace, even if not direct overlooking, would also create a perception of it and disturb neighbours' enjoyment of their dwellings and garden spaces.
25. Therefore, I find that the proposed first floor windows and roof terrace would cause harm to the living conditions of neighbouring occupants, through

overlooking and loss of privacy. This would be contrary to the requirements of Policy EN4 of the NNCS that development should not have a significantly detrimental effect on the residential amenity of nearby occupiers and the corresponding provisions of the Framework to achieve a high standard of amenity for existing and future users.

Planning Balance

26. I have found that the proposal would cause harm to the character and appearance of the area and would fail to conserve or enhance the landscape and scenic beauty of the NCNL. There would also be harm to the living conditions of neighbouring occupants. The absence of harm to the setting of the SCA is a neutral factor. Overall, the proposal would conflict with the development plan, taken as a whole, to which I afford significant weight.
27. The proposed solar panels, solar thermal collectors, air source heat pump, power wall and electric vehicle charging points would all support the minimisation of resource consumption and increased use of renewable forms of energy, which is supported by local and national policy. In this context, and having regard to their scale, these would be positive aspects of the proposal which attract moderate favourable weight in the planning balance.
28. The appellant also points to the support of the Framework for the sustainable growth and expansion of all types of business in rural areas; however, the benefits to the existing business would already accrue from the approved permission. The appellant cites savings on energy bills, although I have no details of the expected extent of these. Therefore, any additional economic benefits arising in comparison to the approved scheme would be limited.
29. The appellant has a clear fall-back position through the extant permissions. However, it is the specific changes sought which I have found to be harmful. Therefore, the extant schemes would not present an equivalent or greater degree of harm than the appeal scheme. Consequently, the fall-back options would not justify granting the appeal proposal and are not a matter attracting favourable weight in the planning balance.
30. Taken together, these benefits would not be sufficient to outweigh the overall development plan conflict. The proposed replacement condition would not make the development acceptable in planning terms and so does not meet all of the relevant tests of the Framework.

Conclusion

31. Therefore, the appeal should be dismissed and Condition No 1 retained in its present form, as it remains relevant and necessary to ensure the development is carried out in accordance with the previously approved plans to achieve a satisfactory layout and appearance.

K. Savage

INSPECTOR