



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: 26 April 2024

Appeal Ref: APP/V2635/W/23/3322299

72 South Beach Road, Heacham, King's Lynn, Norfolk PE31 7BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Nigel Marsh against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 21/00080/F was approved on 13 December 2022 and planning permission was granted subject to conditions.
 - The development permitted is retrospective change of use of agricultural land to provide access, parking and turning to adjacent holiday accommodation granted planning permission under ref:12/00197/F.
 - The condition in dispute is No 2 which states that: The access and parking areas hereby permitted shall only be for the use of the holiday let accommodation approved under 12/00197/F and identified by the yellow line on Drawing Number MAR.20.2 1 Rev A. The use of the parking area shall be made available for Units 1, 2, 3 and Games room approved under 12/00197/F at all times.
 - The reason given for the condition is: To ensure the permanent availability of the access and parking/manoeuvring areas for the approved development, 12/00197/F in the interests of satisfactory development and highway safety.
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Decision

1. The appeal is allowed and planning permission Ref 21/00080/F for retrospective change of use of agricultural land to provide access, parking and turning to adjacent holiday accommodation granted planning permission under ref: 12/00197/F, at 72 South Beach Road, Heacham, King's Lynn, Norfolk PE31 7BB, granted on 13 December 2022 by King's Lynn and West Norfolk Borough Council, is varied by deleting Condition No 2 and substituting for it the following condition:
 - 2) The parking and turning areas hereby permitted, as identified by the yellow line on Drawing Number MAR.20.2 1 Rev A, shall be maintained and made available at all times for use by occupiers of the holiday let accommodation approved under application 12/00197/F.

Preliminary Matters

2. Concurrently with this appeal, I have determined two other appeals relating to the same site.¹ The matters at issue in each case are distinct, and therefore these appeals are the subject of separate decisions.
3. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. The parts most relevant to the appeal have not substantively changed from the previous iteration. Consequently, this does

¹ Appeal References APP/V2635/W/23/3322063 and APP/V2635/W/23/3325640.

not alter the main parties' cases and it is not necessary to seek further comments. References hereafter are to the December 2023 version.

Application for costs

4. An application for costs has been made by Mr Nigel Marsh against King's Lynn and West Norfolk Borough Council. This is the subject of a separate decision.

Main Issue

5. The main issue is whether the disputed condition is reasonable and necessary, having regard to the effect on highway and pedestrian safety.

Reasons

6. Planning permission was granted in 2012 under Council Ref 12/00197/F for the change of use of existing agricultural buildings to three holiday let units.
7. The disputed condition relates to the access and parking area later granted planning permission under Council Ref 21/00080/F. The need for these works arose as the original site access at the time permission Ref 12/00197/F was granted was subsequently sold into different ownership. The replacement access was via an existing entrance a short distance to the west on South Beach Road.
8. The application was granted following a meeting of the Council's planning committee, which amended the wording of the Condition No 2 from that put forward by Council officers from *'The parking areas hereby permitted shall be for the use of the holiday let...'* to *'The access and parking areas hereby permitted shall only be for the use of the holiday let...'* (my emphasis). The Council states that the change was intended to prevent the land being used as an access to an unauthorised campsite to the west of the appeal site.
9. The appellant argues that the condition has the adverse effect of preventing lawful access to agricultural land to the west and south which was the use of the entrance from South Beach Road prior to the application. The Council has subsequently agreed that a different wording is required to prevent this unintended restriction on access to the adjacent agricultural land. Indeed, the Council accepts in its Statement of Case that the condition *'would render the agricultural land and buildings without an authorised access which is unreasonable given that the local highway authority raised no concerns in relation to any conflict between the existing use of the access (agricultural land and buildings) and the proposed intensified use of the access.'*²
10. Having observed the site, I am satisfied that the access serves more than just the holiday accommodation, including land to the west, south and other existing buildings on the appellant's land. There is no evidence before me of any highway safety or other concern that would necessitate the access to be restricted only to the holiday accommodation. I saw that the layout of the access and parking area may result in occasional interaction between holidaymakers and agricultural traffic, but this would be sporadic and both workers and visitors would be aware of the situation and able to address the low level of risk should it occur. As such, there is no satisfactory planning

² Statement of Case, Paragraph 4.1

purpose in restricting the use of the access only to the holiday accommodation, particularly where it would leave no lawful means of access to other land.

11. However, whilst the existing condition is not necessary to make the development acceptable in planning terms, it is still necessary for a condition to require that the parking areas are provided and made available at all times for the holiday accommodation, to avoid the potential for indiscriminate parking elsewhere on the land or on the highway that may cause inconvenience and/or pose a risk to highway or pedestrian safety.
12. The alternative condition proposed by the Council seeks to specify the land which may be accessed from the entrance on South Beach Road. Despite reference to a specific drawing, the extent of other land accessible is not identifiable with sufficient precision. However, I am not persuaded that the replacement condition requires such specificity. The permission was granted for the purposes of providing access for the holiday accommodation. Any prior, lawful use of the access is unaffected by the permission. Therefore, it is not necessary to specify additional purposes of or restrictions to the access. Any concern that the Council has with the use of land to the immediate west of the access route is a separate matter for it to address with the landowner.
13. Therefore, I shall amend the wording of the condition proposed by the Council to reflect the specific need to ensure parking is provided for the holiday accommodation, with other minor changes made in the interests of clarity, particularly to avoid unnecessary repetition. Given the condition is less prescriptive than that put forward by the Council, I am content that the appellant would not be prejudiced by this revised wording.

Conclusion

14. For the reasons given above, I conclude that the appeal should be allowed and the planning permission varied as set out in the formal decision above.

K. Savage

INSPECTOR