



Appeal Decision

Site visit made on 12 March 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2024

Appeal Ref: APP/V2635/W/23/3331548

Castle Dene, Castle Road, Wormegay, Norfolk PE33 0SE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Redman against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 23/00683/F.
 - The development proposed is described as subdivision of dwelling and annex into two dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for subdivision of dwelling and annex into two dwellings at Castle Dene, Castle Road, Wormegay, Norfolk PE33 0SE in accordance with the terms of the application, Ref 23/00683/F, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the banner 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 planning application form.
3. My attention has been drawn to a previously allowed appeal¹ at the site. I note that the proposal was for a different description of development than that before me. Furthermore, the previous appeal pre-dates the current development plan, and from the evidence before me there were material differences in the policy context before the Inspector. Accordingly, the circumstances of the appeal are not directly comparable with those that apply in this case. While the appeal decision is a material planning consideration, I have reached my own conclusions on this appeal proposal based on the evidence before me.
4. I understand that the development falls within the 'Zone of Influence' (ZoI) for multiple European designated sites scoped into the Norfolk Green Infrastructure and Recreational disturbance Avoidance and Mitigation Strategy (GIRAMS). Although not forming part of the Council's reason for refusal, as competent authority I need to consider whether there would be adverse effects

¹ APP/V2635/W/15/3018577 dated 12 October 2015

on the integrity of the Habitats sites in accordance with The Conservation of Habitats and Species Regulations 2017. It is therefore necessary to consider this matter as a main issue.

5. Since the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2023. However, as the Framework's policy content insofar as it relates to the main issue has not been significantly changed, albeit that the numbering of paragraphs has changed, there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issues

6. The main issues are:

- i) whether the site is in a suitable location for the development having regard to local and national policies;
- ii) the effect of the proposed development upon character and appearance; and
- iii) the effects on the integrity of Habitats sites.

Reasons

Suitable location

7. The appeal proposal relates to an existing single storey building on land to the rear of a dwelling known as Castle Dene. It is accessed via an existing driveway off Castle Road, the main road through the village.
8. Policy DM2 of the Site Allocations and Development Management Policies Plan Adopted September 2016 (SADMPP) states that in areas identified as countryside, new development will be limited to that identified as suitable in rural areas by other policies in the local plan. The other policies are listed as including farm diversification, small scale employment, tourism facilities, community facilities, renewable energy generation, rural workers' housing and affordable housing. The context text for Policy DM2 states that identifying development boundaries, and thus areas of land outside of such boundaries, helps avoid development encroaching on the countryside and limits urban and village sprawl.
9. Policy CS06 of the King's Lynn & West Norfolk Borough Council Local Development Framework – Core Strategy Adopted Version July 2011 (CS) states that beyond the villages and in the countryside, development of greenfield sites will be resisted unless essential for agricultural or forestry needs, farm diversification or it consists of the conversion of existing buildings.
10. The Council's reason for refusal states that the appeal site lies immediately north of the settlement boundary and within the countryside. However, the Council's appeal statement has clarified that the appeal site lies partly within the boundary of Wormegay. I have had regard to the settlement boundary, as set out in the SADMPP, and concur that the building the subject of this appeal straddles the settlement boundary for Wormegay, which is classed as a rural village in the CS.

11. The appeal building is currently *in situ* and has a historical planning permission for use as an annex and a holiday let. From the evidence before me, the current use of the building is unclear. The appellant's statement refers to the holiday let; however, the description of development refers to an annex.
12. While part of the appeal site may lie beyond the settlement boundary, and irrespective of whether the building is being used for the purpose of an annex or holiday let, the building has a strong visual connection with existing built form and is clearly separated from the adjoining countryside to the north. No external changes are proposed and as such the proposal would not result in further encroachment into the countryside.
13. While an independent dwelling would likely result in a more intensive use than an annex, it has been previously accepted that a residential use, whose occupancy is restricted by condition, would not give rise to unacceptable impacts on the countryside. Given the building the subject of the appeal has an established access, parking and garden area separate to the host property the proposal would not significantly undermine the aims of the spatial strategy set out in development plan policies.
14. Furthermore, because of the close physical connection with the village the site is not 'isolated' and would not be in conflict with Paragraph 84 of the Framework.
15. As the settlement boundary dissects the appeal site there is a degree of conflict with Policy DM2 of the SADMPP. However, this policy is not fully in accordance with the Framework, which is not prescriptive about the type of uses acceptable within the countryside. I therefore give reduced weight to this conflict. Policies CS02 and CS06 of the CS support sustainable patterns of development. As a conversion of an existing building the proposal would be in accordance with Policy CS06 of the CS. Having regard to the relationship of the appeal building with other development combined with its visual containment means that the proposal would not significantly undermine the aims of the spatial strategy of the local plan. Accordingly, for the reasons outlined above, I conclude that the site is in a sustainable location for development having regard to local and national policies.

Character and appearance

16. The scale, design and architectural detailing of the dwellings in the vicinity of the site vary considerably. However, in the immediate vicinity of the appeal site residential development is characterised by frontage development along Castle Road, typically in substantial elongated plots. My attention has been drawn to backland development at some locations in the village, including a dwelling to the east of the appeal site.
17. Whilst backland development is uncommon in the immediate vicinity of the appeal site the development would involve the conversion of an existing building on the site. The scale of the development proposed is modest and would not result in an increased scale of built development. There would be no physical encroachment into the countryside over and above what currently exists. The proposal would, therefore, have a neutral effect on character and appearance in this regard. Furthermore, due to the limited scale of the building, intervening built development and the presence of existing boundary

treatments there would be limited visibility of the appeal site in the wider streetscene.

18. It is accepted that a different level of activity at the property may lead to a change in character. However, in this circumstance, it has been previously accepted that the use of the building as a holiday let was acceptable wherein the use would have independent movements from Castle Dene. In addition, the building benefits from a separate access and amenity space. Accordingly, I do not consider that the proposal would result in a material change in the character of the site or harm to the wider area.
19. For the reasons stated, the proposal would preserve the character and appearance of the area. The proposal therefore accords with Policy DM15 of the SADMP and Policy CS08 of the CS. These policies seek, amongst other things, high quality developments that respond sensitively to the local setting and the context and character of places. Similarly, the proposal accords with part 12 of the Framework which seeks to achieve well-designed places.

Habitats Sites

20. The development falls within the ZoI for multiple European designated sites scoped into the Norfolk GIRAMS. These include: The Wash Special Protection Area (SPA), The Wash and North Norfolk Coast Special Area of Conservation (SAC), The Wash Ramsar, North Norfolk Coast SAC, North Norfolk Coast SPA, North Norfolk Coast Ramsar, Norfolk Valley Fens SAC, Winterton-Horsey Dunes SAC, Great Yarmouth North Denes SPA, Broadland SPA, Broadland Ramsar, Breydon Water SPA and The Broads SAC. These sites have been designated for their international importance for including, but not limited to, wetland habitats, the type of bird species present including breeding and non-breeding birds and one of Europe's largest populations of common seal.
21. The proposed development is for one dwelling and as such the number of additional recreational visitors would be limited. However, in combination with other developments, likely significant effects cannot be ruled out.
22. The affected sites are covered by the GIRAMS strategy which ensures that the cumulative impacts of additional visitors, arising from new developments of housing and tourism, such as this development, to European sites, will not result in any likely significant effects which cannot be mitigated. As such, it is necessary for me, as the competent authority, to conduct an appropriate assessment in relation to the effect of granting permission on the integrity of the Habitats sites. I have sought further evidence on this matter and Natural England was consulted.
23. The GIRAMS represents a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a broad range of habitat-based measures including wardens, education, signage and monitoring, that have been endorsed by Natural England I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the Habitats sites.
24. The appellants have indicated that they have made a per dwelling contribution to fund the strategic mitigation. The Council have confirmed receipt of the payment. The evidence before me indicates that as a responsible public body it

will transfer the funds to the organisation responsible for administering the mitigation strategy. I am satisfied that the mitigation measures have been secured and would be used for their intended purposes.

25. I therefore conclude that the integrity of the identified SPA, SAC and Ramsar sites would not be harmed by the development. As such the proposal accords with the policies within the Framework that seek to protect areas of particular importance relating to Habitats sites. Consequently, there is no clear reason for refusing the development proposed in respect of such matters.

Other Matters

26. The appeal site lies to the north of a scheduled ancient monument (SAM), motte and bailey castle in Womegay village (list entry number 1018651), a designated heritage asset of the highest significance. Pursuant to paragraphs 199 and 200 of the Framework great weight should be given to the SAM's conservation. Given the considerable separation distance and intervening built form between the proposed development and the SAM, combined with the absence of physical changes to the building, I consider that the proposal would not harmfully compromise the wider setting of the designated heritage asset or affect the ability to experience or appreciate its significance. As such, it would preserve the setting of the nearby SAM.
27. I have had special regard to whether the settings of other nearby listed buildings would be preserved, notably the Grade II listed Castle Meadow and Grade II Castle Road bridge. However, the location of the appeal scheme and the nature of the proposal relative to these listed buildings leads me to the view that their settings would be preserved.
28. The Council confirms that it can demonstrate a 5-year housing land supply and this matter is not disputed by the appellant. Nevertheless, Paragraph 60 of the Framework seeks to significantly boost the supply of homes and accordingly the proposal would provide a positive, albeit limited, contribution towards supply.
29. I note concerns regarding the potential for further development within the village. My decision has been made based on the evidence provided and the individual merits of the case set out in the reasoning above. It therefore does not have any bearing on future applications that may be heard by the Council.
30. I note concern regarding the height of a fence. However, this does not form part of the proposal before me.
31. Neighbour disputes, including boundary lines, are a civil matter not forming part of the consideration of the appeal before me.

Conditions

32. The Framework states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development, enforceable, precise, and reasonable in all other respects.
33. In addition to the statutory commencement condition, a condition is necessary to ensure that the development complies with the submitted plans. This is in the interests of certainty.

34. The Council has suggested a condition restricting the use of the ground floor for sleeping accommodation. Such mitigation has not been identified as necessary in the submitted Flood Risk Assessment. Accordingly, having regard to the Planning Practice Guidance such a condition is not reasonable or necessary.

Conclusion

35. Despite a degree of conflict with Policy DM2 of the SADMPP the proposal complies with several other policies, including the Framework. Accordingly, the proposal would comply with the development plan when read as a whole. I therefore conclude that the appeal should be allowed.

R. Gee

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: dwg no. 01 Rev B (Location Plan and Proposed Site Plan).

*****End of Schedule*****