

## Appeal Decision

Site visit made on 17 September 2024

**by G Dring BA (Hons) MA MRTPI MAUDE**

an Inspector appointed by the Secretary of State

**Decision date: 30<sup>th</sup> September 2024**

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**Appeal Ref: APP/V2635/W/24/3341726**

**18 The Cedars, Snettisham, Norfolk PE31 7XG**

- 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 Ms Tracy McGovern against the decision of King's Lynn and West Norfolk Borough Council.
- The application Ref is 23/02040/F.
- The application sought planning permission for 25 Holiday Chalets without complying with condition 2 attached to planning permission Ref 2/78/2864/F/BR, dated 25<sup>th</sup> July 1979.
- The condition in dispute is No 2 which states that: *The holiday chalets shall not be used for human habitation except during the period from 1<sup>st</sup> March, or Maundy Thursday, whichever is the sooner in any year, to the 31<sup>st</sup> October in each year, inclusive.*
- The reason given for the condition is: *To ensure that the chalets are used for holiday purposes only, for which they are designed (the buildings are not provided with curtilages and other facilities to the standard required for normal residential development) and the land use intended.*

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### Decision

- 1) The appeal is dismissed.

### Preliminary Matters

- 2) The application form and appeal form refer to wanting to remove the occupancy condition entirely, where as the appellant's statement refers to reducing the occupancy condition requirements so that the building could be occupied for up to eleven months of the year. The Council state that it considered the application based on the removal of the condition completely, but in any case, if it were proposed for the condition to be relaxed to allow for occupation for eleven months of the year, the Council would take the same view and object to the proposal. I have considered the merits of the proposal accordingly.

- 3) The Environment Agency (EA) has confirmed, despite reference to the incorrect property, that its initial response to the application was correct and based on the documents submitted with the planning application.

### **Background and Main Issue**

- 4) The reason given for the occupancy condition by the Council on the original planning permission was due to the fact that it considered the chalets were not of the standard required for normal residential occupation. The original planning permission for the 25 holiday chalets was granted by the Council 45 years ago. In the intervening period there have been other reasons that such restrictions are imposed on schemes, including matters of flood risk. Both main parties have focussed on the role of the disputed condition in relation to the matters of flood risk.
- 5) As such, the main issue in this case is whether the condition is reasonable and necessary in the interests of reducing the risk of flooding for existing and future occupants.

### **Reasons**

- 6) The appeal site comprises a single storey, detached building constructed of brick and tiles. It is accessed from a gravelled private road and is one of a number of similar properties that are located on The Cedars. Whilst not directly adjacent to the coastline, the appeal site is in close proximity to the sea.
- 7) The appeal site is located within the Coastal Flood Risk Hazard Zone, defined under Policy DM18 of the Site Allocations and Development Management Policies Plan Adopted September 2016 (SADMPP). Seasonal occupancy is specifically referenced in the policy wording of DM18. It states that seasonal occupancy will be limited to between 1 April and 30 September and that applications to remove, relax or vary (by way of extension) any existing seasonal occupancy condition will be resisted.
- 8) Paragraph C.19.8 of the explanatory text to Policy DM18 states that considering the risks associated with the seasonality of each of the highest astronomical tides, the probability of storm surges, and wave action severity, reports undertaken for the Borough Council concluded the only safe period for occupancy was between 1<sup>st</sup> April and 30<sup>th</sup> September each year. The restrictive seasonal approach to occupation is identified by the EA as an effective approach to avoid the risks of flooding in the first instance.
- 9) The Appellant asserts that the last flooding event that affected Snettisham was in 1953 and that significant investment has been made to prevent flooding, since that time. However, paragraph C.19.1 of the SADMPP states that although defences and emergency arrangements are now much better, continued natural change to the coastline, the deepening challenges to the financial and practical feasibility of maintaining current defences, and the anticipated increased dangers associated with climate change mean that managing coastal flood risk is one of the key challenges for the Borough.
- 10) A site specific Flood Risk Assessment (FRA) has not been submitted with the proposal. The absence of a FRA together with no other compelling evidence from the appellant regarding the potential for flood risk were the property to

be occupied within the winter months means I have very limited evidence to refute the Council's position in this respect. Whilst I understand the building is of more substantial construction than a caravan, and therefore it would be more resilient during an event of flooding than some other types of structure, this does not override the significant risk to life or property damage that could result in this location should a coastal flood occur.

- 11) I am referred to several properties along The Cedars along with others closer to the sea that are known by the appellant to have more relaxed occupancy restrictions, allowing occupation for up to eleven months of the year. However, I have no detailed information on the merits of those schemes. I am told that in some cases the occupation restrictions were varied in respect of these other properties, before the SADMPP was adopted, which could explain why a different approach was taken. In any case, I must consider the proposal before me in light of the current policy landscape.
- 12) I therefore find that the condition is reasonable and necessary in the interests of reducing the risk of flooding to existing and future occupants. The variation or removal of the condition as proposed would be contrary to Policies DM15 and DM18 of the SADMPP and Policy CS08 of the King's Lynn & West Norfolk Borough Council Local Development Framework - Core Strategy Adopted Version July 2011. These policies seek, amongst other things, that coastal flooding and climate change are taken into account when making decisions, in particular the risk of flooding for occupiers of properties within the Coastal Flood Risk Hazard Zone, and that the amenity of future occupiers of the development are considered.
- 13) The proposal would also be contrary to paragraph 177 of the National Planning Policy Framework, which states that inappropriate development in vulnerable coastal areas should be avoided.

### **Other Matters**

- 14) I understand the appellant's wishes to want to spend more time at the appeal building, in order to relax in peaceful surroundings. Nevertheless, this does not outweigh the harm I have found in relation to the increased risk of coastal flooding should the condition be removed or varied.
- 15) There were no objections raised by the Highway Authority or Natural England, the Parish Council provided no comments, and no neighbour responses were received in relation to the planning application. However, a lack of objection or comment does not overcome the harm that I have identified.

### **Conclusion**

- 16) For the reasons set out above, having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*G Dring*

INSPECTOR