

Appeal Decision

Site visit made on 24 September 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2024

Appeal Ref: APP/V2635/W/24/3338695

1 Popenhoe Cottages, Station Road, Walsoken, Norfolk PE14 8DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Stephen Sutton against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 23/01849/F, dated 26 October 2023, was refused by notice dated 26 January 2024.
 - The application sought planning permission for "*replacement barn style dwelling. The proposal is to demolish the existing barn, which sits with permission to convert into a dwelling under ref 21/01889/PACU3. The existing barn has been deemed not suitable for conversion due to its poor quality and operational inefficiencies. It is proposed that a new residential development will be constructed in its place*" without complying with a condition attached to planning permission Ref 22/01567/F, dated 28 April 2023.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans. Dwg nos. AA-00 (Location Plan), A1-02 (Proposed Site Plan - received 23rd March 2023), and A1-06 (Proposed Elevations and Floor Plans - received 17th March 2023).
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is allowed and planning permission is granted for "*replacement barn style dwelling. The proposal is to demolish the existing barn, which sits with permission to convert into a dwelling under ref 21/01889/PACU3. The existing barn has been deemed not suitable for conversion due to its poor quality and operational inefficiencies. It is proposed that a new residential development will be constructed in its place*" at 1 Popenhoe Cottages, Station Road, Walsoken, Norfolk PE14 8DJ in accordance with the application Ref 23/01849/F, without compliance with condition number 2 previously imposed on planning permission Ref 22/01567/F dated 28 April 2023 and subject to the conditions contained within the attached Schedule.

Background and Main Issue

2. The Council granted planning permission for demolition of an existing barn and construction of a new dwelling¹, as described above. The appellant sought to amend the design of the proposed dwelling and applied to vary condition no 2 of the original planning permission which specifies the approved plans. The application² was refused planning permission by the Council for reasons relating to the effect on character and appearance.
3. Condition no 2 is therefore in dispute and the main issue in this appeal is the effect of the proposed dwelling on the character and appearance of the area.

Reasons

4. The appeal site is occupied by a small, timber, pitched roofed barn, and is set back from Station Road by a long driveway. Station Road has a narrow carriageway, flanked by grass verges and ditches. The surrounding landscape comprises flat, open fields. The area therefore has a rural character.
5. However, Station Road is interspersed with dwellings and agricultural buildings. The appeal site is next to a pair of semi-detached cottages and a detached dwelling. The site is therefore close to existing residential uses.
6. The appeal site is within a large area of mown grass with a mix of trees. This area is not in active agricultural use and is distinct from fields to the rear. The grassed area forms a landscaped amenity space serving the existing dwellings and is not agricultural in character.
7. The footprint of the previous approved dwelling exceeded that of the existing barn and therefore the Council has accepted a building of greater scale would be suitable on the site. The proposed dwelling would be 1.5 storeys with a 90sqm footprint and would have two bedrooms. The proposed dwelling's ridge height would be unchanged from the previously approved design.
8. The proposed dwelling would be viewed within the context of the adjacent dwellings. The pair of semi-detached dwellings are two-storey with a tall, pitched roof and prominent chimneys at each gable end. The existing detached dwelling is a substantial two-storey barn conversion with a pitched roof. Within this context, the proposed dwelling would appear modest in scale.
9. The proposed design would include a projecting front gable porch, which would have a domestic appearance. However, the dwelling would appear as a single-storey unit, would have a pitched roof, a wide front elevation, and would be clad with horizontal timber. Therefore, through its form and exterior materials, the dwelling would reflect the appearance of the existing barn.
10. The existing trees in front of the appeal site would partially obscure the proposed dwelling from the street and would interrupt views of the group of dwellings. The screening offered by the existing trees would reduce the visual prominence of the dwelling from the street scene.
11. The screening effect would be reduced when the foliage is less dense, or if trees were removed or pruned. However, even in such circumstances, the

¹ LPA ref: 22/01567/F

² LPA ref: 23/01849/F

proposed dwelling would not appear dominant due to its setback from the street, modest scale and height relative to surrounding dwellings, and its quiet location with low traffic and pedestrian footfall.

12. The Council considers the proposed design would diminish the quality of the previously approved development. However, I have determined the proposal against the policies of the development plan, and not against the merits of the previous scheme.
13. The proposed dwelling would be similar in form and appearance to an agricultural building. Whilst the design would introduce features associated with a dwelling, these would not appear out of context with the character of the area, due to the prevalence of surrounding residential uses. Therefore, the proposal would not have an adverse impact on the intrinsic character and beauty of the open countryside or wider environment and would not harm the character and appearance of the area.
14. The proposal would comply with Policy CS06 of the King's Lynn & West Norfolk Borough Council Core Strategy 2011 which seeks to maintain local character, a high-quality environment, and protect the intrinsic character and beauty of the countryside. In addition, the proposal would satisfy Policy DM15 of the Site Allocations and Development Management Policies Plan 2016 which requires proposals protect and enhance the amenity of the wider environment, and the scale, height, massing and materials respond sensitively and sympathetically to the local setting.
15. Furthermore, the proposal would accord with paragraph 180 of the National Planning Policy Framework (the Framework) which states that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the open countryside.

Other Matters

16. A local resident suggests the carriageway of Station Road is damaged and raised concerns construction traffic may degrade the road condition. The local highway authority is responsible for maintaining the road and I have no evidence the development would have adverse impacts on highway safety.

Conditions

17. Section 73(5) of the Town and Country Planning Act 1990 requires planning permission granted under this section not extend the time within which a development must be started. Therefore, I have imposed a condition requiring the development commence within three years of the grant of the original planning permission.
18. In the interests of certainty, I have attached a condition requiring the development comply with the plans which show the proposed design, dated 16 October 2023. To maintain the character and appearance of the area, I have included a condition requiring submission of details of external materials.
19. To avoid harm to highway safety, I have included conditions requiring the access, parking, and turning areas be constructed prior to occupation to avoid extraneous material or surface water from entering the highway. To ensure the development is safe from the risks of flooding, I have attached a condition

requiring the development comply with the mitigation measures recommended by the flood risk assessment.

20. Paragraph 54 of the Framework indicates planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance states that conditions restricting the future use of permitted development rights may not pass the tests of reasonableness and necessity³. Consequently, I have not imposed the condition to remove permitted development rights, as set out at condition no 6 of the original permission.

Conclusion

21. For the reasons given above, having regard to the development plan taken as a whole and all other relevant material considerations, I conclude the appeal should be allowed.

E Dade

INSPECTOR

³ Paragraph: 017 Reference ID: 21a-017-20190723

Schedule of Conditions

- 1) The development hereby permitted shall be begun before 28 April 2026.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos AA-00 *Location and Site Plans* dated 16/10/2023; and A1-06 *Plans-Elev-Prop* dated 16/10/2023.
- 3) Prior to the first occupation of the development hereby permitted the access shall be constructed in accordance with the highways specification TRAD 5 and thereafter retained at the position shown on the approved plan. Arrangement shall be made for surface water drainage to be intercepted and disposal of separately so that it does not discharge from or onto the highway.
- 4) Prior to the first occupation of the development hereby permitted the proposed access / on-site car parking / turning area shall be laid out, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
- 5) The development hereby permitted shall be carried out in accordance with the mitigation measures set out in the submitted Flood Risk Assessment (FRA) (Engineering Support Practice Ltd) are adhered to. In particular, the FRA recommends that:
 - i) Finished floor level is placed 600mm above the adjacent ground level.
 - ii) Flood resilience measures are incorporated to a height of 0.6m.
 - iii) No ground floor sleeping accommodation.
- 6) No development shall take place on any external surface of the development hereby permitted until details of the type, colour and texture of all materials to be used for the external surfaces of the dwelling have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

END OF SCHEDULE