



Appeal Decision

Site visit made on 18 November 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2024

Appeal Ref: APP/V2635/W/24/3340456

Field View, Ferry Farm, River Bank, Ten Mile Bank, Norfolk PE38 0EW

- 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 K Peacock against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 23/01925/F.
 - The application sought planning permission for the demolition of garage and erection of new garage/outbuilding and two storey extension to dwelling without complying with a condition attached to planning permission Ref 08/02427F, dated 17 December 2008.
 - The condition in dispute is No 6 which states that: *The additional residential accommodation hereby approved shall only be used as ancillary accommodation to the main dwelling and shall at no time be used as an independent unit of residential accommodation.*
 - The reason given for the condition is: *For the avoidance of doubt and to safeguard the amenities of the locality.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address on the application form is Ferry Farm, Field View. I have used the address order on the appeal form in the banner heading above, as it is more accurate.
3. The appellant has submitted a revised Flood Risk Assessment¹ (FRA) to support this appeal. While I cannot be certain this has been subject to wider publicity, this is a technical document which does not alter the location or nature of the scheme which was subject to wider publicity. In any event, the Council have had opportunity to comment on the FRA. Therefore, interested parties have not been unduly prejudiced by my acceptance of this technical evidence.

Background and Main Issues

4. Planning permission has been granted for, among other things, a new garage/outbuilding. Condition 6 of the approval restricts its use to ancillary accommodation to the main dwelling, Field View. The appellant now wishes to remove this condition, to allow the garage/outbuilding to be occupied by them and family members. In the longer term, the appellant proposes to rent the building out to local residents. As such, the development proposed by this appeal is the formation of a new, independent and permanent dwelling.

¹ FRA reference: 3337/RE/11-23/01 REVISION A dated January 2024

5. Consequently, the main issues are:

- whether the appeal site is a suitable location for the development proposed, having regard to the development plan, reliance on the private car and the accessibility of services and facilities, and
- whether the flood risks associated with the proposed development have been adequately addressed.

Reasons

Location of development

6. The appeal site comprises a two storey detached dwelling, Field View, and a single storey outbuilding (the appeal building) which has been in situ since 2011. The appeal site lies outside of Ten Mile Bank's development boundary, within the countryside.
7. Concerns have been raised that the policies listed in the Council's decision notice cannot be retrospectively applied to accommodation that was approved in 2008 and has been in situ since 2011. While the appeal building already has the benefit of planning consent, condition 6 controls its use to that which is ancillary to the main dwelling, Field View. As the appeal proposal seeks to remove this condition, it is the use of the appeal building as a new, independent and permanent dwelling which is the development being sought by this appeal. As such and while acknowledging that a large proportion of Norfolk are also reliant on the use of the private car and are remote from services and facilities, the creation of a new dwelling must be determined in accordance with the development plan policies currently in place.
8. Policy CS01 of the King's Lynn and West Norfolk Borough Council Local Development Framework Core Strategy 2011 (CS) sets out, among other things, the spatial strategy for the borough, which seeks to facilitate sustainable growth in the most appropriate locations, using a settlement hierarchy.
9. CS Policy CS06 outlines the strategy for rural areas. It states, among other things, that beyond the villages and in the countryside, the strategy will be to protect the countryside. It outlines its support of, among other things, the conversion of existing buildings for residential use, subject to certain criteria being met. One such criterion requires that the building is easily accessible to existing housing, employment and services.
10. While adjacent to Field View, the appeal building is in a relatively remote location, surrounded predominately by open fields and, as such, there are very limited facilities, services and employment opportunities nearby. While there are railway stations in Downham Market and Littleport, the appeal site is accessed via a single track road, which has few passing places, no footpaths and is largely unlit. This would not represent an attractive option for future occupiers to walk or cycle to a train station or settlement to access services and facilities, particularly during inclement weather or after dark.
11. Given the characteristics of the surrounding road network, future occupiers would be heavily reliant on private motor vehicles to find suitable services and facilities to support their day-to-day activities. As such, it has not been

robustly demonstrated that the appeal building is easily accessible to employment and services.

12. While noting the appellant's reasoning with regard to residing in the countryside and acknowledging that not everyone wishes to reside within urban areas, these are not functional requirements which necessitate a countryside location.
13. For these reasons, the appeal site is not in a suitable location for the development proposed, having regard to the development plan, reliance on the private car and the accessibility of services and facilities. This is contrary to CS Policies CS01 and CS06, as set out above, and Policy DM1 of the Site Allocations and Development Management Policies Plan 2016 (SADMP), which sets out a presumption in favour of sustainable development.

Flood Risk

14. The appeal site lies within Flood Zone 3. Paragraph 173 and footnote 59 of the National Planning Policy Framework (the Framework) requires applications for all development in such areas to be supported by a site-specific-flood-risk assessment (FRA). It further advises that development should only be allowed in areas at risk of flooding if certain criteria can be satisfied.
15. The appellant advises that the building is weatherproofed and there have never been any flood issues in the area during the time they have resided at the appeal site, as the waterways are well managed by the local Independent Drainage Boards. Nevertheless, the Planning Practice Guidance states that a site-specific FRA should demonstrate how flood risk will be managed now and over the development's lifetime, taking climate change into account, and with regard to the vulnerability of its users. It further states that the objectives of a site-specific FRA are to establish, among other things, whether a proposed development is likely to be affected by current or future flooding from any source and whether the measures proposed to deal with these effects and risks are appropriate.
16. It is understood that flood defences are present in the locality and large investments have been carried out to protect farmland, which, the appellant states, supports the UK economy regarding produce and jobs. Having regard to these matters and noting the Environment Agency's comments in respect of the current Defra funding rules, the permanence and ongoing maintenance of flood defences in the area cannot be relied upon. As such, and given the appeal scheme proposes a new, independent dwelling, it is essential that new dwellings are designed to be flood resistant.
17. The Council have confirmed that the FRA addresses the missing and inaccurate information. However, the conclusions within the FRA are made on the basis that living accommodation is to be provided in the roof space. Having regard to the modelled fluvial breach event and breach events closer to the appeal site, the FRA concludes, having regard to the projected flood depths across the ground floor of the appeal building, safe refuge could be provided across the first floor.
18. While the appellant highlights that they advised the Council of their intention to convert the internal roof space of the appeal building, the appeal scheme, nevertheless, seeks to remove condition 6 only. No variation has been sought

in respect of the internal layout originally approved. Given the approved layout provides accommodation on the ground floor only, the FRA does not provide a clear understanding of the proposal, nor does it address how safe refuge could be provided in the event of the breach events identified.

19. Consequently, the flood risks associated with the proposed development have not been adequately addressed. This is contrary to CS Policy CS01 and SADMP Policy DM21 which, collectively, seek to ensure, development proposals are safe for their lifetime, taking climate change into account, and having regard to the vulnerability of its users.
20. The Council have referred to CS Policy CS06 within their reason for refusal, which relates to development in rural areas. As this policy does not refer to sites in areas of flood risk, it is not relevant to the main issue.

Other Matters

21. The appellant has outlined various circumstances and delays that have led to the submission of the appeal scheme and outlined the need for them to utilise the appeal building as an independent dwelling, which has been driven by subsidence issues associated with the main dwelling. While it would provide the appellant's family with a safe, secure and warm environment to live in, within a rural area that affords them peace and quiet, its use, as an independent dwelling, is required on a permanent basis, not just for the duration of the works in respect of Field View.
22. The appellant highlights that the appeal building comprises high levels of insulation, which provide lower energy consumption, and that they have improved the sites eco footprint and planted evergreen hedging to provide for local wildlife. They also state that there is the potential to add solar panels in the future, in addition to an air source heat pump. While these matters weigh in favour of the development proposed, they are not sufficient to overcome the harm identified in respect of the main issues.
23. While consideration might be given to farm workers and may aid the reduction in young people leaving the area, which has been attributed in part to second home ownership, there is nothing before me to restrict the occupation of the premises for these specific occupiers only. Having regard to this and the modest amount of development proposed, these matters carry limited weight in favour of the scheme. A lack of objection from neighbouring land owners is a neutral matter.
24. The appellant has raised various concerns with the pre-application and application processes. These are matters between the appellant and Council and are outside the scope of the appeal.

Conclusion

25. For the above reasons, I conclude that the proposed development would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Consequently, I conclude that the appeal is dismissed.

S Pearce INSPECTOR