



Appeal Decision

Site visit made on 20 November 2024

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2024

Appeal Ref: APP/F2605/W/24/3343596

The Bungalow, Water End Farm, Church Road, Ovington, Norfolk IP25 6RZ

- 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 Paul Jackson against the decision of Breckland District Council.
 - The application Ref is 3PL/2023/1134/F.
 - The development proposed is a change of use of a property known as "The Bungalow" from holiday let to residential.
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Decision

1. The appeal is dismissed.

Main Issues

2. It is considered that the main issues are (a) whether the appeal scheme would be a sustainable form of development by reason of location, and the effect of the proposed development on (b) the living standards of the existing and future occupiers and (c) the effect on the safety of other highway users.

Reasons

Sustainable Development

3. The appeal property is a single storey building which forms part of a group of isolated buildings located within the open countryside. By reason of a condition attached to the original planning permission allowing for the re-use of an agricultural building, the lawful use of the property is as a residential holiday accommodation. The property contains habitable accommodation, including a lounge/kitchen area, bathroom and bedroom.
4. Policy HOU 12 of the Breckland Local Plan (LP) concerns the conversion of buildings in the countryside and includes reference to the re-use of existing buildings in the countryside for residential purposes being permitted where the commercial use of the building has been shown not to be viable. Although a residential use, the letting of a property as holiday accommodation would normally be considered a commercial enterprise because it requires management and generates income.
5. The policy does not exclusively refer to economic viability. In this case, the appellant claims that the property has not been used as a holiday let since 2015 and is occupied as a dwelling house. Further, the appellant claims that it

is unreasonable for a business to be established just to determine whether the property could viably be let as holiday accommodation.

6. Although there is sympathy with the claims, the appellant has chosen not to let the property as holiday accommodation and, as such, there is no independent evidence to indicate whether or not such a use remains viable in this location. It is noted that LP Policy HOU 12 Policy does not refer solely to financial viability. Whether such evidence was produced for the other schemes referenced by the appellant is unknown from the available information provided. Accordingly, only limited weight is given to these other schemes in the determination of this appeal.
7. Although part of a group of buildings, the change of use away from holiday accommodation would result in a permanent dwelling house in an isolated location within the open countryside. Accordingly, in the absence of any viability evidence, it is concluded that the appeal scheme would not be a sustainable form of development by reason of its location and it would also conflict with LP Policy HOU 12.

Living Standards

8. Except for a larger window serving the kitchen/ lounge area, the windows in the side elevation of the property facing towards Waterend Farm serve non-habitable rooms. There are a number of openings facing the property within the rear elevation of Waterend Farm of which 2 windows serve habitable rooms. There is a separation distance of about 5 meters between these facing elevations.
9. Both the property and Waterend Farm are single storey buildings and, as such, the identified openings for the habitable rooms are at ground floor level. As identified by the appellant, it would be feasible to erect a fence or other means of enclosure between the buildings to prevent overlooking and loss of privacy between the existing occupiers of Waterend Farm and the future occupiers of the appeal property.
10. However, and by reference to the extent of the appeal site identified on the Location and Block Plans, the location of any boundary would be sited close to the window serving the property's main kitchen/lounge area. The outlook from this habitable room for the future occupiers would be visually dominated by the means of enclosure and this would result in unacceptable harm being caused to their living standards. The means of enclosure would be cited further away from the 2 habitable room windows of Waterend Farm and but there would still be a reduction in outlook. Although this reduction would not alone be a reason for this appeal to fail, it does add to the identified unacceptable harm.
11. In undertaking this assessment, it is recognised that without a means of enclosure there would be intervisibility between the windows of the property and Waterend Farm. However, the use of the property as a holiday let with transient occupiers and potentially void periods would not be equivalent to permanent occupiers of the property overlooking Waterend Farm.
12. The appellant has identified other matters whereby the living conditions of the occupiers of Waterend Farm might be enhanced by the proposed change of use, including a reduction in noise and disturbance associated with a holiday let. However, there would still be comings and goings associated with a

permanent dwelling. Accordingly, these matters do not outweigh the unacceptable harm which has been identified.

13. On this issue, it is concluded that the proposed development would cause unacceptable harm to the living standards of the future occupiers of the proposed development and, as such, it would conflict with LP Policy COM 03. Amongst other matters, this policy requires consideration to be given to general amenity impact issues, especially residential amenity, and development will not be permitted which either causes unacceptable effects on either the residential amenity of neighbouring occupants or does not provide for adequate levels of amenity for future occupants.

Highway Safety

14. The consultation responses from the Highway Authority and the Public Rights of Way Team reference that access to the property uses a track which is also a public footpath (Ovington FP2). The concern is that the number of movements along the track should not intensify.
15. Ovington FP2 would be within the garden of the proposed dwelling but this is already the situation and would not change. There is other legislation which relates to the responsibilities of owners in respect of protecting public rights of way crossing their land. Accordingly, and taking into consideration the proposal to divert the Ovington FP1 public footpath, the appeal scheme would not preclude access to these rights of way.
16. The property could potentially be occupied as a holiday let for 52 weeks and equally occupied as a permanent dwelling house for the same period. There is no specific evidence to indicate that any increase in traffic using the access track would be materially different so as to result in an unacceptable danger to the safety of other highway users.
17. For the reasons given, it is concluded that the proposed development would not cause an unacceptable danger to the safety of other highway users and, as such, it would not conflict with LP Policies TR02 and COM 01(m). Amongst other matters, these policies require development not to compromise highway safety and to at least protect access to public rights of way.

Other Matters

18. In addition to the gaining of an additional dwelling, the appellant claims that there are other benefits associated with the proposed development, including increased expenditure from future occupiers and the re-use of an existing building without a need for any significant construction works. Further, because the property exists, the proposed development would not have an adverse effect on the character and appearance of the surrounding area. However, these matters do not outweigh the unacceptable harm which has been identified.
19. The proposed development has the potential to have significant effects on one or more European sites afforded protection under the Conservation of Habitats and Species Regulations 2017. The council indicates that a unilateral undertaking would be required to secure the requisite financial contribution towards the *Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy*, but no such planning obligation has been provided. Nonetheless, the requirement for an Appropriate Assessment to be carried out

is only necessary where the competent authority is minded to give consent for the proposal. Accordingly, in view of the overall conclusion resulting in this appeal being dismissed, it has not been necessary to address this matter any further.

Conclusion

20. Although the proposed development would not cause unacceptable danger to the safety of other highway users, this matter is demonstrably outweighed by the significant harm which would be caused by the appeal scheme representing a locationally unsustainable form of development and the living standards of the future occupiers of the property. Accordingly, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR