



Appeal Decision

Site visit made on 19 November 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2024

Appeal Ref: APP/Y2620/W/24/3340662

34 Freeman Street, Wells-Next-The-Sea, Norfolk NR23 1BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Underwood against North Norfolk District Council.
 - The application Ref is PF/23/1018.
 - The development proposed is new 3 bedroom dwelling.
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Decision

1. The appeal is dismissed and planning permission for new 3 bedroom dwelling is refused.

Preliminary Matters

2. Although the Council failed to issue a decision within the prescribed period, it has provided evidence which indicates that it would have refused permission. The reasons given have therefore formed my main issue.
3. I understand that the Wells-next-the-Sea Neighbourhood Plan ('WNSNP') was subject to referendum in July 2024 and was subsequently made. I have therefore afforded to weight to the policies within it as part of the development plan, and as there has been no changes to relevant policies between the referendum and made versions of the WNSNP, no party would be prejudiced by me doing so.

Main Issue

4. The main issue is whether or not the proposal is acceptable in respect of flood risk having regard to national and local policies and guidance.

Reasons

5. The appeal site is an open area which forms a gap within Freeman Street and is currently gravelled and used for parking. The street contains terraced residential and commercial premises close to the quayside area of the settlement. The parties agree that the appeal site lies partially with Flood Zone 3, and the Environment Agency ('the EA') has advised that the risk of flooding is from tidal sources.
6. The National Planning Policy Framework ('the Framework'), in relation to flood risk, sets out a sequential, risk-based approach to the location of development. Paragraph 168 of the Framework advises that this approach aims to steer new development to areas with the lowest risk of flooding from any source, and that development should not be permitted if there are

reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

7. Policy EN10 of the North Norfolk Local Development Framework Core Strategy ('NNCS') also requires a sequential approach to development and states that most new development should be located in Flood Zone 1. It goes on to state that new development in Flood Risk Zones 2 and 3a will be restricted to a limited range of categories. Although minor development is identified as such a category, the definition of this within the footnote to this policy does not include the creation of new dwellings.
8. The proposal would comprise a single dwelling within Flood Zone 3, and although it would be located within the settlement and close to other residential properties, it has not been shown that there are no other sequentially preferable alternative sites available for the development.
9. I acknowledge that the appellant's flood risk assessment finds that residual risk could be mitigated, and that the EA does not explicitly object to the proposal. Nevertheless, Planning Practice Guidance ('PPG') highlights that avoiding flood risk through the sequential test is the most effective way of addressing flood risk, and even where it can be shown that development can be made safe through its lifetime without increasing risk elsewhere, that the sequential test should still be satisfied.
10. Accordingly, even if I were to agree that the mitigation measures set out in the flood risk assessment would provide adequate protection to the proposal, this would not overcome the failure to apply the sequential test.
11. It would not be appropriate to secure a sequential test or exception test by means of a planning condition, as these are matters which require full understanding before development within Flood Zone 3 can be permitted.
12. I therefore conclude that the proposal would not be acceptable in respect of flood risk. It would be contrary to NNCS Policy EN10, WNSNP Policy WNS14 and Part 14 of the Framework, which together seek to steer new development away from areas at the highest risk of flooding and ensure that vulnerable development is adequately protected.

Other Matters

13. Even if I were to agree that the proposal would be of an appropriate scale, density, design, would respect the pattern of development within the area and would provide adequate parking, these would be neutral factors and would not weigh in favour of the proposal.
14. It is stated that the appellant has made efforts to be proactive, and I acknowledge that the Council failed to issue a decision within the prescribed period. However, these are not matters which relate to the merits of the proposal and have not factored in my decision.
15. The appeal site is located within Wells Conservation Area ('the CA') and the Norfolk Coast National Landscape ('the NL'). There is no dispute between the main parties as to whether the proposed development would preserve or enhance the character or appearance of the CA, or further the purposes of the NL and I have no reason to conclude differently. As I am dismissing the appeal for other reasons, no harm in these respects could arise from my decision.

16. I understand that the appeal site also lies within the zone of influence of several European designated sites ('the European Sites'), including North Norfolk Coast Special Area of Conservation ('SAC'), RAMSAR and Special Protection Area ('SPA'), The Wash and North Norfolk Coast SAC, and The Wash RAMSAR and SPA. The Conservation of Species and Habitats Regulations 2017 require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected sites, either alone, or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
17. The Council considers that it is possible that the proposal could lead to adverse effects, either alone or in combination with other proposals, on the integrity of the European Sites as a result of recreational disturbance.
18. Had I been minded to allow the appeal, it would have been necessary to carry out an appropriate assessment in order to establish whether or not any impacts would be adequately mitigated. I address this matter further within the planning balance.

Planning Balance and Conclusion

19. I have found that the proposal would be unacceptable in respect of flood risk. It would conflict with the development plan when read as a whole, as well as advice within the Framework. I afford this conflict and harm significant weight.
20. The appeal scheme would represent a boost to the supply of housing within an existing settlement, and as a single dwelling scheme it could be delivered quickly. These are all benefits of the proposal, and although as a single dwelling such benefits would be modest, the government's ambition to boost the supply of housing set out at Paragraph 60 of the Framework means that I afford these benefits moderate weight.
21. I also afford weight to the contribution that the proposal would make to the local economy both during construction and upon occupation. These are further, albeit minor benefits of the proposal. Taken together, these benefits would not outweigh the harm that I have found.
22. Therefore, having regard to all matters, there are no material considerations, including the Framework, which would indicate taking a decision other than in accordance with the development plan in this case.
23. If I had reached a different conclusion, I would have sought additional information in order to undertake the appropriate assessment, and be satisfied that the integrity of the European Sites would not be adversely affected. However, as I have found that the proposal would be otherwise unacceptable, this has not been necessary.
24. For the reasons given above, I conclude that the appeal should be dismissed and planning permission refused.

C Harding

INSPECTOR