



---

## Appeal Decision

Site visit made on 22 January 2015

by **David Spencer BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 February 2015

---

**Appeal Ref: APP/V2635/A/14/2228705**

**1 Sea Lane, Old Hunstanton, King's Lynn, Norfolk PE36 6JN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Gerry Wase against King's Lynn and West Norfolk Borough Council.
- The application Ref 14/1075/F is dated 21 July 2014.
- The application sought planning permission for the renovation and extension to existing cottage and change of use of old bakehouse to provide single person accommodation and double garage extension without complying with a condition attached to planning permission Ref 2/85/3706/CU/F/BR, dated 29 January 1986.
- The condition in dispute is No 2 which states that: "This permission relates to the creation of ancillary accommodation to the existing dwelling for the occupation in connection with that dwelling. The ancillary accommodation shall at all times be held and occupied with the existing dwelling within the same curtilage and shall at no time be occupied as a separate unit of residential accommodation."
- The reason given for the condition is: "The application has been considered on the basis of the special need of the applicant and the flat does not have an independent curtilage nor include sufficient facilities to permit its use as a separate dwelling unit."

---

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was originally submitted in July 2014. It was accompanied by a plan (drawing no. 1181 01) which showed the vehicular accesses to the host property at No.1 Sea Lane and the proposed dwelling at the old bakehouse both being secured from Sea Lane. Under this proposed layout the curtilage for the old bakehouse would be predominantly laid out for off-street parking. It was on the basis of this original plan that the Borough Council undertook consultation, including neighbours and the Local Highway Authority, and consequently issued its decision on 10 October 2014.
3. The appellant submitted a substantively revised plan, together with a supporting statement to the Planning Inspectorate on 2 December 2014. The revised plan showed a new proposal for off-street parking to the south of No.1 being accessed via a new entrance onto the A149 Old Hunstanton Road. Accordingly, the existing access on Sea Lane would only serve the old bakehouse and as such a garden area would be provided on land shown on the original plan for parking. I understand these revisions were discussed with the

Local Highway Authority, who provided an addendum to their appeal statement advising that subject to some detail matters being resolved the revised layout would be amenable from a highways perspective.

4. Notwithstanding the additional technical comments from the Local Highway Authority, the revised plan was submitted some time after the Borough Council made its decision. From the evidence before me the revised plan has not been the subject of a wider consultation, including with nearby properties on the A149 Old Hunstanton Road close to the revised access and parking arrangements for the host property. As such I share the submission of the Borough Council<sup>1</sup> that in the interests of fairness, were I to take into consideration the revised plan any subsequent decision to allow the appeal would deprive those who should have been consulted on the altered plan the opportunity of such consultation. Importantly, the appeal process is not a means to progress alternative schemes. Accordingly, for these reasons, I have not taken into consideration the revised plan and have based my decision on the originally submitted plan.

### **Main Issues**

5. The main issues of the appeal are whether the removal of the condition would result in acceptable living conditions for future occupiers, with regard to the provision of private amenity space and the effect of the proposed access and parking arrangements on highway safety in Sea Lane.

### **Reasons**

6. The planning permission granted was for the conversion of the old bakehouse to single person accommodation. The application which is now subject to this appeal sought to carry out the development without complying with condition 2. This condition restricted the occupation of the converted buildings to ancillary accommodation to be occupied in connection to the main dwelling at No.1 Sea Lane and consequently its removal would provide an unrestricted residence.

### *Living Conditions*

7. The appeal proposal would subdivide the existing curtilage at No.1 Sea Lane such that the host property would retain its garden area fronting onto the A149 Old Hunstanton Road, together with a parking area accessed from Sea Lane to the rear of the property. Whilst the garden area would be close to the main A149 road it is enclosed by a low brick wall and planting such that it is not a particularly exposed or open area. Moreover, there is a sunken part of the garden immediately to the south of the house which provides a secluded space. As such I am satisfied that the appeal proposal would retain an appropriate amount and quality of private amenity space for the host property.
8. In contrast, the appeal proposal would result in the old bakehouse occupying a restricted plot with its curtilage principally laid out for parking. Whilst there would be a very small area of garden adjoining the boundary to Sea Lane and a narrow concrete passageway area to the west of the building I do not find either of these spaces would provide the necessary quantum or quality of private amenity space for basic activities such as sitting out or drying clothes. Furthermore, any use of the area between the old bakehouse and Sea Lane

---

<sup>1</sup> Letter to the Planning Inspectorate dated 23 December 2014

- would be largely overlooked from the two first floor windows on the north elevation of No.1 as well as being generally exposed to passers by on Sea Lane through the proposed entrance. This adds to my concerns about the quality of the private amenity space proposed for the old bakehouse.
9. The appellant has submitted that the removal of structures currently occupying part of the passageway area to the west of the old bakehouse would provide sufficient private amenity space. Whilst I accept this would enlarge this area it would nonetheless remain a confined space, hemmed in by the proximity of the boundary fence and the garage building to the west. As such I am not persuaded that it would provide appropriate private amenity space for the proposed dwelling. Whilst I understand that existing occupiers of the old bakehouse experience overlooking due to the close relationship of the host property, as ancillary accommodation tied to the occupation of No.1 this would be an acceptable arrangement. However, the appeal proposal seeks to create a separate dwelling and I find the degree and proximity of overlooking would be unacceptable for future occupiers of the old bakehouse who have no association or connection to the residents at No.1.
  10. I therefore conclude that the removal of the condition would result in unacceptable living conditions for future occupiers of the old bakehouse, with regard to the provision of private amenity space. As such the appeal proposal would be contrary to Policy CS08 of the King's Lynn & West Norfolk Borough Council Local Development Framework Core Strategy 2011 (the Core Strategy) which require amongst other things for all new development to be of high quality design and provide attractive places to live. The proposal would also conflict with the objective of the National Planning Policy Framework (the Framework) at paragraph 17 to secure a good standard of amenity for all existing and future occupants of land and buildings.

#### *Highway Safety*

11. The appeal proposal would involve subdividing the existing parking and turning area for No.1 including the provision of a separate point of access for the old bakehouse. The appellant submits that the appeal proposal would reinstate an access to the bakehouse but I saw little evidence on site of any former separate highway access.
12. The new point of access to serve the old bakehouse would emerge onto Sea Lane. This is an unclassified road of varying width serving a number of residential dwellings and providing a means of connection between the main A149 Old Hunstanton Road and other residential roads. At the appeal site there are no footways on either side of the road. The Local Highway Authority has gauged that the average speed on Sea Lane at the appeal site would be 25mph and accordingly used this measure to assess visibility from the proposed entrance against the guidance contained in Manual for Streets (MfS). I am satisfied that this is a reasonable basis on which to assess necessary visibility splays.
13. Visibility at the appeal site is restricted by presence of boundary walls and hedging fronting onto Sea Lane both at the appeal property and neighbouring dwellings. As such the sightline provision from the proposed entrance would be restricted and I have no compelling evidence before me to dispute the Local Highway Authority's submission that the visibility in both directions would fall significantly below the standards in MfS. Whilst I accept there are no records

of accidents in the immediate locality of the appeal site, I nonetheless consider that the likely volumes of traffic on this connecting road and the absence of footways means that additional vehicle movements using the restricted visibility at the proposed entrance to the old bakehouse would adversely affect highway safety on this part of Sea Lane.

14. The proposed subdivision of the existing parking would result in a significantly reduced off-street parking area for the host dwelling at No.1. As presently set out I am satisfied that vehicles can turn on site so as to enter and leave in a forward gear. I am not persuaded from the scale of the proposed parking area that vehicles parking at No.1 would be able to conveniently turn and as such reversing manoeuvres onto Sea Lane would be more likely using the existing access which also has restricted visibility. This adds to my concerns that the appeal proposal would result in a detrimental impact on the safety of all highway users including vehicles, pedestrians and cyclists using Sea Lane.
15. The appellant submits that due to health problems there would be limited number of vehicle movements from their occupation of the old bakehouse. Whilst I sympathise with the appellant's situation, it nonetheless remains that the appeal proposal would result in a separate dwelling. Given this severance from No.1 I accept the Local Highway Authority's position that there would be a material increase in vehicle movements resulting from the appeal proposal. The appellant also submits that the appeal proposal would have the benefit of reducing on-street parking. Given the extent of existing shared off-street parking I am not persuaded that any current on-street parking would be significant or adversely affect highway safety. I therefore give limited weight to these submissions.
16. I therefore conclude that the removal of the condition would result in access and parking arrangements which would have an adverse impact on highway safety on Sea Lane. As such the appeal proposal would be contrary to the provisions of Policy CS11 of the Core Strategy which require amongst other things for all new development to provide safe means of access.

#### *Other Matters*

17. The appeal proposal would enable the current occupiers of No.1 to move to the single storey old bakehouse for health reasons. Whilst I sympathise with the appellant's situation it nonetheless remains that what has been applied for would result in the creation of a separate dwelling which could be occupied independently from No.1. Accordingly, the personal circumstances of the appellant do not outweigh the significant harm to future occupiers of the old bakehouse that would arise from the insufficient private amenity space and unacceptable access onto Sea Lane.

#### **Conclusions**

18. Whilst the appeal proposal would result in acceptable private amenity space for the host dwelling at No.1 this does not outweigh nor negate my strong concerns that the removal of the condition would result in an unacceptable provision of private amenity space for the old bakehouse and that the proposed access and parking arrangements would result in significant harm to highway safety on Sea Lane.

19. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*David Spencer*

INSPECTOR.

