

Parish:	Hunstanton	
Proposal:	Removal of condition 16 of planning permission 16/01550/F to allow 12 months unrestricted occupancy	
Location:	99 South Beach Road Hunstanton Norfolk PE36 5BA	
Applicant:	Mr Justin Wing	
Case No:	17/00466/F (Full Application)	
Case Officer:	Mr C Fry	Date for Determination: 8 May 2017

Reason for Referral to Planning Committee – The application has been called-in by Councillor Bower and the views of the Town Council are contrary to the Officer recommendation

Case Summary

Members may recall this application was deferred from the June meeting to allow further information to be obtained, in view of comments made by the applicant that the existing bungalow on the site could be occupied for 11 months of the year.

It has been established that the current dwelling would be occupied for 11 months of the year.

The application site, 99 South Beach Road, Hunstanton, lies in the Coastal Hazard Zone (Holme to Wolferton Creek) and Flood Zone 3.

The site has recently benefited from permission for a replacement dwelling which was subject to an occupancy restriction, condition 16, 16/01550/F, in line with Policy DM18 (Coastal Flood Risk Hazard Zone) of the Site Allocation and Development Management Policies Plan.

This application seeks consent to remove condition 16 to allow 12 month occupancy of the new dwelling.

Key Issues

Principle of Development and Planning History
Flood Risk

Recommendation

REFUSE

THE APPLICATION

The application site lies within the Coastal Hazard Zone area, outside of the development boundary for Hunstanton.

The site is on the eastern of South Beach Road, Hunstanton, behind existing dwellings and is accessed by a private access road. The private road serves “no.97” (which comprises of a concrete slab), the application site and no. 95, a bungalow to the south of the site.

The application site has recently had the benefit of permission 16/01550/F for a replacement dwelling, following the demolition of the existing pre-fabricated dwelling. The existing pre-fabricated dwelling has a planning condition that restricted the occupancy between the 1st April and the 31st October in any given year. The dwelling will be contemporary in design and is a significant improvement to what currently exists on the site.

Condition 16 of the permission restricts the occupancy of the new dwelling at no.99 to that stipulated in Policy DM18 of the Site Allocation and Development Management Policies Plan 2016. The condition states the following:-

“The dwelling hereby approved shall not be occupied between 1st October and 31st March in any given year unless otherwise agreed in writing by the local planning authority.”

This application seeks to remove this condition to allow all year round occupancy of the dwelling.

SUPPORTING CASE

The application has been supported by a planning statement:-

- As with other dwellings in the area the applicant wishes to apply for unrestricted occupancy. A remove for this to improve the market value of the property, a 6 month restriction will have a detrimental effect on the saleability of the property in the future.
- In certain cases Policy DM18 has not been adhered to. The present bungalow on the site can be occupied for 11 months of the year during the period when the highest risk of flooding occurs.
- All bedrooms are currently on the ground floor level and the existing timber building is unlikely to withstand hydrostatic pressures it would be subject to in the event of a severe flood.
- The new dwelling has all habitable accommodation at first and second floor level above anticipated flood levels, in accordance with the EA requirements set out in the Coastal Flood Risk Planning Protocol.
- The applicant will abide by the Flood Warning and Evacuation Plan.
- The proposal offers betterment.
- 91 South Beach Road- February 2016, 53 South Beach Road – July 2014, 71 South Beach Road – December 2014, 85 South Beach Road – 29th June 2015 are examples where existing dwellings have been replaced, offering a form of betterment and have appropriate conditions imposed that relate to flood risk.
- Searles Leisure Centre – behind the site, can comprising of static holiday homes can be occupied for 11 months of the year.
- Flood Defences – the Coastal Protocol emphasizes that continued maintenance of the existing flood defences are not guaranteed indefinitely and the intent of the Draft SMP is to maintain the first line of shingle ridge defence until 2020/25 only, subject to government funding.

- There is a concrete and steel piling hard defence within a 5m wide promenade and up stand wall at 7.2m height AOD. on the 5th December 2013 this defence only experienced wave and tidal spray.
- The current intention of the Management strategy is to maintain defences in this area and a relaxation for the occupancy limitation should be deemed acceptable.

PLANNING HISTORY

16/01550/F: Application Permitted: 25/01/17 - Erection of new residential dwelling with integral double garage and associated works

2/91/1826/F – Occupation of dwelling without complying with condition 1 attached to planning permission ref: 2/86/2443 dated 15/8/86 to allow occupation between 15th February in any year and 15th January the following year – permitted 17.06.92

2/86/2443 – Retention of bungalow – permitted 15.08.86

2/81/2563/F – Retention of holiday bungalow – permitted 22.09.81

HU1483 – Retention of holiday bungalow permitted 16.09.69

HU396 – Retention of two holiday bungalows permitted 19.09.66

RESPONSE TO CONSULTATION

Town Council: NO OBJECTION The town council support for 12 month occupancy as it is keeping with the policies to extend the season promoting all year round activities in Hunstanton as approved in the new Hunstanton Prospectus 2017 and Master Plan 2008. Also this new dwelling will be built to a very high standard which will be far more resilient to flooding than the older flats and houses.

Environment Agency: OBJECT your authorities Coastal Flood Risk Planning Protocol is very clear that “Seasonal Occupancy will be limited to between 1st April and 30th September. Applications to remove, relax or vary (by way of extension) any existing seasonal occupancy condition will be resisted.”

Emergency Planner: OBJECT Flooding is more likely during the autumn and winter months and this occupancy condition helps reduce the number of properties that may need evacuation. If occupants chose to try and stay in the property and it was then subsequently flooded this would increase risk to life in the area and the number of hazardous water rescues that may need to be performed.

REPRESENTATIONS

No representations received.

NATIONAL GUIDANCE

National Planning Policy Framework – sets out the Government’s planning policies for England and how these are expected to be applied.

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

LDF CORE STRATEGY POLICIES

CS05 – Hunstanton

CS08 - Sustainable Development

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM18 – Coastal Flood Risk Hazard Zone (Hunstanton to Dersingham)

PLANNING CONSIDERATIONS

The main planning considerations in regards to the planning application are:-

Principle of Development and Planning history
Flood Risk

Principle of Development and Planning History

The principle of whether a replacement dwelling can be achieved on this site has already been determined under planning application 16/01550/F. Members are only being asked to consider whether the recently permitted dwelling should be allowed to be occupied all year round by removing condition 16 of 16/01550/F, which restricted occupation to 6 months of the year, specifically those considered to be at less risk of tidal flooding.

Flood Risk

Paragraph 99 of the National Planning Policy Framework states that "New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change." The National Planning Policy Framework refers to development having to be steered to areas of lower risk of flooding, through applying to certain types of developments a sequential test and then if necessary an exception test to ensure development is safe for its lifetime.

Policy CS08 of the Local Development Framework Core Strategy states that development proposals in high risk flood areas will need to demonstrate that the type of development is appropriate to the level of flood risk identified in the Strategic Flood Risk Assessment and that flood risk is fully mitigated through appropriate design and engineering solutions. The National Planning Practice Guidance provides further guidance on flood risk, and interpretation of policies such as the sequential and exception test. In terms of the sequential test, in this case this proposal seeks a replacement dwelling and it is therefore not considered necessary to apply the sequential test, as the level of development (one residential unit) will remain as before.

Clearly this site falls within the coastal strip, and Local Guidance referred to in Policy CS07 - Development in Coastal Areas, has been provided to guide planners and developers on the suitability of development in the Coastal Area.

Policy CS07 states that the Council will, amongst other things, resist new and replacement dwellings and the extensive alteration of dwellings and relaxation of occupancy limitations unless the outcome of the Shoreline Management Plan (SMP) acknowledge the absence of
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risk or promotes the retention and/or improvement of local defences. The SMP does not acknowledge the lack of risk and improvement to the defences is not assured at present.

Further to the SMP, detailed local guidance has been provided in a joint position statement by the EA and the Council, entitled Coastal Flood Risk - Planning Protocol, Wolferton Creek to Hunstanton.

The protocol is now included within a development control policy in the Local Plan - Policy DM18 - Coastal Flood Risk Hazard Zone where it states that replacement dwellings will only be permitted in Tidal Flood Zone 3 where all of the protocol criteria is met.

The protocol states that in particular in relation to replacement dwellings in this area that "Replacement dwellings will only be permitted in flood zone 3, where all of the following 7 criteria are satisfied"

1. A Flood Risk Assessment must be undertaken
2. All habitable accommodation will be provided above ground floor
3. The dwelling will only be occupied between 1st April and 30th September
4. The dwelling will incorporate flood mitigation and resiliency measures in accordance with CLG publication improving the flood performance of new buildings
5. The building must be appropriately designed to withstand and be resilient to hydrostatic pressure resulting from a breach/overtopping of the tidal defences
6. A flood warning and evacuation plan will be prepared for the property and retained on site.
7. The level of habitable accommodation provided by the new dwelling would not be materially greater than provided by the original dwelling. Proposals should not result in an increase in the number of bedrooms over and above the original dwelling.

In relation to the 7 points, it is point 3 of the protocol that the applicant's do not wish to comply with and are thus applying for removal of condition 16 of 16/01550/F, which ensures conformity with point 3.

Since the determination of application 16/01550/F, Policy DM18 of the Site Allocation and Development Management Policies Plan has been the subject of an appeal, specifically that in relation to point 3 of the Coastal Protocol. The Inspector, in determining APP/V2635/W/17/3169623, for an extended occupancy of a bungalow at 1F South Beach Road, Heacham, dismissed the appeal on the grounds that the application did not have a detailed Flood Risk Assessment and the comparable provided by that appellant did not directly relate to the site subject to that particular appeal.

The agent states in their supporting statement that the new dwelling can be designed to withstand hydrostatic pressures (conditioned) and has all habitable accommodation above ground floor. The dwelling according to the agent would be a betterment compared to the existing dwelling and cites examples of where replacement dwellings have been permitted, on South Beach Road, on the flood risk betterment basis.

The agent has also stated that the proposal will lead to an increase in the new dwelling's property value. A brief detail that the development will be safe is stated within the applicant's statement.

Whilst the agent has provided information in regards to flood risk and has described in their supporting statement the other examples for replacement dwellings on South Beach Road, Section 38(6) of the Town and Country Planning Act states that decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. In this particular case, the agent has failed to acknowledge that the examples provided in their 17/00466/F

statement pre-date the Coastal Protocol becoming Policy DM18 of the adopted Site Allocation and Development Management Policies Plan (2016) and the original dwellings in those cases were not the subject of occupancy conditions.

It is therefore considered that the examples are not directly comparable with this application site, and thus little weight should be attributed to considering these examples in determining the application. The flood risk defence information in the agent's planning statement, in regards to the two shingle ridge defences and the reinforced concrete wall opposite the site, is acknowledged, however flooding has historically occurred on South Beach Road, through the failure of the flood gates to the north of the site, which is at a lower height than the hard defence wall and the stand wave wall. No detailed Flood Risk Assessment, has been submitted which would demonstrate that extending the occupancy would result in the occupants being safe from flood risk for the lifetime of the development, taking the flood gate defence issues into account.

Given the above and in the absence of a detailed Flood Risk Assessment, the risk of flooding experienced by all year round occupancy would not be outweighed by any form of public benefit. Any increase in the value of the new property is not a form of public benefit and accordingly cannot be given any weight in considering the implications of flood risk. The economic benefit of the occupation of a dwelling to Hunstanton's economy would also not outweigh the risk of flooding in this location.

The Environment Agency and Emergency Planner both object to the proposed unrestricted occupancy of the dwelling.

At the June meeting the applicant spoke in support of the proposal and advised that the existing bungalow on the site could be occupied for 11 months of the year in accordance with planning permission 2/91/1826/F. Having carried out further research into the planning history of the site, it is clear the applicant is correct as this 1992 permission allows occupation of the existing property except during the period between 15th January and 15th February in each year.

Officers wish to apologise for this oversight, however it does not alter the considerations on this application or the overall recommendation.

In more recent years concerns over flooding have become much more important with the Environment Agency repeatedly increasing the threat level for a major storm event in this area and they expressed their concerns over future developments in this area at the recent Local Plan Inquiry.

Of particular relevance is their assessment that "the standard of protection offered by the flood defences in the Coastal Flood Risk Hazard Zone is low". The Agency argued that "because of the high flood risk and low standard of protection offered by the defences new and replacement dwellings are not appropriate at this location. This is because they cannot be considered safe for their planned lifetime."

Notwithstanding that the preferred approach of the EA was to prevent any new or replacement dwellings the Council felt it prudent to recognise the importance of the area to tourism and the benefits that improved levels of construction could offer for flood resilience on replacement dwellings. For these reasons the Council sought to agree a compromise position with the EA that would balance the economic and social benefits of securing development in this area whilst seeking to reduce risk to an acceptable level.

As a result, the 7 criteria set out in Policy DM18 of the SADMP were developed for replacement dwellings and were designed to work together to ensure that the risk to life and

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property from flooding is minimised as far as possible. This approach is the minimum that the EA were prepared to accept in the interests of public safety therefore now that the SADMP has been adopted it is imperative that we remain consistent and apply Policy DM18 rigidly for the safety of current and future occupants.

CONCLUSION

Members are being asked to consider an all year round occupancy of the newly permitted dwelling. Whilst it is acknowledged that recent developments on South Beach Road have been permitted with an emphasis on the dwelling providing betterment in terms of flood risk and conditions imposed in relation to hydrostatic construction methods to withstand the force of waves impacting on the structure, the Coastal Protocol did not form part of the Development Plan at the time of their consideration. Now that Policy DM18 is adopted, in the interests of public safety it is imperative that it is rigidly applied going forward.

It is also of significant weight that a very recent appeal (attached) elsewhere in the Coastal Flood Risk Hazard Zone upheld the need to ensure occupancy is restricted to the safest periods.

Furthermore, no detailed Flood Risk Assessment has been provided to demonstrate that exposure to potential flood risk from all year occupancy would be safe. Even if a Flood Risk Assessment were to be provided, there is no public benefit that would outweigh the harm to occupants from being exposed to Flood Risk.

It is therefore recommended that this application be refused for the following reason.

RECOMMENDATION:

REFUSE for the following reason(s):

- 1 The proposal to allow occupancy of the newly permitted dwelling for 12 months of the year would be contrary to the authorities approach to development within the Coastal Flood Risk Hazard Zone of Dersingham to Hunstanton. Furthermore the application has not been accompanied by a Flood Risk Assessment which would demonstrate, to the Environment Agency's satisfaction, that the development will be safe for its lifetime. The proposal is however not considered to provide any public benefit that would outweigh the exposure to flood risk experienced by the future occupants of the dwelling. The proposal is therefore contrary to paragraphs 106, 107, 108 of the National Planning Policy Framework, the National Planning Practice Guidance, Policy CS08 of the Local Development Framework Core Strategy 2011 and Policy DM 18 of the Site Allocation and Development Management Plan Document.