

AGENDA ITEM NO: 8/3(f)

Parish:	Terrington St Clement	
Proposal:	REMOVAL OF CONDITION 2 OF PLANNING PERMISSION 09/00626/F: Demolition of existing garage and construction of detached annexe	
Location:	Claremont Cottage 257 Lynn Road Terrington St Clement King's Lynn	
Applicant:	Mr Jim Harrod	
Case No:	17/01218/F (Full Application)	
Case Officer:	Clare Harpham	Date for Determination: 21 August 2017 Extension of Time Expiry Date: 12 December 2017

Reason for Referral to Planning Committee – The application has been called into Planning Committee by Councillor Sheila Young.

Neighbourhood Plan: No

Case Summary

The proposal seeks to remove the occupancy restriction on an existing annexe which would result in an independent single storey residential unit. The proposal would utilise a shared access which has restricted visibility and the annexe is located within Flood Zone 3 and an area where Tidal Hazard Mapping shows it could flood up to 1 metre. By removing the restriction this would result in the intensification of an already substandard access and flood risk issues.

Key Issues

Planning History
Highways Issues
Flood Risk Issues
Other material considerations
Crime and Disorder

Recommendation

REFUSE

THE APPLICATION

The application site is located to the northern side of Lynn Road and in close proximity to the Marsh Road junction. On site currently stands a two storey dwelling (west side) with a single storey annexe (east side).

This application seeks to remove condition 2 of planning permission 09/00626/F (demolition of existing garage and construction of detached annexe) which restricts the use of the annexe to be used as ancillary accommodation and at no time be used as an independent unit of residential accommodation.

SUPPORTING CASE

1. Highways quoted that the planning inspectorate had already refused a previous application but I would like to highlight that this was for a 3 bedroom house with a much larger foot print than that of the annexe which I now realise that this would have compromised parking and a permanent turn round area to enable a vehicle to enter and exit Lynn road in a forward gear. Also that at the time the speed limit on Lynn road was 60mph.
2. Norfolk County Council decided it was safe enough to implement a 50 mph speed limit on Lynn in 2007 rather than the 40mph speed limit suggested by Terrington St. Clement parish council even though one driveway (252 Lynn Road) only has a very worrying 59 metres of visibility splay to the west. There are 10 properties including one farm entrance with between 80-100 metres of visibility splay in one direction yet it was considered.
3. Had Norfolk County Council implemented the suggested 40mph speed limit the annexe would have had the correct visibility splay.
4. The driveway has a visibility splay of over 2 times the stopping distance of a vehicle travelling at 50mph (53 metres).
5. There is parking for 6 vehicles whilst still retaining a turn round area to allow a vehicle to enter and exit the driveway in a forward gear.
6. This is an existing driveway with an entrance wide enough for two vehicles side by side.
7. Highways considered the planning application 09/01247/7 (238A Lynn road) with a visibility splay far less than that of the annexe to be acceptable, yet visibility is so bad that they have fixed a mirror to the telegraph pole on my property so that they can see to safely get out of their driveway onto Lynn road.
8. The Annexe is one bedroom with no room for further extension so vehicle movements are and always will be to the bare minimum.
9. I find the objection from the Environment Agency of there being no first floor refuge most concerning considering the majority of the properties being bungalows on Lynn road and Marsh road which is also on flood zone 3. Although there is no history of flooding in Terrington St Clement in the last 100 years. The annexe was built to the specifications for flood zone 3 at the time which are much improved from all the other bungalows on Lynn road as the floor levels are a lot higher than the rest in the area.
10. I had asked for a condition to be included so that the Annexe was to remain in the ownership of 257 and not to be a separate dwelling (as happened with application 14/00279/F and also with 15/01930/F) with a key to 257 being available in a key safe so that first floor refuge would be available if there was to be a flood.
11. The current occupier of the annexe a member of my extended family can live in the annexe with the current granted planning permission which is considered safe enough for him to enter and exit Lynn road just as long as he is not paying rent to live in the annexe which to me seems a bit bizarre.
12. The annexe provides a cheap rental property for a single person that is virtually non-existent in Terrington St. Clement and the surrounding area.

PLANNING HISTORY

16/01249/F: Application Withdrawn: 14/09/16 - Removal of Condition 2 attached to planning permission 09/00626/F to allow the continued use of the annexe as a separate unit of accommodation - 257 Lynn Road Terrington St Clement

09/00626/F: Application Permitted: 22/06/09 - Demolition of existing garage and construction of detached annexe - 257 Lynn Road Terrington St Clement

05/02667/O: Application Refused: 13/02/06 - Outline Application: construction of dwelling - Land To The East Of 257 Lynn Road Terrington St Clement
Appeal Dismissed 20/10/06

2/99/1190/F: Application Permitted: 27/10/99 - Extension to dwelling - 257 Lynn Road Terrington St Clement

RESPONSE TO CONSULTATION

Parish Council: NO OBJECTION

Highways Authority: OBJECT

The site was initially considered for an independent dwelling under planning reference 05/02667/O. That application was refused by your authority, the application was appealed and subsequently dismissed by the planning inspectorate. At that time the Highways Authority raised an objection on the grounds that the applicant did not control sufficient land to provide acceptable levels of visibility and without the benefit of any information being provided to the contrary that does continue to be the case.

An annexe differs in use from that of an independent dwelling as annexes are inhabited by family or associated members who share linked trips with the main dwelling and therefore typically traffic levels are very low.

I am aware that a very similar application was submitted in 2016 under planning application 16/01249/F but this was later withdrawn. However, it would appear the annexe has been utilised in breach of conditions. Within the applicants supporting information I note that additional off-street parking is offered. However this simply goes against the principle of the highway concern for this site as such further provision would only encourage an increased use of the access which we consider to be unsafe for such use.

I also observe from the applicant's supporting information that there is reference made to the level of splay being substandard by 20m of the adopted standard. It is therefore not to standard. As I believe that speed compliance in this area is low. I believe that an approval of the application would result in conditions to the detriment of highway safety and I therefore recommend the application be refused for this reason.

Environment Agency OBJECT

The site is located within Flood Zone 3 and our Tidal Hazard Map shows the potential for up to 1 metre of water if the defences were breached. Therefore, a single storey dwelling (looking at the details for 09/00626/F) does not allow for safe refuge. Therefore, we would wish to object to this application. Unless safe refuge can be provided at first floor level to the satisfaction of your Authority it would not be sensible to allow anything other than the current occupancy.

REPRESENTATIONS

None received

LDF CORE STRATEGY POLICIES

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS11 - Transport

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM2 – Development Boundaries

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

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

PLANNING CONSIDERATIONS

The application site is located within the development boundary as identified within Inset G93 (Terrington St Clement) of the Site Allocations and Development Management Policies Plan 2016. In principle the removal of the condition in order to create a separate unit of accommodation is acceptable provided it is acceptable in relation to all other material considerations. The main issues to consider when determining this application are therefore as follows:

- Planning History
- Highways Issues
- Flood Risk Issues
- Other material considerations
- Crime and Disorder

Planning History

In February 2006 outline planning permission was refused for the construction of a dwelling (05/02667/O). Access was considered at this stage with all other matters reserved but it was indicated that the proposal would be of a similar height to the donor dwelling (no. 257 Lynn Rd). The two reasons for refusal were as follows:-

Reason 1 - The Development Plan seeks to allow new development in the village, in built up areas, which has regard for and is in harmony with the building characteristics of the locality. Notwithstanding the advice contained within Planning Policy Guidance 3, increasing housing density within existing settlements, it is considered that the proposal for new development on this site, of sub-divided curtilage, does not respect the spatial form and character of the existing sites in the locality. The proposal would result in an over-intensive use of the site and therefore is contrary to Policy H7 of the Norfolk Structure Plan 1999 and Policies 4/21, 8/1 and 9/29 of the King's Lynn and West Norfolk Local Plan 1998.

Reason 2 - At the proposed site visibility in the non-critical direction is acceptable, at over the required limit of 215m measured from a point 2m into the access. However, visibility in the critical direction is severely restricted by boundary features, caused by a bend in the horizontal alignment of Lynn Road. As a result only a distance of 140m can be seen. Taking into account accident statistics, the proposal would increase conditions to the detriment of Highway Safety. It is considered that inadequate visibility splays are provided at the junction of the access with the County Highway (Lynn Road) and that the proposal should be refused as it would cause danger and inconvenience to users of Lynn Road and is contrary to Policy 9/29 of the King's Lynn and West Norfolk Local Plan 1998.

This was dismissed at appeal (Appeal Decision APP/V2635/A/06/2015208) where the Inspector concluded that the proposal would have an adverse effect on the character and appearance of the surrounding area (the proposal was two storey) and that the proposal would unacceptably affect highway safety and the free flow of traffic on Lynn Road. The Inspector also made note that the speed limit may be reduced to 50mph (which has subsequently occurred) and concluded that even if the speed were to be reduced to 50mph the access would still be markedly substandard. It was not considered appropriate in the interests of highway safety to reduce the standards which have been set for the safety of both drivers on Lynn road and those using the access at the site.

Subsequently an annex was approved at the application site (09/00626/F) which is single storey and stands in place of where there had been a detached garage. The proposal was considered acceptable with regard to form and character and as the proposal was for an annex which would be tied to the existing dwelling by a condition the proposal was not considered to intensify the sub-standard access. This was because the proposal was for ancillary accommodation which is not considered to generate additional traffic movements. Indeed the highways officer has reiterated that whilst an annex may result in an increase in the number of dwellings located at a site it does not necessarily result in a direct habitual increase in trips as family members would link trips.

Planning application 09/00626/F had a condition restricting the occupancy of the approved annexe which reads as follows:-

Condition 2 - "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."

Reason 2 - "In order that the Local Planning Authority may retain control over the development in the interests of protecting the amenities of the locality and highway safety, in accordance with PPS1 and PPG13."

It is this condition which the applicant wishes to remove which would allow the current annexe to be occupied as a separate unit of accommodation.

Highways Issues

The application site has sub-standard levels of visibility and there is an objection from the Highways Officer on highway safety grounds.

The applicant has stated that in 2005 when the application for a dwelling was refused Lynn Road was 60mph. The Parish Council long campaigned for the road to be 40mph however NCC deemed the road to be safe at 50mph. There are a number of dwellings in the immediate locality with substandard visibility splays and due to the speed limit being 50mph.

Notwithstanding the reduction in the speed limit the access is still sub-standard with regard to visibility and therefore to intensify the access which would occur should the condition be removed would be unacceptable (this was also mentioned in the appeal statement). The Highways officer has responded to comments made by the applicant that the applicant has not demonstrated that splays can be achieved for the site access that meet the requirements found in the Design Manual for Roads and Bridges (DMRB). Should the applicant be of the view that the speed people drive at is actually lower than 50mph, then an Automatic Traffic Count (ATC) to support this should be commissioned and submitted and the results would then be assessed. An ATC has not been submitted.

The Highways officer is also aware that the applicant is of the opinion that the speed limit in the locality should be 40mph; however speed limits are assessed as part of Norfolk's speed strategy and before reducing the posted speed limit even further there has to be a realistic expectation that drivers will actually reduce their speed. Motorists tend to drive according to the environment they pass through and not always according to the posted limit. The fact that existing points of access have restricted visibility is not a justification for allowing additional traffic to use a substandard access.

Consequently when assessing the proposal to remove the condition restricting the building to ancillary accommodation the resulting increase in vehicular movements expected from an independent unit of accommodation are such that it would result in conditions which are detrimental to highway safety and should therefore be refused on that basis as they are contrary to Policy CS11 of the Core Strategy 2011 and Policy DM15 of the Site Allocations and Development Management Policies Plan 2016.

Flood Risk Issues

The application site is located within Flood Zone 3 and the Tidal Hazard Map shows it's in an area where flooding could occur up to a depth of 1 metre. Due to the nature of the development which is single storey there is no provision for a safe refuge at first floor level and there is an objection to the application from the Environment Agency.

The applicant has stated that there are other single storey dwellings in the locality, which is indeed the case, however information regarding flood risk is constantly evolving and being updated and those dwellings would have been approved at a time that flood risk was considered in a different policy context and even possibly prior to flood mapping.

There is correspondence from the applicant to state that he would be willing to accept a varied condition which would keep the annex in the same ownership, however this does not overcome the fact that there is no first floor refuge within the building.

As an annexe which is ancillary to the main dwelling (which is two storey) it is safe to assume that the occupants could seek refuge in the main house should flooding occur. However should the condition be removed (or varied to include the same ownership) the building would no longer be ancillary accommodation and could be used as a separate unit

of accommodation. This would allow the building to be sold (or rented out) to an unassociated party and you would not expect them to have the same access to the main house, and a first floor refuge, that related family members may have.

Consequently by removing the condition restricting the occupancy of the building the proposal would be contrary to the principles of the NPPF and Policy CS08 of the Core Strategy 2011.

Other material considerations

There are no other material considerations which are pertinent to this application.

Crime and Disorder

There are no crime and disorder issues which would result from this application.

CONCLUSION

The proposed removal of condition 2 of planning permission 09/00626/F would result in the removal of the restriction on the occupancy of the residential accommodation which would then no longer be ancillary accommodation. This would result in the intensification of an already sub-standard access to the detriment of highway safety as well as the occupation of a dwelling in an area of flood risk without an appropriate first floor refuge. Consequently members are asked to consider refusing the application given that it is contrary to the provisions of the NPPF, Policy CS08 and CS11 of the Core Strategy 2011 and Policy DM15 of the Site Allocations and Development Management Policies Plan 2016.

RECOMMENDATION:

REFUSE for the following reason(s):

- 1 Inadequate visibility splays are provided at the junction of the access with the County highway and this would cause danger and inconvenience to users of the adjoining public highway. Consequently the proposed removal of condition 2 of planning permission 09/00626/F would result in the intensification of an inadequate access which would be contrary to the provisions of the NPPF, Policies CS11 of the Core Strategy 2011 and Policy DM15 of the Site Allocations and Development Management Policies Plan 2016.
- 2 The proposal would result in a single storey dwelling located in an area of flood risk where there is no first floor refuge in the event of flooding. Consequently the proposal would be contrary to the provisions of the NPPF with regard to flood risk and Policy CS08 of the Core Strategy 2011.