

Parish:	King's Lynn	
Proposal:	Change of use from a drop-in care/assessment for pre-school children, back to former residential dwelling/flat	
Location:	4 Walpole Road King's Lynn Norfolk PE30 2DZ	
Applicant:	Freebridge Community Housing	
Case No:	20/00876/F (Full Application)	
Case Officer:	Lucy Smith	Date for Determination: 28 August 2020

Reason for Referral to Planning Committee – Called-in by Cllr A Tyler

Neighbourhood Plan: No

Case Summary

The proposal is for the change of use of an existing drop-in care/assessment for pre-school children, to a residential dwelling/flat. The subject site was originally constructed as part of a block of flats, each for residential use however was granted planning permission for change of use to office in 2006 and then to its current use in 2015.

The subject site is located within Flood Zones 2 & 3 of the Borough Council's SFRA (2018) and within the River Ouse Hazard Zone with a potential flood depth of 1-2m.

Key Issues

- Principle of Development
- Flood Risk
- Crime and Disorder
- Other material considerations

Recommendation:

APPROVE

THE APPLICATION

The proposal is for the change of use of an existing drop-in care/assessment for pre-school children, to a residential dwelling/flat. The subject site was originally constructed as part of a block of flats, each for residential use, however it was granted planning permission for use as an office in 2006, and then to its current use in 2015.

It is now surplus to requirements and according to the applicants has been empty for approximately 3 years. The proposal is to reintegrate it back into the block as an additional flat.

A key issue in this case is that the subject site is located within Flood Zones 2 & 3 of the Borough Council's SFRA (2018) and within the River Ouse Hazard Zone with a potential flood depth of 1-2m.

SUPPORTING CASE

None received

PLANNING HISTORY

15/00435/CU: Application Permitted: 13/05/15 - Change of Use from Class B1 (office accommodation) to Class D1 (drop-in care/assessment facility for pre-school children) – DELEGATED DECISION

06/02014/CU: Application Permitted: 28/11/06 - Change of use from residential to office and caretakers workshop/store – DELEGATED DECISION

RESPONSE TO CONSULTATION

Highways Authority: NO OBJECTION in principle

Environment Agency: OBJECTION, with the following comments:

In the absence of an acceptable Flood Risk Assessment (FRA) we object to the grant of planning permission and recommend refusal on this basis for the following reasons:

The Flood Risk Assessment submitted with this application does not comply with the requirements set out in paragraph 160 to 163 of the National Planning Policy Framework. This states that for areas at risk of flooding a site-specific FRA must be undertaken which demonstrates that the development will be safe for its lifetime. The submitted FRA does not therefore, provide a suitable basis for an assessment to be made of the flood risks arising from the proposed development.

In particular:

Ground floor sleeping accommodation is proposed below the predicted 1 in 200 year tidal flood level.

In addition the development does not propose adequate:

Resistance and resilience measures.

Safe refuge or access and egress routes.

Our 2015 Tidal Hazard Mapping indicates that the site could flood to depths of greater than 1.8 metres in the event of overtopping or breaching of the tidal River Great Ouse's flood defences. Tidal Hazard Mapping for the River Great Ouse has been undertaken to illustrate the hazard to the site in the event of an overtopping and breach of the defences in a 1 in 200 year event, both now and in the future (taking into account the impacts of climate change up to the year 2115).

It is noted in the FRA that as an existing building, the floor levels cannot be significantly raised, but that resistance and resilience should be implemented. Please note that resistance measures such as flood doors and dam boards cannot be set more than 600mm

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above the floor level in a standard house design. If the difference in flood depths between the inside and outside of the property is greater than 600mm then structural damage is likely to occur. As such internal flooding would still be likely to occur in the event of a breach.

As this is a ground floor flat only, no safe refuge is available for residents. Registration to receive EA flood warnings is not a sufficient alternative to the provision of safe refuge. There can be no guarantee of advanced notification for a breach as a breach can occur quickly and with no warning. The KLWN SADMP states “schemes which propose, as a result of the conversion of an existing building or the subdivision of an existing house, ground floor or basement flats in high flood risk areas will likely be resisted”.

REPRESENTATIONS

None received

LDF CORE STRATEGY POLICIES

CS02 - The Settlement Hierarchy

CS01 - Spatial Strategy

CS03 - King's Lynn Area

CS08 - Sustainable Development

CS11 - Transport

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

DM21 - Sites in Areas of Flood Risk

NEIGHBOURHOOD PLAN POLICIES

N/A

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)
National Design Guide 2019

OTHER GUIDANCE

None

PLANNING CONSIDERATIONS

Principle of Development

The application site is located within the development boundary for King's Lynn as defined in Inset map E1 of the Site Allocations and Development Management Policies Plan (2016).

The unit in question was also clearly originally built as a flat within a block, one of a number of such blocks within this fairly dense urban environment.

The principle of a change of use to residential is therefore considered acceptable in principle in accordance with Policy DM2 of the SADMPP (2016).

Flood Risk

The application site is located within flood zones 2 & 3 of the Borough Council's SFRA (2018) and within the Great Ouse's Flood Hazard Zone. Buildings used for dwelling houses are classified as More Vulnerable development for the purposes of flood risk classification in the PPG. Whilst as a change of use the sequential test is not required, the exceptions test is required, and the applicant must demonstrate that the proposed dwelling can be made safe for its lifetime and provides wider sustainability benefits for the community.

The application site is shown in the tidal hazard maps with potential flood depth of between 1 and 2m. The EA's Tidal Hazard Mapping indicates a flood depth of above 1.8m in the event of an overtopping or breaching of the tidal River Great Ouse's flood defences which has been calculated based on a 1 in 200 year flood event. In accordance with guidance, sleeping accommodation should not be proposed below the 1 in 200 year flood risk level. As a ground floor flat, with no safe refuge at first floor level provided for residents, the Flood Risk Assessment provided as part of this application cannot demonstrate that the site would comply with the necessary criteria.

It is noted within the FRA that as an existing building, the floor levels cannot be significantly raised, but that resistance and resilience should be implemented. Flood doors and damn boards cannot be set more than 600mm above floor level in a standard house design as any difference in flood depths between the inside and outside of the property above this amount would lead to significant structural damage and internal flooding would likely still occur in the event of a breach. Given the speed in which breaches of defences can occur, registration to receive EA flood warnings is not considered by the Environment Agency (EA) to be a sufficient alternative to making the property safe from flooding.

Overall, the submitted FRA fails to demonstrate the property can be made safe for its lifetime. Whilst the property was previously used as a dwelling house before being converted to use as an office and then drop-in centre, the application must be determined in accordance with the current NPPF and Local Plan policies, which have changed since the group of flats initially gained consent in 1962.

Whilst the provision of a further unit of residential development can be argued to meet the first aspect of the exceptions test (wider sustainability benefits), given that the applicant has not demonstrated the property can be made safe for its lifetime, it fails the exceptions test set out in the NPPF (2019). Therefore, in terms of current planning policy the application site is considered to give rise to adverse risk to residents as a result of flooding. On these

grounds the application is therefore considered contrary to paragraphs 159-163 of the NPPF (2019), policy CS08 of the Core Strategy (2011), policy DM21 of the SADMPP (2016).

Crime and Disorder

According to the applicants the current unit has remained empty for approximately 3 years. Although there are no comments from the Norfolk Constabulary ALO in this case, it is self-evident that an empty unit would be less of a potential target for anti-social behaviour if it were to be occupied.

Therefore, the occupation of the unit as a residential dwelling would potentially be a benefit in terms of crime and disorder going forward.

Other material considerations

Limited external changes are proposed to the building, comprising the replacement of an existing door with a window to match existing windows in the vicinity, and the replacement of a sliding door with a standard uPVC door and sidelight. These changes are entirely in keeping with the area and also they do not impact upon the amenity of neighbours.

The Local Highway Authority have stated no objection to the proposal in principle. The change of use to a dwelling from a drop-in centre is unlikely to lead to adverse impacts on highway safety. There is parking proposed directly in relation with this proposal, but in any case given the change of use involved, that will likely lead to a reduction of vehicle movements in the vicinity, and considering the form and character of the area, the proposal is considered fully acceptable in these terms.

Whilst in theory there will be the loss of a community facility, this is a small unit, it has already been closed for 3 years or so, and there are other facilities elsewhere in the local community (such as the Discovery Centre), which would offer such facilities. There is considered to be no policy objection in this regard.

CONCLUSION

Members will be aware that to the extent development plan policies are material to an application for planning permission, the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. Planning practice guidance also advises that if decision takers choose not to follow the National Planning Policy Framework, where it is a material consideration, clear and convincing reasons for doing so are needed.

This proposal gives rise to a finely balanced situation, where there is a policy objection on flood risk grounds which would indicate a refusal of the application, set against the material considerations of this particular case, which are unusual and in your officers opinion would indicate an approval.

On the policy situation the proposal cannot satisfy the second part of the exceptions test as required to be undertaken in locations at risk of flooding such as this. The reason is that it would give rise to residential development where ground floor sleeping accommodation would be necessary. Therefore, the change of use to residential dwelling is considered likely to give rise to adverse impacts to the safety of future residents as a result of inadequate flood risk mitigation. The submitted FRA fails to demonstrate the proposal can be made safe for its lifetime in accordance with the exceptions test outlined in Paragraph 160 of the NPPF (2019). The application is therefore considered contrary to paragraphs 159-163 of the

NPPF (2019), policy CS08 of the Core Strategy (2011), policy DM21 of the SADMPP (2016) and fails to meet the requirements of the Borough Council's Flood Risk Protocol.

However, it is of note that this is a single residential unit which is an integral part of just one of a number of blocks of flats. It is evident that there are at least seven other similar blocks in the vicinity, as well as two other larger blocks of flats to the north-west. It is part of a dense urban environment, and was clearly planned and used as a residential unit for decades before it was originally converted to a caretakers office to serve the wider neighbourhood in 2006.

It is also evident that the unit has been empty for some time (around 3 years), and without conversion back to residential use, it is considered unlikely to be used for another use. Leaving the property empty is not supported for a number of reasons, including the fact it can provide a much needed home, and also having the property occupied means it is less likely to deteriorate, and less likely to potentially attract future anti-social behaviour. The council has a duty to consider crime and disorder in making decisions on applications.

The provision of an extra dwelling in King's Lynn would also be in accordance with other policies in the development plan, including policy CS02,CS09 of the Core Strategy (2011), as well as policies DM1 and DM2 of the SADMPP (2016), and those parts of the NPPF seeking more housing provision.

Given the above, and the competing elements in this case, Members will need to decide on the weight to be put on these issues, and ultimately whether that leads to an approval or a refusal. On this occasion, and given the exceptional and unusual circumstances here, officers recommend that approval can be granted subject to suitable conditions.

RECOMMENDATION:

APPROVE subject to the following conditions and reasons:

1. Condition: The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
1. Reason: To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
2. Condition: The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan 1:1250
Drawing Number 1064.01 Rev B
2. Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 Condition: Prior to occupation of the development hereby approved, a scheme for flood resistance and resilience measures, shall be submitted to and approved in writing by the Borough Council. The approved scheme shall be implemented as approved prior to occupation, and thereafter retained.
- 3 Reason: To help mitigate impacts of flooding in accordance with the provisions of the NPPF.