



Appeal Decision

Site visit made on 19 June 2017

by **Jonathan Hockley BA(Hons) DipTP MRTPI**

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

Decision date: **30 June 2017**

Appeal Ref: APP/V2635/W/16/3165398

Wood Lodge, Herrings Lane, Burnham Market, Norfolk PE31 8DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Keith Morris against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 16/01237/F, dated 6 July 2016, was refused by notice dated 2 November 2016.
 - The development proposed is a new build structure to be used as a private entertainment space ancillary to the neighbouring Millwood, replacing an existing bed & breakfast.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposal on the living conditions of nearby residents, with particular reference to noise and disturbance, and any effect on highway safety.

Reasons

3. The appeal site lies on the northern fringes of the village of Burnham Market; from the village green Herrings Lane heads towards the north, with built development on both sides of the road until a track heads off to the west which serves a small number of dwellings. The site comprises one of these dwellings, Millwood, and a former bed and breakfast, Wood Lodge, which at the time of my visit was partially demolished. The properties are set in reasonably generous plots, with gardens to front and rear. A field to the south separates the rear gardens from the heart of the village and views are possible to the north of the coastline over further undulating fields. As a result the site and surroundings are set in a peaceful idyllic location.
4. The proposal seeks to complete the demolition of Wood Lodge and construct a large 'entertainment space', bringing the land into the overall plot of Millwood. The substantial structure would be of a parallelogram shape, although the southern elevation would be longer than the northern due to the widening of the structure through the angling of the east and west sides. Inside the building would host a reception room at its northern front, with a dining hall at the southern end. Supporting ancillary rooms including toilets, kitchen and store would be sited in between the two main rooms. Stairs would lead to the smaller first floor lounge and terrace area, designed to look towards the fields

and coast to the north. The green roof of the proposal would generally slope towards the south, where full width sliding glass doors would face towards the southern field.

5. The appellant states that the building would be ancillary to Millwood and would be used to entertain up to 24 people for infrequent events. Some such events may be for charity, and details are provided of the appellant's patronage of such charities. The appellant states that they are content to accept a condition on any permission granted to ensure that the building remains ancillary to the main dwelling of Millwood, avoiding the need to consider other conditions to control hours of operation as such conditions would be unnecessary and unreasonable.
6. Concerns are raised by the Council and local residents, including the Parish Council over potential noise and disturbance from the proposed structure. I share such concerns. Although it is stated that the proposal is designed to hold a maximum of 24 people, the size of the building means that it could potentially hold far more. The dining hall in particular is of a substantial size and guests could also be accommodated within the upper lounge/terrace and reception area even when the hall was fairly full. This could lead to noise and disturbance out of kilter with the peaceful nature of the surrounding area.
7. Although there are open fields to the north and south of the appeal site, Brandon House to the west is located relatively close to the proposed building. Side windows and the rear elevation of this property would be close to the rear of the building and its large glass doors. The plans also seem to potentially show a covered external area at the rear of the building. With a substantial number of guests and the sliding doors open, events could lead to significant noise and disturbance issues for the residents of Brandon House and even potentially to residents of other dwellings on the west side of Herrings Lane. The modern design and levels of insulation proposed for the building would not adequately mitigate against disturbance from within the building when the doors are open.
8. Conditions to control numbers of guests, noise levels or hours of operation would be difficult to enforce, and would, as the appellant acknowledges be unreasonable. Nor do I consider that a condition ensuring that the proposal remains ancillary to Millwood would overcome this issue; whether or not the building was ancillary would be a matter of fact and degree but a use ancillary to Millwood in the manner described in the appellant's evidence could still result in noise and disturbance to neighbouring residents due to the sheer scale of the proposed building.
9. I do not doubt the appellant's charitable motives or their intentions for the use of the structure. However, I consider that the size of the structure would allow for entertainment uses which could result in noise and disturbance for neighbouring residents. Furthermore, the permission would run with the land and future owners could use the proposal for differing events. While I appreciate that other regulatory powers exist to control noise and disturbance, planning applications must be determined on their own merits within the provisions of the relevant planning legislation rather than other non-planning legislation, which in any event could be subject to change or deletion.
10. Concern is also expressed over matters of highway safety. I note in this respect that a public right of way exists along the track which accesses

Millwood. I also noted on my visit the narrowness of Herrings Lane at its southern end and indeed further to the north of the appeal site. However, there is significant parking areas available on the semi-circular drive of Millwood and the property lies close to the beginning of the track. I am not convinced that the proposal would lead to an increase in traffic to the extent that highway safety would be endangered, even with potentially larger events that could utilise the structure as described above.

11. I therefore conclude that while I do not consider that the proposal would have an adverse effect on highway safety, the proposal would potentially have an adverse effect on the living conditions of nearby residents, with particular reference to noise and disturbance. The proposal would be contrary to policy DM15 of the Site Allocations Plan¹, which states that development must protect and enhance the amenity of the wider environment, and that proposals will be assessed against their impact on neighbouring uses and their occupants as well as to the National Planning Policy Framework which states that as a core principle that planning should always seek a good standard of amenity for all existing occupants of land and buildings.

Other Matters

12. The appellant states that the former Bed & Breakfast would have been a bigger noise generator than a domestic dwelling and could be resumed. Notwithstanding over whether such activities could be resumed given the condition of Wood Lodge, a domestic dwelling is not proposed in this case, and for the reasons given above I consider that the proposal would an adverse effect on the living conditions of nearby residents.
13. I note that pre-application advice provided by the Council considered a positive outcome to the application may be likely. However, pre-application advice is non-binding and the advice given requested a full explanation of the anticipated use of the building to assist. I also note the disagreements concerning the description of the proposed development. I have considered the appeal on the basis of the facts and evidence available to me.

Conclusion

14. For the reasons given above, and having regard to all other matters raised, including the green design of the proposed structure, I conclude that the appeal should be dismissed.

Jon Hockley

INSPECTOR

¹ Borough Council of King's Lynn & West Norfolk Site Allocations and Development Management Policies Plan, September 2016