

AGENDA ITEM NO. 8/2(f)

Parish:	Ingoldisthorpe	
Proposal:	Construction of one and a half storey dwelling	
Location:	Aldorcar Coaly Lane Ingoldisthorpe King's Lynn PE31 6NU	
Applicant:	Mr Gerald King	
Case No:	22/00982/F (Full Application)	
Case Officer:	Lucy Smith	Date for Determination: 31 August 2022

Reason for Referral to Planning Committee – Officer recommendation is contrary to a dismissed appeal & referred by Sifting Panel

Neighbourhood Plan: No

Case Summary

Full planning permission is sought for the construction of a 1.5 storey dwelling. The application site, measuring approximately 0.043 hectares, is situated south of Coaly Lane which lies north of the village of Ingoldisthorpe. There is a detached bungalow east of the site known as Aldorcar, paddocks to the south and farmland to the north. To the west lies a site used for storage containers. The site is immediately adjacent to the development boundary shown on inset map G52 of the SADMP. The site is within the Ingoldisthorpe parish but adjacent to the boundary with Snettisham.

The site has recently been subject of a dismissed appeal for the same development (ref 19/01212/F - attached). The appeal Inspector outlined that the location of the development, despite being contrary to Policy DM2, was acceptable. The appeal was ultimately dismissed solely on the grounds of potential impacts on protected species after the inspector was not satisfied that the Habitat Mitigation Fee was sufficient to alleviate any impacts on the Roydon Common and Dersingham Bog Special Area of Control (SAC).

Key Issues

Appeal History
Principle of Development
Form and Character
Impact on Protected Sites
Other Material Considerations

Recommendation

APPROVE

THE APPLICATION

Full planning permission is sought for the construction of a 1.5 storey dwelling. The application site, measuring approximately 0.043 hectares, is situated south of Coaly Lane which lies north of the village of Ingoldisthorpe. There is a detached bungalow east of the site known as Aldorcar, paddocks to the south and farmland to the north. To the west lies a site used for storage containers. The site is immediately adjacent to the development boundary shown on inset map G52 of the SADMP.

The application proposes the construction of a 1.5 storey dwelling, with first floor accommodation in the roof space with small dormer windows on both the front and rear elevations. The dwelling is designed with ridge line parallel to Coaly Lane and total height of approximately 7.2m with eaves to 2.6m. Single storey, more subservient gable ends are proposed to project from the front and rear elevations.

The site has recently been subject of a dismissed appeal for the same development (ref 19/01212/F). The appeal Inspector outlined that the location of the development, despite being contrary to Policy DM2, was acceptable. The appeal was ultimately dismissed solely on the grounds of potential impacts on protected species after the Inspector was not satisfied that the Habitat Mitigation Fee was sufficient to alleviate any impacts on the Roydon Common and Dersingham Bog Special Area of Control (SAC).

SUPPORTING CASE

My parents have lived in Dersingham all their lives, I was brought up here, went to both village school and attended Hunstanton senior school. My husband and I settled back in Dersingham in 2002, bringing up our 2 children who have both recently graduated from university. My elderly parents still live in the village, and increasingly rely on me for support. As a local girl, I love this area, and having settled back here, I knew that I wanted to stay here. With an eye to a future retirement property, we bid at auction for this building plot and purchased it in good faith in Jan. 2018, complete with valid full planning permission for a single dwelling. The site had a history of successful planning approvals (2 full applications granted in 2011 & 2015 and an outline granted in Feb. 2016 with associated reserved matters permitted in Nov. 2016).

In 2021, my daughter, started her professional psychology career locally and also wanted to settle locally, but the high cost of local homes has been prohibitive. So, to help my daughter get on the property ladder and stay local, our aims for the site therefore changed from retirement property to a first home for my daughter (although the proposed plans have not and will not be altered in any way).

In 2019, we slightly amended the plans to suit our future needs using a local architect and submitted revised details in Jul. 2019; but we were shocked and horrified to receive a refusal in Sept. 2019 considering the history of successful approvals on the site by the Council, the reasons given; "The site lies outside the development boundary of Ingoldisthorpe and is therefore located in the countryside as defined by the LP. It also does not accord with the objectives of sustainable development", although there were no objections from statutory authorities, local bodies or the community.

This decision in effect reduced the value of the site from the building plot price we paid to virtually nothing as a piece of isolated waste land. We were forced to lodge an appeal in March 2020, resulting to our dismay the Inspector dismissing the appeal, but the nature of his decision was even more astonishing:

“The Inspector finds against the LPA (Local Planning Authority) and confirms that:

- i) Proposal has reasonable access to facilities and services and complies to Policy CS06
- ii) No conflict with Policy CS08.
- iii) Would not be detrimental to the character of the surrounding area or landscape
- iv) The harm that would result from the location of the proposal outside of the development boundary would be minor, and I have found that in relation to access to facilities and services the location of the development would be acceptable”.

Dismissing the Council's objections, you would think that he would agree to the appeal, but unusually The Inspector finds a new reason to refuse permission based on the effects of the proposal on European Sites (despite no objection from Natural England; and we had paid the required amount to the Council for mitigation measures in line with current Council policy).

Helpful discussions with your officer were held, confirming that there were already arrangements in place via current planning policy to address the Inspector's concerns with a fee structure linked to the provision of appropriate mitigation measures; it was suggested that a re-submission of the application should be made and that a favourable outcome would be possible if a proper case was made to address the Inspector's objection.

From the above information it is evident that the Planning Inspector (PI) disagrees with the reasons for refusal given by the LPA, so it can hopefully be assumed that these reasons can no longer be valid for a refusal of this application. However, it is important to fully understand the PI's reason for dismissing the appeal and our counter arguments. Therefore, the Supplementary Submission Paper dated 28 April 2022, included in the planning resubmission pack fully explains how this reason should be disregarded due to mitigation measures put in place by BCKLWN. To summarise some of those points:

- The importance of all these European sites is fully recognised by the various public sector organisations and we also agree how important they are to the area and community.
- We find it difficult to establish any viable detrimental link to these European sites from activity associated with the application site in question. These are the distances from the application site to the relevant European Sites the PI refers to Roydon Common – 8 miles; Dersingham Bog – 3.5 miles; and North Norfolk Coast SAC – 10 miles.

In addition, taking on the PI's point, then no development in the North Norfolk area should be permitted for fear of “significant disturbance to the integrity of the European sites”. This is not the case in practice as BCKLWN continues to allocate land and approve sites for development in the vicinity of this site and towns/villages closer to these identified European sites. The LPA Mitigation Strategy 2015 sets out a clear strategy along with payments per dwelling to cover adequate mitigation and monitoring for these sites. We paid this payment on the previously refused application fully in accordance with the Council's Policies and have paid it again for this application. It is worth noting that other development sites in the same village (and beyond), considered at the same time as the applicant's site, have paid the same payment and benefitted from planning approval. (See attached plan at Appendix A).

The PI challenges these payment measures along with the independency of the Council as LPA and implementer of the mitigation measures contained in the Strategy. In practice this independency is fulfilled by a separate organisation (The Norfolk Coast Partnership) which manages the Norfolk Coast Area of Outstanding Natural Beauty (AONB) and assists the

Borough Council of King's Lynn and West Norfolk (BCKLWN) by facilitating their Habitats Monitoring and Mitigation (HMM) Fund. To explain the nature and function of this organisation the Project Advisor Kate Dougan has kindly provided details, following a request, in the email attached to the said Paper. Ms Dougan explains how the levies from relevant developers in the BCKLWN identified areas related to the European sites are paid, collected and properly utilised, which hopefully now obviates the concerns expressed by the PI.

We believe the information submitted clearly demonstrates that the reasons from both LPA and the PI for refusal of the previous application are not now relevant. In addition, a precedent has been set by the LPA in accepting relevant mitigation payments and approving development in the same village (refer to plan at Appendix A) as this site and wider sites over the West and North Norfolk Areas. The BCKLWN continues to allocate & approve developments in its emerging Local Plan aligned to the mitigation strategy; it continues to be a pro-housing and economic growth Authority. The establishment and functions of the Norfolk Coast Partnership verifies that there are independent and robust processes in place to collect funding for and implement relevant mitigation measures related to the European site.

Therefore, we strongly believe that there are now no valid reasons to refuse this re-submission and would respectfully request that planning permission for the single dwelling should now be approved to allow our daughter to create her new home, and therefore encourage local people to invest locally.

PLANNING HISTORY

2/99/1061/F: Application Permitted: 10/09/99 - Extension to dwelling to create granny

11/01677/F: Application Permitted: 24/11/11 - Demolition of existing bungalow & annex and replacement with 2 semi-detached cottages - Aldorcar

14/01295/F: Application Permitted: 07/01/15 - Construction of two semi-detached cottages following demolition of existing bungalow - Aldorcar COMMITTEE DECISION

15/01952/O: Application Permitted: 01/02/16 - Erection of single storey dwelling and associated works - Aldorcar

16/01633/RM: Application Permitted: 15/11/16 - Reserved Matters Application: Erection of single storey dwelling and associated works - Aldorcar

19/01212/F: Application Refused: 06/09/19 - Construction of one and a half storey dwelling - Aldorcar

19/01693/F: Application Permitted: 16/01/20 - Removal of condition 1 of planning permission DG2731 to remove the agricultural and forestry worker occupation condition - Aldorcar

RESPONSE TO CONSULTATION

Ingoldisthorpe Parish Council: SUPPORT - No reasons given

Snettisham Parish Council: No response to date

Highways Authority: NO OBJECTION - Subject to standard access/turning area conditions

Planning Committee
7 November 2022

Environmental Health & Housing - Environmental Quality: NO OBJECTION - Recommended unexpected contamination condition

Natural England: NO OBJECTION - Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

REPRESENTATIONS

NONE received at time of writing

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM15 – Environment, Design and Amenity

DM19 - Green Infrastructure/Habitats Monitoring & Mitigation

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

National Design Guide 2019

PLANNING CONSIDERATIONS

The main considerations are:

- Appeal History
- Principle of Development
- Form and Character
- Impact on Protected Sites
- Other Material Considerations

Appeal History

Application 19/01212/F was refused under delegated powers on 6th September 2019 for the following reason:

The site lies outside the development boundary of Ingoldisthorpe and the site is therefore located in the countryside as defined by the Local Plan. There is no justification for the proposed dwelling and it does not accord with the objectives of sustainable development. As such the application is contrary to Policies DM2 of the SADMPP 2016, Core Strategy Policies CS06 and CS08 and Paragraph 78 of the NPPF.

This decision was subject of an appeal – ref APP/V/2635/W/20/3248172 (attached) which was ultimately dismissed, however the Inspector set out the following justification for the development, and dismissed the appeal solely on being unable to conclude that likely significant effects on the integrity of European Sites could be excluded. Whilst this matter did not form part of the Council's reason for refusal, there is a statutory duty derived from the Conservation of Habitats and Species Regulations 2017 that the Inspector considered was necessary to be assessed as part of the appeal.

Members should note that the Inspector's comments (at paragraph 25 of the appeal decision) on the location of the development being acceptable overcome the Local Planning Authorities initial reasons for refusal. However, in line with the Scheme of Delegation, in order to be approved this application must overcome the concern raised surrounding habitat mitigation fee and the potential for significant effects on the integrity of European sites – primarily the Roydon Common and Dersingham Bog Special Area of Conservation (SAC) and Ramsar sites, The Wash and North Norfolk Coast SAC and The Wash Special Protection Area (SPA) and Ramsar site.

Principle of Development

The application site is immediately adjacent to the development boundary shown on Inset Map G52 of the SADMPP (2016). Ingoldisthorpe is classified as a Rural Village in the Council's Settlement Hierarchy and it is therefore accepted that there are services in the area that can satisfy limited additional residential development.

Whilst outside of the development boundary and therefore contrary to Policy DM2 of the SADMPP (2016), this application must be determined in line with the Appeal Inspector's comments. Within the appeal, the Inspector gave weight to the site's position as well as the proximity of Ingoldisthorpe to nearby settlements of Dersingham and Snettisham. The settlement is stated within the Appeal to have good public transport links and with footpaths and bus stops adjacent to the site, future occupants would be able to access local services by use of footways, by bicycle or by bus. This would reduce reliance on private motor vehicles. The inspector goes on to describe the site as bound between an existing dwelling and a commercial storage, stating that the development would not be detrimental to the character of the surrounding area or landscape (paragraph 25).

The Inspector concluded that the proposal complied with the aims of the NPPF in regard to locating housing to enhance and maintain the vitality of rural communities, and that no harm would be caused to the character and appearance of the countryside.

The principle of development is therefore considered acceptable, as it complies with the overarching aims of the NPPF (2021) and will not lead to adverse impacts on the intrinsic character and beauty of the countryside.

Impact on Protected Sites

Whilst the principle of development is considered acceptable based on the aims of the NPPF, the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on European sites.

The Inspector raised concern that the fee paid towards habitat mitigation was not proven sufficient to overcome adverse impacts on protected sites.

Since the Inspector's decision, the Council have formally adopted the Norfolk Green Infrastructure and Recreational impact Avoidance Strategy (GIRAMS) which is designed to cover monitoring/small scale mitigation at European sites. This strategy currently requires a contribution per dwelling of £185.93 (as of April 2022) which has been paid as part of the validation of this application.

Natural England are supportive of GIRAMS as a way of mitigating the cumulative impacts of recreational disturbance which are increased due to new residential development across the plan area.

Natural England have confirmed within their consultation response that the development is not considered likely to lead to significant on European sites and an appropriate assessment is therefore not necessary. For small scale residential development which is not considered likely to have any significant effect on European sites in terms of increased recreational disturbance, it is concluded that the GIRAMS payment is sufficient to protect from future adverse impacts on the integrity of European Sites.

The construction of a single dwelling in this position, immediately adjacent to existing residential properties and businesses will not have any significant adverse impacts on statutorily protected nature conservation sites or landscapes.

The application is therefore considered to comply with the NPPF and the Development Plan in regard to protected sites.

Form and Character

A three-bedroom chalet bungalow is proposed, including small dormers to the front and rear elevations and single storey gable ends. No changes are proposed to the scheme dismissed at appeal. The Inspector at paragraph 21 of the decision found no conflict with policy CS08 insofar as high-quality design or sustainable construction methods.

The site is constrained as result of the position of the neighbouring bungalow (east) and adjoining storage use (west). Currently comprising overgrown land which is separated from the surrounding sites by close boarded fencing, the proposed dwelling will fill an existing gap in the street scene. Proposed landscaping to the front of the dwelling, combined with the set back will reduce its prominence when viewed from Coaly Lane.

The proposed design is effectively full width, leaving only limited room on one side of the dwelling for access to the rear garden space however this is in line with the spacing provided around the adjoining bungalow.

Given the site's surroundings, whilst proposing a dwelling which will be visibly larger than the bungalow immediately adjacent, the proposed dwelling is considered unlikely to lead to any

adverse impact on the street scene to the extent that would warrant refusal. Conditions are recommended to ensure full details of proposed materials and landscaping come forward prior to construction of external materials.

On balance, considering the design is consistent with the previous application on site and this did not form a reason for refusal on that application. The LPA has insufficient justification to warrant refusal on the basis of design, as these issues have previously been considered acceptable and there has been no material change in policy that would otherwise apply to the scheme.

The development is considered to comply with Paragraph 130 of the NPPF (2021) and Policies CS08 and DM15 in regard to design and impact on form and character.

Other Material Considerations

Impact on Neighbours

Whilst proposed in close proximity to the nearest dwelling (east), the proposed development is considered unlikely to lead to any significant impact on the amenity of this neighbour. Windows on this neighbouring dwelling's side elevation will experience a degree of loss of light in certain parts of the day as a result of the proximity of the dwellings, however considering the scale of the gable end facing this direction, this impact is not considered to warrant refusal of the application on these grounds.

Existing close boarded fencing along this boundary will limit the potential for loss of privacy as a result of windows on the east boundary of the site.

The development is considered to comply with Paragraph 130 of the NPPF (2021) and Policies CS08 and DM15 in regard to good design and neighbour amenity.

Highway and Access

The application has not drawn objections from the Local Highway Authority. Adequate parking/turning area is provided on site to accord with the required standards. The proposal therefore complies with Policies CS11 and DM15 of the Local Plan.

Other Consultee Comments

No objection has been raised by Environmental Quality who recommend that a condition be imposed in the event of unexpected contamination.

Crime and Disorder There are no known crime and disorder impacts associated with this proposal.

CONCLUSION

The application has been submitted with sufficient information to overcome the concerns raised within the Inspector's decision in regards to habitat mitigation and impacts on protected sites.

No changes have been proposed to the design of the scheme since submission of the previous application. Whilst the proposed dwelling is larger in comparison to the adjoining bungalow, considering the existing site conditions and the character of the immediate street scene, the proposed design is considered acceptable subject to conditions relating to

proposed materials and landscaping details. Further, it is clear that the Inspector found no issue with the design and appearance of the dwelling.

Overall, the application is considered to comply with the overarching aims of the NPPF (2021) and the policies of the Development Plan.

RECOMMENDATION

APPROVE subject to the imposition of the following condition(s):

- 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:
 - *SPW22-14 1
 - *SPW22-14 2
 - *SPW22-14 3
- 2 Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 Condition: Prior to the first occupation of the development hereby permitted the proposed on-site car parking and turning area shall be laid out, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
- 3 Reason: To ensure the permanent availability of the parking / manoeuvring area, in the interests of highway safety.
- 4 Condition: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with current best practice, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.
- 4 Reason: In the interests of protecting the environment and the future occupants of the development in accordance with the NPPF.
- 5 Condition: No development shall take place on any external surface of the development hereby permitted until details of the type, colour and texture of all materials to be used for the external surfaces of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 5 Reason: To ensure a satisfactory external appearance and grouping of materials in accordance with the principles of the NPPF.

- 6 Condition: Prior to the first use/occupation of the development hereby permitted, full details of both hard and soft landscape works shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include finished levels or contours, hard surface materials, refuse or other storage units, alongside details of proposed boundary treatments. Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment) schedules of plants noting species, plant sizes and proposed numbers and densities where appropriate.
- 6 Reason: To ensure that the development is properly landscaped in the interests of the visual amenities of the locality in accordance with the NPPF.
- 7 Condition: All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation or use of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority. Any trees or plants that within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species as those originally planted, unless the Local Planning Authority gives written approval to any variation.
- 7 Reason: To ensure that the work is carried out within a reasonable period in accordance with the NPPF.