



Appeal Decision

Site visit made on 13 March 2014

By Lynne Evans BA MA MRTPI MRICS

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

Decision date: 11 April 2014

Appeal Ref: APP/V2255/A/14/2211305
32 Church Road, Oare, Faversham ME13 0QA

- 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 Mrs Linda Morrison against the decision of Swale Borough Council.
 - The application Ref: SW/13/1261 dated 4 October 2013, was refused by notice dated 31 December 2013.
 - The development proposed is erection of and sitting of a modular free standing holiday let as stated in the attached usage document.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was submitted the government's planning guidance has been issued and the Appellant and the Council were therefore invited to submit representations if they considered that the publication of the guidance affected their submissions. Neither party indicated that it wished to submit further representations in this regard.
3. The usage document referred to in the description of development sets out the rationale for the proposal to offer self-catering accommodation for groups and families of bird watchers, ramblers and visitors to the area and thus promoting tourism. I have taken account of this document together with all the submissions at both the application and the appeal stage in my determination of this appeal.

Main Issues

4. The main issues in this appeal are:
 - a) the effect of the proposal on the character and appearance of the local area, and
 - b) whether the proposed development would create a flooding risk, and would result in a risk to human safety.
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Reasons***Issue a) Character and Appearance***

5. The appeal site comprises a detached house in a large plot of land to the east of Church Road, with vehicular access via an unmade track and public footpath leading off The Street. The footpath continues beyond the appeal site to join Church Road. The proposal would introduce a modular free standing holiday let utilising an existing vehicular access and parking in the south-eastern corner of the plot. I am advised from the information provided by the Council that the site falls within the countryside.
6. The site overlooks the attractive Oare Creek and the Oare Bird Reserve is close by. I have taken into account the proposed tourism related use of the development. However, it would also increase and consolidate built development within this very sensitive and attractive countryside location. Whilst on my site visit and from the access track and footpath I noted that there are other buildings and structures sporadically sited within the countryside, including the property on the appeal site and its large garage. However, the main focus of the built area of this part of the village is concentrated around properties along Church Road and The Street, with predominantly open rear gardens extending towards the open land around the Creek. The proposed development would encroach and consolidate further built development within this more open, verdant land and detract from the character and appearance of the local rural area.
7. The National Planning Policy Framework (Framework) at paragraph 28 supports sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors and which respect the character of the countryside. There is limited information before me to assess the extent to which the proposal would support and benefit the rural economy. However, the proposal would, in my view, harm the character and appearance of the local rural area and on the limited information available I have no reason to conclude that the benefits to the rural economy would outweigh this harm. The harm I have concluded would conflict with the Framework and also with Policies E1 and E6 of the Swale Borough Local Plan 2008. These policies, amongst other things, seek to protect the quality and character of the countryside.

Issue b) Flooding Considerations

8. The Flood Risk Assessment submitted with the application confirms that the site lies within or in close proximity to an area within Flood Zone 3. As a result there is a high probability of flooding and more vulnerable development in areas of flood risk should be avoided.
 9. I agree that it is disappointing that the Environment Agency did not respond to the consultation on the application but this cannot be interpreted that it would raise no objection. I have also noted the Appellant's comments that the site has not flooded but this does not confirm or lessen the risk of future flooding as a result of the location of the site.
 10. The proposal was not accompanied by a Sequential Test to demonstrate that the proposal could not be sited within a zone with a lower probability of flooding. Even if it were possible to pass that test, the submitted Flood Risk
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Assessment would not pass the Exception Test as set out at paragraph 102 of the Framework, because it does not set out that the proposal would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere and where possible reduce flood risk overall, nor that it would provide wider sustainability benefits to the community that outweigh the identified flood risks.

11. On the basis of the limited information before me, I conclude that there would be a high probability of flooding and that the future occupants of the accommodation would be vulnerable to that risk, particularly given the single storey nature of the accommodation. I conclude that the development would create a flooding risk and would result in a risk to human safety. The development would therefore be contrary to the Framework and in particular paragraphs 102 and 103.

Other Considerations

12. The representations from the Appellant and the Council have referred to the information provided by the Appellant at the appeal stage that the proposal would be built on a steel chassis some 2 feet above the ground. This is not apparent from the submitted plans on which the Council determined the application, including drawing 002 which indicates the proposed unit sitting at ground level with a finished height to the ridge of 3.6m. These specific dimensions are annotated on the rear elevation on that plan. This is the basis upon which the application was determined and is also the basis upon which I must necessarily determine the appeal before me. I have nonetheless taken this additional information into account but it does not, on its own, alter the conclusions I have reached under both of my main issues.
13. I have also had regard to the Appellant's concerns regarding the pre-application process but my decision is solely based on the planning merits of the proposal before me.
14. For the reasons given above and having regard to all other matters raised, including in letters of representation, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR