

CLEY-NEXT-THE-SEA – PF/22/1843: Change of use of outbuilding from shop (Use Class E(a)) to self-contained annexe (Use Class C3) for use in conjunction with West Cottage with extension and external alterations at West Cottage, New Road, Cley-next-the-sea by Mr and Mrs A Russo

Minor Development

Target Date: 22 June 2023

Extension of Time:

Case Officer: Rob Arguile

Full planning application

RELEVANT SITE CONSTRAINTS

Countryside LDF
Area of Outstanding Natural Beauty
Landscape Character Area
Undeveloped Coast
Conservation Area
Flood Zone 2
Flood Zone 2 SFRA
Flood Zone 3
Flood Zone 3A SFRA
Flood Alert Area SFRA
Fluvial 1% AEP + 35% CC SFRA
Flood Warning Area SFRA
Areas Susceptible to Groundwater SFRA
Tidal 0.1% AEP + CC SFRA
Tidal 0.5% AEP +CC SFRA

RELEVANT PLANNING HISTORY

PF/14/0497 - Change of use from residential outbuilding to A1 (retail shop)
(Approved 17.06.2014)

THE APPLICATION

The application seeks planning permission for the conversion of an outbuilding from a shop to a self-contained annexe, to be used in conjunction with West Cottage. The outbuilding is proposed to be enlarged and extended.

REASONS FOR REFERRAL TO COMMITTEE:

The application has been called in by Councillor Victoria Holliday on the grounds that the application mitigation against flooding is sufficient to address the concerns of the Emergency Planner and Environment Agency. Furthermore, the occupant would be able to seek safe refuge within the main dwelling and will be conditioned so that the occupant is a relative of the main dwelling. Furthermore, the proposal reuses an existing building within a 'Countryside' location and will enhance the local character of the area.

PARISH/TOWN COUNCIL:

Cley-next-the-Sea Parish Council: - Support.

CONSULTATIONS:

Conservation and Design Officer: - No objection.

Highways Authority: - No objection.

A condition is proposed to ensure that the annexe remains incidental to West Cottage and not used independently.

Environment Agency: - Objection.

The proposal would be at risk of flooding from overtopping of the defences by 1.64m depth at the end of the development lifetime, with a 0.5% (1 in 200) annual probability flood level including climate change of 5.84mAOD. Consequently, the building is considered to be unsafe for the occupants at the end of the development lifetime, unless the LPA consider that the mitigation measures proposed, including higher refuge and Flood Response Plan, are sufficient to ensure the safety of the occupants.

Emergency Planner: - Objection.

The location of the proposed development is within the area which would be flooded during a significant flood event. This would make evacuation routes away from the property to the evacuation centre unsafe, unless undertaken well before the event took place which is not able to be guaranteed.

The height of internal flooding set out in the Environment Agency's consultation response, would be significant and in very extreme events would be just below the height of the mezzanine floor as safe refuge, it is likely that wave action due to extreme weather associated with storm surges would cause additional water height. The only potential egress from this refuge point is through a roof light onto the roof of the property. There are no further means of escape from the roof, without entering flood water. This would expose the occupants to extreme weather and present the possibility of having to be rescued by emergency services personnel. Whilst the Emergency Flood Plan does set out the actions to be taken in the event of a flood, there is no ability for force future residents to have any regard to it and this would potentially, in combination with the issues associated with the internal refuge set out above, lead to danger of loss of life for the occupants and the emergency services.

REPRESENTATIONS:

To date, no public representations have been received.

HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, refusal of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

LOCAL FINANCE CONSIDERATIONS

Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. Local finance considerations are not considered to be material to this case.

RELEVANT POLICIES

North Norfolk Core Strategy (September 2008):

Policy SS 1 - Spatial Strategy for North Norfolk
Policy SS 2 - Development in the Countryside
Policy HO 8 - House Extensions and Replacement Dwellings in the Countryside
Policy EN 1 - Norfolk Coast Area of Outstanding Natural Beauty and The Broads
Policy EN 2 - Protection and Enhancement of Landscape and Settlement Character
Policy EN 4 - Design
Policy EN 8 - Protecting and Enhancing the Historic Environment
Policy EN 10 – Development and Flood Risk
Policy CT 5 - The Transport Impact of the Development
Policy CT 6 - Parking Provision

National Planning Policy Framework (July 2021):

Chapter 2 - Achieving sustainable development
Chapter 4 - Decision making
Chapter 12 - Achieving well-designed places
Chapter 14 - Meeting the challenge of climate change, flooding and coastal change
Chapter 15 - Conserving and enhancing the natural environment
Chapter 16 - Conserving and enhancing the historic environment

Supplementary Planning Documents and Guidance:

North Norfolk Design Guide (December 2008)

OFFICER ASSESSMENT:

MAIN ISSUES FOR CONSIDERATION

1. **Principle**
2. **Design**
3. **Amenity**
4. **Landscape impact**
5. **Heritage impact**
6. **Flood Risk**
7. **Highway impact**

1. Principle (Policies SS 1 and SS 2):

The site lies within the village of Cley-next-the-Sea, which is located within designated 'Countryside' under Policy SS 1. Policy SS 2 permits certain types of development within this designation which includes the re-use and adaptation of buildings for appropriate uses as well as the extension and replacement of dwellings. Given that this will be a change of use from a

redundant shop to ancillary residential use, the proposed development is considered acceptable in principle in this location, subject to compliance with other relevant Core Strategy policies and is therefore compliant with Policies SS 1 and SS 2 of the adopted North Norfolk Core Strategy.

2. Design (Policy EN 4)

Policy EN 4 of the North Norfolk Core Strategy requires that all development will be designed to a high quality, reinforcing local distinctiveness. Design which fails to have regard to local context and does not preserve or enhance the character and quality of an area will not be acceptable.

The proposed external alterations to the existing building, to include more contemporary replacement doors/windows, the addition of a small area of timber cladding and a standing seam roof, are generally considered to be acceptable given the context of the existing site and low-key nature of the building. The proposal does include a sizeable flat-roofed extension to the existing building in order to increase the living area of the proposed 1-bedroomed annexe, to include a walk-in wardrobe, plant room and gym/studio. An argument could be made that the introduction of a gym/studio onto what is an ancillary outbuilding is an unnecessary addition to what should remain a subservient and modest annexe. However, it is considered that these additions, whilst uncomfortable, would not result in any significant visual harm (being largely hidden from public view) nor, on balance, result in a disproportionately large building harm to the proposal.

On this basis the scale, design and appearance of the proposed annexe is considered appropriate and in accordance with Policy EN 4 of the adopted North Norfolk Core Strategy in terms of design.

3. Amenity (Policy EN 4)

Policy EN 4 requires that development proposals should not have a significantly detrimental effect on the residential amenity of nearby occupiers and new dwellings should provide an acceptable level of residential amenity.

The amenity level provided between both the annexe and host dwelling are acceptable as they share a reasonably sized amenity space. The proposed development will result in any significantly detrimental overlooking or overshadowing of any neighbouring properties.

Accordingly, it is considered that the proposed development complies with the requirements of Policy EN 4 of the adopted North Norfolk Core Strategy in terms of amenity.

4. Landscape impact (Policies EN 1 and EN 2)

The proposal lies within the Norfolk Coast AONB as part of the wider landscape. It is considered that the proposed development, given its position within a largely built up context, and with acceptable external alterations, would not negatively impact upon the surrounding landscape nor special qualities of the AONB.

On this basis the proposed development is considered to be acceptable under Policies EN 1 and EN 2 of the adopted North Norfolk Core Strategy.

5. Heritage impact (Policy EN 8)

Policy EN 8 states that development proposals, including alterations and extensions, should preserve or enhance the character and appearance of designated assets, other important historic buildings, structures, monuments and landscapes, and their settings through high quality, sensitive design. Development that would have an adverse impact on their special historic or architectural interest will not be permitted.

The proposal will be located within Cley Conservation Area. No objections have been raised by the Conservation and Design Officer as the proposal will be secluded behind other dwellings. The proposal will not result in harm to the character and appearance of the Conservation Area.

On this basis the proposed development is considered to be acceptable under Policy EN 8 of the adopted North Norfolk Core Strategy.

6. Flood Risk (Policy EN 10):

The site lies within Flood Zones 2 and 3A as identified by the Strategic Flood Risk Assessment and the Environment Agency. Under Policy EN 10 proposals for changes of use to a more vulnerable category (where there is no operational development) are permitted. It is noted that this proposal is changing from a 'less vulnerable' category as a shop to a 'more vulnerable' category as residential (this classification being based upon the self-contained nature of the proposed accommodation, akin to a separate dwelling, rather than being considered as a minor residential extension).

The proposal is not listed as a permitted type of development under Policy EN 10 as the proposal includes extension and alteration to the building (constituting operational development) in addition to its change of use to a higher category. Notwithstanding this, a balanced approach can be taken to such conversions, given the overall scale and size of potential works. It is also worth noting that some development may need to occur to ensure the feasibility of a scheme or to overcome other material planning considerations.

Given that the proposal is within the higher flood risk zone of 3A the 'sequential test' and 'exception tests' are required (as per paragraphs 23 and 31 of National Planning Practice Guidance and paragraph 161 of the NPPF) to be applied under Policy EN 10. The purpose of the 'sequential test' is to guide development to areas at lowest risk of flooding, by requiring applicants to demonstrate that there are no alternative lower risk sites available where the development could take place. As this proposal is for conversion of an existing building to ancillary residential use, there are clearly no other suitable locations, with the entirety of the site covered by the same flood risk classification. 'More vulnerable' proposals within Flood Zone 3A require the 'exception test'. Paragraph 164 of the NPPF requires that both elements of the exceptions test must be passed for a proposal to be permitted, these being the following:

- development that has to be in a flood risk area will provide wider sustainability benefits to the community that outweigh flood risk; and
- the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

The proposal is supported by a Flood Risk Assessment and has been designed to address flood risk and amendments have been made following discussions with the Environment Agency and the Emergency Planner. The latest amended plans have included the provision of small mezzanine floor in order to provide a first-floor refuge along with an escape window

to access the flat roof and the proposed extension. Following consultation with the Environment Agency and the Emergency Planner it is considered that the proposal would not meet the exception criteria, their objections remain in place.

It is recognised that proposed ground floor levels are 4.20m AOD (Above Ordnance Datum) which is under the expected flood levels of 5.84m AOD for a flood event with a 1 in 200 annual event probability. This takes into account both climate change levels and the overtopping of current flood defences. In the event of a flood, the only potential egress is through a roof light from the proposed refuge onto the roof of the property. There is no further means of escape from the roof, without entering flood water. This would expose the occupants to extreme weather and present the possibility of having to be rescued by emergency services personnel.

Whilst the Emergency Flood Plan does set out the actions to be taken in the event of a flood, there is no ability to force future residents to have any regard to it and this would potentially, in combination with the issues associated with the internal refuge as set out above, lead to danger of loss of life for the occupants and the emergency services.

There are no recognised wider sustainability benefits of the proposed development, other than perhaps the reuse of a currently redundant building within the village centre, nor any recognised wider local community benefits, so it can be considered that the proposal does not meet the criteria of the exceptions test as set out above.

It is recognised that the applicant and agent have gone to some length to try and overcome the concerns raised, however, in light of the maintained objection from both the Environment Agency and Emergency Planner, noting the residual flood risk matters as outlined above, it is considered that the applicant has not been able to satisfactorily demonstrate that the proposed development would not result in an unacceptable increase in risk to life or property.

With considerations of the above matters, it is concluded that the proposed development would be contrary to Policy EN 10 of the adopted North Norfolk Core Strategy and Paragraph 164 and 167 of the NPPF.

7. Highway impact (Policies CT 5 and CT 6):

The proposal includes no changes to the existing parking arrangements and delineates two spaces for use by the proposed annexe and West Cottage. It is also noted that off-street parking is present, though not ideal along High Street to the front of the site. Following consultation with the Highways Officer, no objections have been raised providing that the annexe is conditioned to remain incidental to the use of West Cottage. It is noted that an existing Public Right of Way (PROW) unusually bisects the site, however, it is considered that the proposed development would not have any material impact upon this PROW, with the existing access/driveway having been long established and serving the existing property.

Accordingly, it is considered that the proposed development complies with the requirements of Policies CT 5 and CT 6 of the adopted North Norfolk Core Strategy.

Conclusion

The proposed development is acceptable in principle, with no overriding concerns in respect of matters relating to design, amenity, landscape, heritage or highways impact. However, given the self-contained nature of the proposed accommodation which includes operational development classified as 'more vulnerable' and within Flood Zone 3, the applicant has not sufficiently demonstrated that the proposed development has passed the exceptions test nor

adequately demonstrated that it would be safe for its lifetime, and accordingly, would result in an unacceptable increase in risk to life and property. The proposed development therefore fails to meet the requirements of Policy EN 10 of the adopted North Norfolk Core Strategy and Paragraphs 164 and 167 of the NPPF.

RECOMMENDATION:

REFUSE

The District Council adopted the North Norfolk Core Strategy on 24 September 2008, and subsequently adopted Policy HO9 on 23 February 2011, for all planning purposes. The following policy statements are considered relevant to the proposed development:

Policy EN 10 – Development and Flood Risk
National Planning Policy Framework – Paragraphs 164 and 167

Given the self-contained nature of the proposed accommodation which includes operational development classified as 'more vulnerable' and within Flood Zone 3, the applicant has not sufficiently demonstrated that the proposed development has passed the exceptions test nor adequately demonstrated that it would be safe for its lifetime, with no safe escape/evacuation route having been provided to an area outside of the flood risk zone. Accordingly, the proposed development would result in an unacceptable increase in risk to life and property and, as such, fails to meet the requirements of Policy EN 10 of the adopted North Norfolk Core Strategy and Paragraphs 164 and 167 of the NPPF.

The material considerations advanced in favour of the development are not considered sufficient to justify a departure from the Development Plan.