

Officers Report

Planning Application No: 144418

PROPOSAL: Planning application to convert barn into dwelling being removal of condition 4 of planning permission 98/P/0752 granted 24 November 1998 - occupancy condition.

LOCATION: Skittlestone Cottage Front Street Normanby By Spital Market Rasen LN8 2EB

WARD MEMBER: Cllr J J Summers

WARD: Waddingham and Spital

APPLICANT NAME: Mrs Adele Morrish

TARGET DECISION DATE: 24/04/2022

DEVELOPMENT TYPE: Minor - all others

CASE OFFICER: Rachel Woolass

RECOMMENDED DECISION: Refuse permission

This application has been referred to the planning committee following representations in support of the application by Normanby by Spital Parish Council, Councillor Mr S Bunney on planning matters, and at the request of the Ward Member, Cllr J Summers.

Description:

Skittlestone cottage lies on Front Street in the residential village of Normanby By Spital. The property is a converted barn built in red coloured brickwork with red pantile roof tiles on an apex roof. The cottage is in the curtilage of Skittlestone House. There is a pebbled parking area to the front of the properties and lawn gardens.

The application seeks permission to remove condition 4 of planning permission 98-P-0752 – occupancy condition.

Condition 4 is as follows –

4. The converted building shall be used and occupied in conjunction with the existing dwelling known as Skittlestone House and shall not be occupied as a single unit of living accommodation.

Reason: The converted building, if occupied as a single unit of living accommodation, would provide inadequate private amenity areas and would prejudice amenities by overlooking.

Relevant history:

W69/406/74 – Convert room to hairdressers. Granted 01/10/74

W69/821/81 – Change of use of part of dwelling to retail shop. Granted 16/10/81

W69/887/85 – Planning application to change the use of barn to dwelling and the formation of a new vehicular access. Granted 22/09/85

98/P/0752 – Convert barn into dwelling. Granted 24/11/98

99/P/0455 – Planning application to occupy converted barn as a separate dwelling without complying with condition 4 subject to 98/P/0752 granted 24/11/98 and construction of vehicular access. Permission refused for the following reasons –

1. In the opinion of the District Planning Authority the application site is of an insufficient size to accommodate a separate unit of living accommodation from Skittle Stone House. The amenity area for both the proposed and existing dwellings would be disproportionately small and will cause significant detriment to the amenity of the proposed and existing residents. Furthermore, the juxtaposition of Skittle Stone House and the converted building is such that the privacy of residents would be unreasonably compromised. The proposals therefore fail to satisfy policies G1 and H10 of the West Lindsey Local Plan.

2. There is insufficient space of site for the parking, turning and manoeuvring of the numbers of vehicles associated with two separate dwellings to the detriment of convenience and safety of pedestrians and vehicles using Front Street.

The application was appealed (APP/N2535/A/99/1027917/P4) (see Appendix A).

The appeal was dismissed with the Inspector concluding -

“I conclude that the occupation of the converted building separately from Skittlestone House does not provide satisfactory living conditions for the occupiers of both properties, mainly by reason of inadequate levels of privacy.”

And

“In my judgement, the visibility of a driver of a car emerging in reverse would be seriously impaired by the buildings to either side of the 2 dwellings and by the wall along the frontage. There would be insufficient visibility either of oncoming traffic or of pedestrians. Similarly, pedestrians and motorists would have insufficient warning of a reversing vehicle. I conclude that this arrangement would be hazardous to highway safety, and contrary to policy G1(b) of the local plan.

133330 – Application to remove condition 4 of planning permission 98-P-0752-occupancy condition. Permission refused 22/09/15 for the following reason –
The proposal to remove condition 4 of planning permission 98-P-0752 would have a detrimental impact on the existing and proposed residents. The proposed amenity area for Skittlestone Cottage would be inadequate and unusable with a harmful level of

overlooking. The proposal will also cause significant detriment to the amenity of the proposed and existing residents due to harmful and direct overlooking. Furthermore the juxtaposition of Skittlestone House and the Skittlestone Cottage is such that the privacy would be unreasonably compromised.

The application was appealed (APP/N2535/W/15/3138603) (see Appendix B).

This appeal was also dismissed with the Inspector concluding –

“I therefore conclude that by reason of the juxtaposition between Skittlestone House and Cottage, condition no.4 is necessary in the interests of providing adequate usable outdoor space that would be free from harmful overlooking. Removal of the condition and creation of a standalone property in the former barn would be contrary to one of the Core Planning Principles of the National Planning Policy Framework (‘the Framework’) which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.”

Representations:

Ward Member - Cllr Summers: As I am a member of the planning committee and the Ward Member I respectfully request this application goes before the committee for determination because of its complicated history and I do not want to disenfranchise myself at this point. Pre-determination would not be appropriate.

Cllr Bunny: As County Councillor for the ward I agree with the support for the application expressed at Normanby-by-Spital Parish Council Meeting. Condition 4 of the original planning conditions have prevented the properties being sold resulting in a near 'derelict' unsightly plot in the village. Removing the clause and allowing the properties to be sold separately is therefore a good move for the aesthetics of the village. It will also create two much needed small properties in the village.

Normanby by Spital Parish Council: The 2 properties have been vacant for a long period of time and are deteriorated and unsightly. We are aware that they have been on the market for a considerable time as one entity as required under condition 4, but to no avail. We as a Parish Council support this application being that allowing this application would encourage the redevelopment of the two properties and bring them back into use in the village possibly allowing first time buying to help the younger generation to remain within the village.

Bringing these properties into modern time would have a tremendous effect in enhancing the area allowing a much better view in regards to the street view.

Local residents: No representations received to date

Pygott & Crone: Support – letter received from Pygott & Crone detailing their support and saleability of the property.

LCC Highways: No objections

Environmental Protection: No comments to make

Relevant Planning Policies:

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Here, the Development Plan comprises the provisions of the Central Lincolnshire Local Plan (adopted in April 2017) and the Lincolnshire Minerals and Waste Local Plan (adopted June 2016).

Development Plan

- **Central Lincolnshire Local Plan 2012-2036 (CLLP)**

Relevant policies of the CLLP include:

LP1: A Presumption in Favour of Sustainable Development

LP2: The Spatial Strategy and Settlement Hierarchy

LP26: Design and Amenity

<https://www.n-kesteven.gov.uk/central-lincolnshire/local-plan/>

- **Lincolnshire Minerals and Waste Local Plan (LMWLP)**

The site is not within a Minerals Safeguarding Area, Minerals or Waste site / area.

National policy & guidance (Material Consideration)

- **National Planning Policy Framework (NPPF)**

The NPPF sets out the Government's planning policies for England and how these should be applied. It is a material consideration in planning decisions.

The most recent iteration of the NPPF was published in July 2021. Paragraph 219 states:

"Existing [development plan] policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

- **National Planning Practice Guidance**
- *National Design Guide (2019)*

Draft Local Plan / Neighbourhood Plan (Material Consideration)

NPPF paragraph 48 states that Local planning authorities may give weight to relevant policies in emerging plans according to:

(a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

(b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

(c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

- **Draft Central Lincolnshire Local Plan**

Review of the Central Lincolnshire Local Plan commenced in 2019. The 1st Consultation Draft (Reg18) of the Local Plan was published in June 2021, and was subject to public consultation. Following a review of the public response, the Proposed Submission (Reg19) draft of the Local Plan has been published (16th March) - and this is now subject to a further round of public consultation (expiring 9th May 2022).

The Draft Plan may be a material consideration, where its policies are relevant. Applying paragraph 48 of the NPPF (above), the decision maker may give some weight to the Reg19 Plan (as the 2nd draft) where its policies are relevant, but this is still limited whilst consultation is taking place and the extent to which there may still be unresolved objections is currently unknown.

<https://www.n-kesteven.gov.uk/central-lincolnshire/local-plan/>

- **Draft Normanby by Spital Neighbourhood Plan (NP)**

West Lindsey District Council has approved the application by Normanby by Spital Parish Council to have their parish designated as a neighbourhood area for the purposes of producing a neighbourhood plan. The Parish Council are now working towards the production of their neighbourhood plan.

The previous joint Normanby by Spital and Owmbly by Spital Neighbourhood Plan was withdrawn.

There is currently no draft plan in circulation to take into consideration or give any weight to.

Main issues

- Principle
- Residential amenity

Assessment:

Principle

Normanby by Spital is defined as a small village. Policy LP2 states that unless otherwise promoted via a neighbourhood plan or through the demonstration of clear local community support, the following applies in these settlements:

- they will accommodate small scale development of a limited nature in appropriate locations.
- proposals will be considered on their merits but would be limited to around 4 dwellings, or 0.1 hectares per site for employment uses.

Policy LP4 limits such growth to 10%. This allows for a further 18 new dwellings. As a result of extant permissions, as of 25th March 2022, the village has a remaining growth allowance of 13 dwellings.

Development would therefore accord with the spatial strategy under LP2. However, the application needs to be considered against the Development Plan as a whole, and there have previously been identified concerns with inadequate residential amenity, which would fail to comply with policy LP26. Further consideration to this, and whether there have been any changes in circumstance, or new material considerations, are given below.

Residential amenity

It has previously been found that the proposal would cause a detrimental impact to residential amenity. On two previous occasions, the Local Planning Authority has received applications to remove the condition – in 1998, and again in 2015. On both occasions planning permission was refused. On both occasions, the decision was subject to an appeal and the appeal was subsequently dismissed, because the Government's Planning Inspector shared concerns over the inadequate amenity that would arise.

Previous applications have been assessed under superseded local plans. Accordingly, this application now falls to be considered against the provisions of the Central Lincolnshire Local Plan, adopted in 2017. The current statutory local plan nonetheless still contains policies seeking to protect amenity of both existing and proposed residents the same as their superseded counterparts.

Policy LP26 states that the amenities which all existing and future occupants of neighbouring land and buildings may reasonably expect to enjoy must not be unduly harmed by or as a result of development.

Skittlestone Cottage was converted under application 98/P/0752 with condition 4 stating that the Cottage would not be separated into a separate dwelling. In 1999 an application

was submitted under reference 99/P/0455 to remove this condition for the Cottage to be occupied as a dwelling in its own right. The permission was refused as in the opinion of the local planning authority, the application site is of an insufficient size to accommodate a separate unit of living accommodation from Skittlestone House. The amenity area for both the proposed and existing dwellings would be disproportionately small and will cause significant detriment to the amenity of the proposed and existing residents. Furthermore the juxtaposition of Skittlestone House and the converted building is such that the privacy would be unreasonably compromised. The subsequent appeal was also dismissed.

A further application was submitted in 2015 (133330) to remove the occupancy condition which was also refused and the subsequent appeal also dismissed with the inspector stating –

“I therefore conclude that by reason of the juxtaposition between Skittlestone House and Cottage, condition 4 is necessary in the interests of providing adequate useable outdoor space that would be free from harmful overlooking. Removal of the condition and creation of a standalone property in the former barn would be contrary to one of the Core Planning Principles of the National Planning Policy Framework which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.”

This situation has not changed since the previous refusal.

Policy LP26 protects residential amenity and the most recent version of the NPPF paragraph 130(f) states that Planning policies and decisions should ensure that developments:

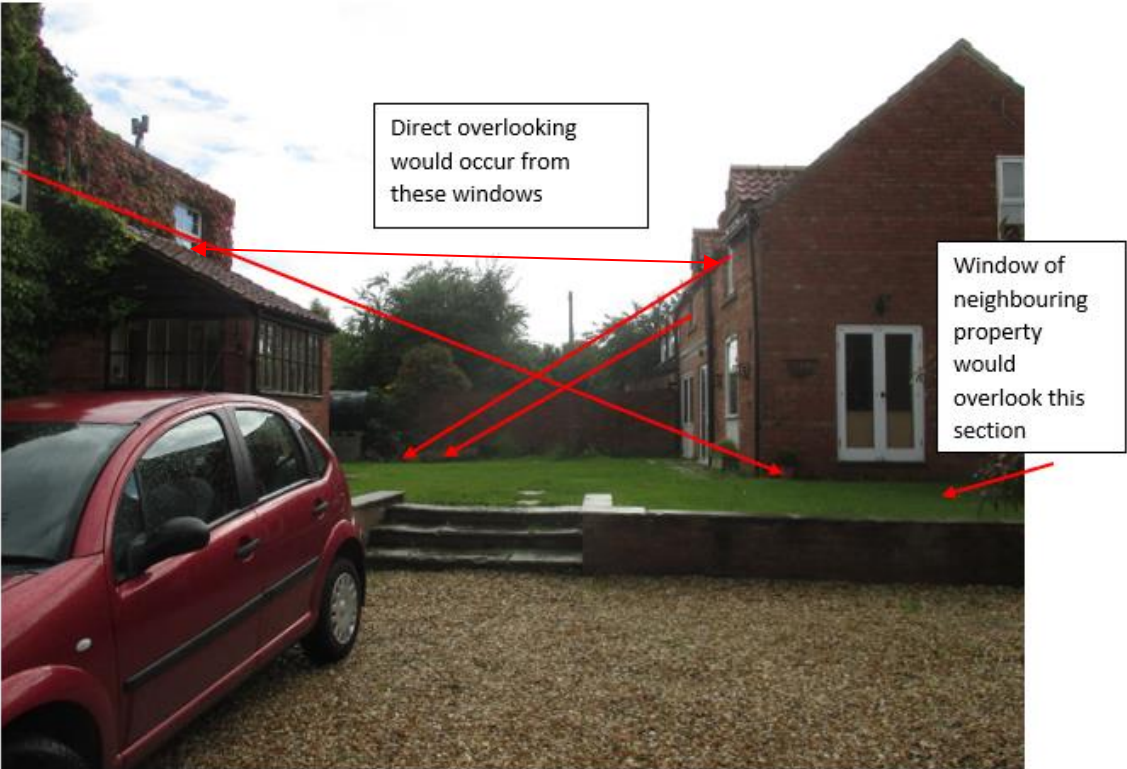
create places that are safe, inclusive and accessible and which promote health and well-being, **with a high standard of amenity for existing and future users** (my emphasis added); and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

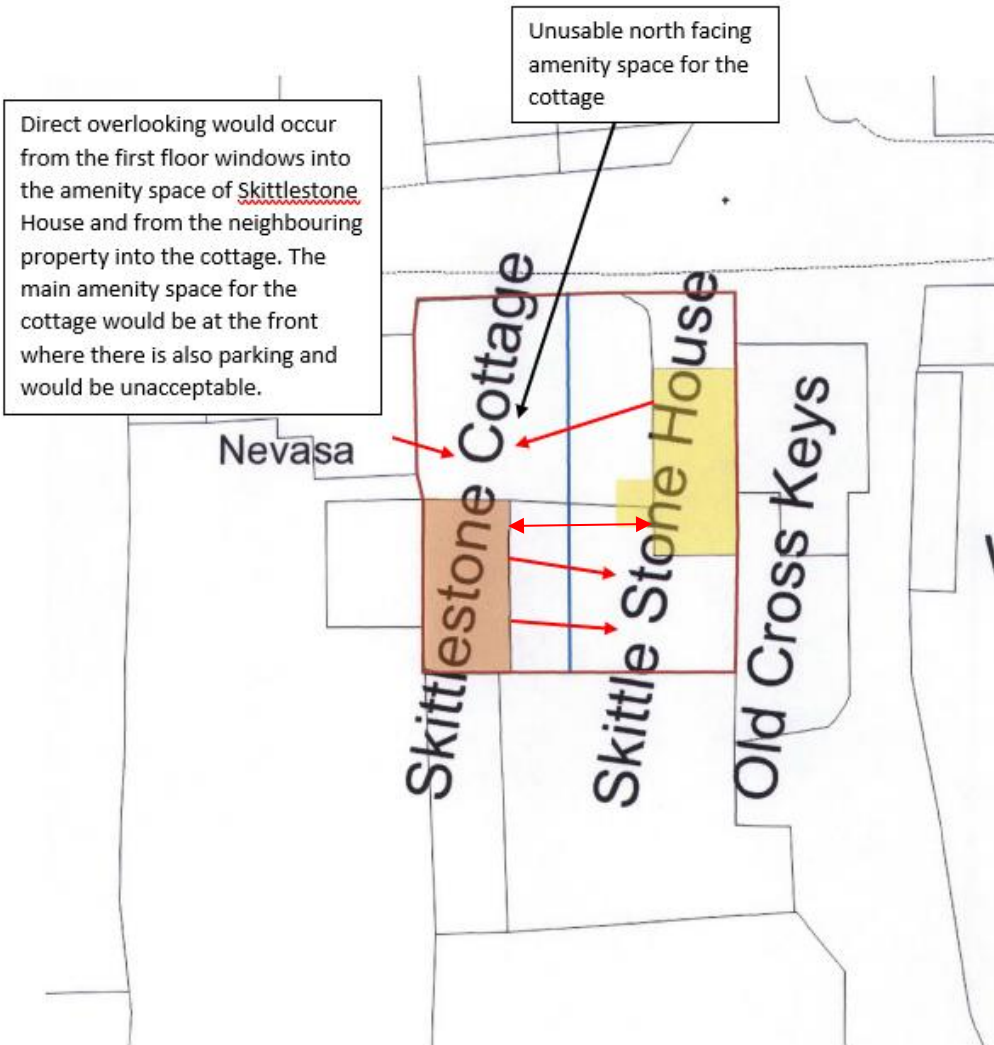
Policy LP26 is consistent with the NPPF and should be attached full weight.

The site plan shown in the application provides more garden space for Skittlestone Cottage than the previous application. This is stated to be to scale. However the scale has not been identified. When using recognised scales the distances from the properties are not correct when comparing with the measurements on the authority's mapping system. The applicant has not provided details of the distance in their submission. Regardless of the claimed increase in size of the amenity space this does not alleviate the amenity issues previously raised – it will still be limited and significantly overlooked.

In the site plan provided showing the separation of the plots, it can be seen that Skittlestone House would have an adequate level of amenity space which would be

located to the rear which is south facing. However, whilst a larger amenity space for Skittlestone Cottage has been provided, the proposal would still amount to an inappropriate impact on amenity. The gardens would still suffer from a lack of privacy. The neighbouring property of Nevasa also has a window that directly overlooks into the proposed amenity space for the cottage space. Turning this space into amenity space for Skittlestone Cottage would be detrimental to occupiers of Nevasa as the residents using the new amenity space could directly look into their window. Currently, whilst this window is existing, the main amenity space is to the rear of Skittlestone House. The house and the cottage currently share the land therefore the overlooking into their own land is not currently an issue. However, Skittlestone House has west facing bedroom windows and if separated would cause harmful overlooking into the main amenity space of Skittlestone Cottage and directly look into the bedroom windows of Skittlestone Cottage. Any fencing to separate the properties would not prevent the harmful overlooking from the first floor windows that would occur. There is insufficient distance from the properties to prevent the first floor windows from causing harmful overlooking with this measuring approximately 9.5 metres. As a general rule for separation between habitable windows, separation should be 21m.





The applicant has included examples of surrounding properties and the size of their gardens.

The examples, some of which are not agreed to be a worse scenario than the application site, are noted. However, applications are taken on their own merit and evidence of existing situations does not otherwise override or justify the harmful impact, previously identified by Government Planning Inspectors that would arise from the removal of the condition. The condition is still wholly relevant and necessary.

The Beer Barn has been used as an example. This is subject of its own occupancy condition. The matter on this property is under enforcement investigation and no final determination has yet been made. However, this does not provide justification for removing the condition and allowing a harmful impact upon amenity to occur.

As stated above applications are taken on their own merits.

Support has been received from an estate agents about the saleability of the property and that it would be more saleable as a separate entity. The example of the other property in their supporting letter is not comparable as that property is within the open countryside and includes different land proportions and orientation to one another. The comments are noted but do not outweigh the harmful amenity issues caused by the removal of the condition.

Given the factors outlined above, the removal of condition 4 would still cause significant overlooking and amenity issues, and would still be in conflict with the current development plan, namely policy LP26 of the Central Lincolnshire Local Plan, and National Planning Policy Framework.

It is considered that there are no arising material considerations that would now justify a departure from the Local Plan or ameliorate the previously identified concerns with the poor standard of residential amenity that would arise from the proposed development.

The proposal would be contrary to policy LP26 and the provisions of the NPPF.

Other matters

It is noted that the Parish Council and a Council Member have raised that they consider that the properties are “deteriorated and unsightly”.

It is not agreed that the properties are in a “derelict” condition. the property’s garden from imagery is overgrown and appears to be in need of attention. However, the owner is responsible for the upkeep of the property and the planning condition does not prevent the owner from maintaining such upkeep.

Insufficient justification has been provided that two smaller properties are “much needed” for the village that would outweigh the harmful amenity issues. The inspector of appeal APP/N2535/W15/3138603 addressed this matter previously and stated “Whilst I recognise that the former barn could provide much needed housing for local young families with no additional infrastructure required, it would nonetheless give rise to a very poor standard of living accommodation, with no private space to sit outside without being directly overlooked. As a result, whilst empathising with the appellant’s position, the benefits of providing a single additional dwelling in the village do not justify granting planning permission given the significant harm that has been identified.”

It is considered that this remains as relevant, and that there are no material considerations that have arisen that would now override this.

The claim that the cottage was occupied in breach of the condition for 3 years in the past is irrelevant to this application. It is not currently in breach and enforcement would have only applied to the person living there in breach. Failure to comply with the condition would amount to a breach of planning control and would not be lawful for planning purposes.

Conclusion

The proposal would have a detrimental impact on the existing and proposed residents. The separation of the properties would lead to an amenity area for Skittlestone Cottage that would be inadequate and unusable due to a harmful level of overlooking. The proposal will also cause significant detriment to the amenity of the proposed and existing residents due to harmful and direct overlooking. Furthermore, the juxtaposition of Skittlestone House and the Skittlestone Cottage is such that the privacy would be unreasonably compromised. The proposal is therefore recommended for refusal.

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report