



Appeal Decision

Site visit made on 19 December 2016

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 23rd December 2016

Appeal Ref: APP/L2630/W/16/3158834

179 Yarmouth Road, Broome, Norfolk NR35 2NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Alison Nielsen against the decision of South Norfolk District Council.
 - The application Ref 2016/0884, dated 10 April 2016, was refused by notice dated 2 June 2016.
 - The development proposed is the erection of a two storey residential dwelling with an attached garage.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a two storey residential dwelling with an attached garage at 179 Yarmouth Road, Broome, Norfolk NR35 2NZ, in accordance with the terms of the application, Ref: 2016/0884, dated 10 April 2016, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was submitted in outline with all matters of detail reserved for future consideration save for access. Yet the appellant's submission includes a layout plan (Drawing P2016/2/1), which is not marked as indicative or illustrative. Nevertheless, this is referred to as an indicative plan elsewhere in the appellant's submission. I have therefore considered the layout shown as being an indication of how the development could ultimately take place rather than a formal proposal. I have considered the appeal accordingly.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the living conditions of the occupants of adjacent neighbouring properties with particular reference to any noise and disturbance.

Reasons

4. The appeal site encompasses a small parcel of land to the rear of 173 – 179 Yarmouth Road and the unmade access track leading to it. It currently forms part of the garden of 179 Yarmouth Road and contains a caravan. The remaining section of garden is located immediately to the east of the appeal site and across a right of way, which leads to an orchard situated north of the appeal site. The parcel of garden land to the immediate east of the appeal site
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currently contains a garage. To the immediate south of the appeal site is another garage and parking area outside the ownership of the appellant.

5. It is evident that the existing access track provides access to parking areas for at least two dwellings, understood to be 177 and 179 Yarmouth Road. Consequently, there are already vehicles that use the track. There is nothing before me to suggest this is not the case or that associated movements are less than daily. These movements will result in vehicles passing and repassing the flank elevations and gardens of 177, 179 and 181 Yarmouth Road, which are the properties that adjoin the access track. As such, the appeal scheme would not introduce vehicular noise into an area where there is none currently.
6. In addition to this, the owner of the orchard to the north of the appeal site has confirmed that this parcel of land is now in daily use. I have no reason to disagree. The daily use of the orchard site is likely to result in further vehicle movements up and down the existing access track. There is nothing before me to suggest that the existing movements along the access track are resulting in an unreasonable level of noise and disturbance.
7. It is into this context that any movements from the proposed dwelling must be considered. The proposed dwelling would be modest in size and thus it is unlikely to generate a significant number of daily vehicular movements. Whilst I accept the area around the appeal site is sensitive to noise, the appeal scheme would not introduce a new noise into an area where residents would not be expecting it. Moreover, the frequency or magnitude of any noise events is unlikely to be significant. Consequently, I am satisfied the appeal scheme would not result in unreasonable noise and disturbance, either individually or cumulatively with other existing vehicle movements along the access track.
8. The appeal scheme would reduce the size of the existing garden currently serving 179 Yarmouth Road, thereby concentrating any activity in the remaining garden area. The area is already in use as an amenity area and it is not uncommon for the gardens of neighbouring properties to adjoin one another. The remaining garden area would be comparatively large and not awkwardly shaped or unduly close to a neighbouring property. The remaining area of garden would continue to be used for activities that can be expected in a domestic garden. Accordingly, there is no reason to withhold the grant of planning permission in this respect.
9. I therefore conclude that the appeal scheme would not result in an unreasonable level of noise and disturbance to the detriment of the living conditions of the occupants of adjoining properties. As such, I find no conflict with Policies DM3.5 and DM1.3 of the South Norfolk Local Plan 2015, which seek to ensure new developments do not unacceptably impact upon the amenities of neighbours.

Other Matters

10. Planning permission for the erection of a dwelling within the appeal site was previously refused by the Council and the subsequent appeal dismissed¹. The current scheme has been amended so a greater area of garden is retained to serve the occupants of No. 179. The appellant has also submitted details of other schemes nearby (at 143 Yarmouth Road and 45 Lodden Road) where houses have been permitted with vehicular access points located in close

¹ APP/L2630/W/14/3002200

proximity to the flank elevations and gardens of neighbouring properties, apparently without any harm to living conditions.

11. The Council have not provided any evidence to explain the apparent inconsistency in allowing the schemes referred to by the appellant but refusing the appeal scheme. Like application should be determined in a like manner and therefore these similar developments, which are of a greater size than the appeal scheme, weigh in its favour. It is not clear whether these comparable schemes were presented to the previous Inspector.
12. Another factor that has changed since the previous appeal decision is that the orchard site has come back into active use. This is a material change in circumstances which has resulted in additional daily movements along the access track. There is no substantive evidence before me that this has resulted in any harmful noise and disturbance. This is an important indicator that the modest vehicular movements associated with the appeal scheme are unlikely to be noteworthy. As a consequence, the additional evidence and material change in circumstances dictates that the appeal scheme before me should be permitted even though a previous appeal was dismissed.
13. The construction of the proposed dwelling is likely to result in some noise and disturbance but this would be short lived. I note the concerns that construction works could result in damage to neighbouring properties but this is not a certainty and any damage would be covered by other legislation. Like the previous Inspector, I am satisfied a scheme could be devised at the reserved matters stage that would prevent any loss of privacy to neighbours. I have not been presented with substantive evidence that suggests there would be any harm to highway safety arising from the appeal scheme in light of the current use of the access track, or that the emergency services would be unable to attend the site if required to. As such, there are no other matters before me that suggest the appeal should fail.

Conditions and Conclusion

14. I have had regard to the advice in the Planning Practice Guide and consider it necessary to require the submission of reserved matters in respect of 'scale', 'layout', 'landscaping' and 'appearance' prior to the commencement of development in the interests of safeguarding the character and appearance of the area and the living conditions of neighbours. For similar reasons, it is necessary to secure details of levels and to manage any land contamination. In the interests of highway safety it is necessary to secure on-site parking.
15. As the drawings submitted with the planning application are indicative, it is unnecessary to attach a condition requiring the development to be implemented in accordance with them. Insufficient evidence has been submitted to justify the water consumption rate sought by the Council and thus the necessity of the condition has not been demonstrated. Boundary treatment is a detail that falls to be considered under the 'landscaping' reserved matter. Nevertheless, it is necessary to ensure boundary treatment is erected prior to the occupation of the approved dwelling to protect living conditions.
16. For the reasons given above I conclude the appeal should be allowed.

Graham Chamberlain, INSPECTOR

Schedule of Conditions

- 1) Details of 'scale', 'layout', 'landscaping' and 'appearance' (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) The application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission. The development hereby permitted shall commence before the expiration of two years from the date of the approval of the last of the reserved matters to be approved.
- 3) No development shall take place until details of the existing ground levels, proposed finished floor levels of the proposed dwelling and garage and the proposed finished ground levels of the site, relative to a datum point which is to remain undisturbed during the development have been submitted to and approved in writing by the Local Planning Authority. Such details shall also provide comparative levels of eaves and ridge heights of adjoining properties. The development shall be carried out in accordance with the details as approved.
- 4) The boundary treatment approved pursuant to the reserved matters required under Condition 1 shall be completed/installed/erected before the dwelling hereby approved is first occupied. Development shall be carried out in accordance with the approved details and retained as such thereafter.
- 5) In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. All development shall cease and shall not recommence until:
 - 1) a report has been submitted and approved in writing by the Local Planning Authority which includes results of an investigation and risk assessment together with proposed remediation scheme to deal with the risk identified and;
 - 2) the approved remediation scheme has been carried out and a validation report demonstrating its effectiveness has been approved in writing by the Local Planning Authority.
- 6) Prior to the first occupation of the development hereby permitted the proposed on-site parking and turning area shall be laid out, levelled, surfaced and drained in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The parking area shall be retained thereafter in its approved form and made available for the ancillary parking of vehicles connected to the occupation of the hereby approved dwelling.

End of schedule