
Appeal Decision

Site visit made on 11 July 2017

by Graham Wyatt BA (Hons) MRTPI

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

Decision date: 17 August 2017

Appeal Ref: APP/V2635/W/17/3173913

**Fishers Court, North Street, Burnham Market, King's Lynn, Norfolk
PE31 8HG**

- 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 Fisher Bullen against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref16/01797/F, dated 3 October 2016, was refused by notice dated 13 March 2017.
 - The development proposed is the renovation of existing building to provide one shop with flat above and one new dwelling. Demolition of workshop to rear of site. Addition of five new dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the renovation of existing building to provide one shop with flat above and one new dwelling. Demolition of workshop to rear of site. Addition of four new dwellings at Fishers Court, North Street, Burnham Market, King's Lynn, Norfolk PE31 8HG in accordance with the terms of the application, Ref 16/01797/F, dated 3 October 2016 subject to the conditions on the attached schedule.

Preliminary Matter

2. The application form refers to "the renovation of existing building to provide one shop with flat above and one new dwelling. Demolition of workshop to rear of site. Addition of five new dwellings." However, the application was amended during its determination by the Council and one dwelling was removed from the scheme. As a result, the description on the appeal form and decision notice refer to, "the renovation of existing building to provide one shop with flat above and one new dwelling. Demolition of workshop to rear of site. Addition of four new dwellings." I have determined the appeal on the basis of the amended scheme of "four dwellings".

Main Issue

3. The main issue is whether or not the proposed development would preserve or enhance the character or appearance of the Burnham Market Conservation Area.

Reasons

4. The site contains a pair of semi-detached dwellings that front onto North Street. It is proposed to renovate one of the dwellings into a shop with a

separate flat above (Flat 1) and refurbish the other dwelling (House 2). It is proposed to erect an additional dwelling (House 3) immediately to the side of House 2 to create a terrace of 3 properties. A further three dwellings (House 4, 5 and 6) are proposed to the rear of the site following the demolition of an existing single storey workshop building.

5. This part of the historic core of Burnham Market has a dense pattern of development, which is reflected by the tightknit cluster of dwellings along Front Street, and to a lesser degree along North Street. Most of the properties in the immediate vicinity have small rear gardens and do not benefit from onsite parking. Buildings are more closely connected along this part of the Conservation Area giving the area a more built up appearance, in contrast to the fringes of the Conservation Area. There are a variety of building styles with the predominant material being red brick, flint and pantiles. While the majority of buildings face the road, there is in depth development, such as the mews style development at Flint Cottage, east of the site.
6. The appeal site backs onto properties along Front Street. The rear wall of the workshop is part of the rear boundary of several properties along Front Street. The workshop itself is an unremarkable building which is in a bad state of repair and detracts from the appearance of the Conservation Area. The loss of the workshop would not in itself harm the Conservation Area.
7. The development would leave spacing between each of the proposed properties and the buildings surrounding it. The buildings have been designed to reflect existing development within the Conservation Area in terms of their appearance and materials. The layout of the proposed development would reflect the compact layout of surrounding development whilst also retaining a degree of spaciousness as a result of the separation distances of the proposed dwellings to the rear of the site.
8. While the flat and houses on North Street and House 4 would have limited amenity areas, they reflect the prevailing character in the immediate area. In addition there are large areas of public amenity space within walking distance of the site, such as the playing fields at Station Road, which could be used by families for supervised play.
9. I acknowledge the Council's concerns regarding the parking areas between Houses 4 and 5 which, in their opinion, results in House 4 being "shoehorned into the south west corner." However, I find that the development would reflect the prevailing character of the Conservation Area in terms of layout and appearance. Moreover, the parking areas between Houses 4 and 5 would not be readily visible from public viewpoints. Consequently, it would not dominate the development as suggested. Whilst House 5 would have no frontage, again this reflects the prevailing character of this part of the Conservation Area.
10. I note the Council's concern that the ridgeline of house 4 and 5 would be at 90 degrees to North Street. However, I also noted other developments that have gables facing the road and ridgelines perpendicular to North Street. I do not find this particular element to be out of keeping with the character or appearance of the Conservation Area.
11. I therefore conclude that the proposal would not result in a cramped form of development. The proposal would enhance the character and appearance of the Burnham Market Conservation Area and therefore comply with Policies

CS08 and CS12 of the Core Strategy, Policy DM15 of the Site Allocation and Development Management Policies Plan 2016 and paragraphs 17, 56, 58, 64 and 131 of the National Planning Policy Framework which seek, amongst other things, to ensure that developments are of a good design, they reflect local character and protect and enhance the amenity of the wider environment including its heritage and cultural value.

Other Matters

12. Houses 4 and 5 do not have any windows in the first floor flank elevation facing Front Street. As a result, those houses on Front Street that back onto the site would not be overlooked. In addition, the rear elevations of Houses 4 and 5 only contain windows which serve a staircase which would only allow fleeting views towards neighbouring properties. The Council has suggested that the window of House 6 be obscurely glazed and fixed shut which would eliminate overlooking to properties to the rear of the site. Against this background I consider that the proposed dwellings have been designed to avoid any undue loss of privacy for adjoining residential occupiers.
13. The rear wall of the workshop to be demolished forms the rear boundary to a number of properties along Front Street. Concerns are raised that the boundary wall is subject to the Party Wall Act 1996. However, the Party Wall Act is separate from planning permission and is beyond the scope of planning control. Moreover, the granting of planning permission does not convey additional rights over land not within the applicant's ownership.
14. The replacement of the rear wall with a further wall has also been raised as a concern. There is no detail of what the boundary treatments would be other than the application form states, "brick/flint wall, willow fences". A condition would ensure that details of suitable boundary treatments are submitted to the Council for their approval. In addition, given the separation distances, I do not find the development to be unduly overbearing or that it would result in significant overshadowing to surrounding properties.
15. Norfolk County Council as local highway authority did not raise any objection to the development, subject to conditions regarding access improvements and parking and turning areas. Following these improvements, the access and parking would be acceptable. In addition, no record of accidents at the access has been put forward. There are thus no reasons to dismiss the appeal on parking and highway safety grounds.
16. The planning system is concerned with land use in the public interest. The impact on property value is a private interest and is not therefore material to the determination of the appeal. There is no proposal to remove or alter current utility, street lighting or telephone line connections as part of the development.
17. With regard to noise and disturbance and potential fumes from cars, the development is for residential properties and would remove an existing business use, which would reduce potential impacts. Moreover, I note the Council's Environmental Health Officer did not raise any objection to the proposed development.

Conditions

18. The Council has suggested a number of conditions if I am minded to allow the appeal. In accordance with the advice contained within the Planning Practice Guidance (PPG), where appropriate, I have reworded them where necessary in the interests of precision and enforceability. The approved plans should be specified to provide certainty. Taking account of the nature of the site and its residential surroundings it is reasonable to restrict the hours of construction. As external materials need controlling to safeguard the appearance of the Conservation Area, a sample panel of materials, for approval by the local planning authority, shall be constructed on site before any development commences.
19. It is necessary to control access and parking details in the interest of highway safety. To ensure satisfactory provision and disposal of surface water, details of drainage are also required. As the site was previously used as a builder's yard, it is reasonable to require a contaminated land assessment and remediation where necessary before development commences. Given the site's location within the Conservation Area it is reasonable to require details of joinery, such as doors and windows to be agreed by the Council before development commences. The Council have also suggested that House 3 shall not be occupied until such time as the workshop has been demolished and removed from the site. This is to ensure that the living conditions of the occupiers of House 3 are not harmed by the use of the site as a builder's yard. I accept this as a reasonable condition.
20. The Council has also suggested a condition to ensure that no part of the development overhangs the highway and that a survey should be undertaken specifying the location and nature of asbestos containing materials. However, these matters are best addressed through other legislation and do not affect the planning merits of this case. The PPG advises that the removal of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. I do not find the removal of all permitted development rights necessary or reasonable. However, it would be reasonable to remove rights to install additional windows in the first floor rear elevation of Houses 4, 5 and 6. This would protect the living conditions of adjoining occupiers.

Conclusion

21. For the reasons given above, and having regard to the development plan when read as a whole, I conclude that the appeal should be allowed.

Graham Wyatt

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: EX 01 Rev. 1, EX 02 Rev 1, EX 03, GA 01, GA 02 Rev 1, GA 03 Rev 1, GA 04 Rev 1, GA 08 Rev 5 and GA 11 Rev 0.
- 3) No development of a building shall take place until a sample panel of the materials to be used in the construction of the external surfaces of the development hereby permitted has been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including roofing, cladding and render) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 30 days of the report being completed and approved in writing by the local planning authority.
- 5) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a

verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.

- 6) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 7) Notwithstanding condition 2, no development shall take place until details of new joinery works involving windows and doors at a scale of 1:20 have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 8) No dwelling shall be occupied until surface water disposal for the site has been implemented in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.
- 9) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. GA 08 Rev 5 for 9 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 10) No dwelling shall be occupied until the means of access for vehicles has been constructed in accordance with the Norfolk County Council residential access construction specification for the first 3 metres as measured back from the near channel edge of the adjacent carriageway. The access shall be retained as such thereafter.
- 11) No dwelling shall be occupied until there shall have been submitted to and approved in writing by the local planning authority a scheme of boundary treatments. The scheme shall include the positions, heights, design, materials and type of boundary treatment to be erected. The development shall be carried out in accordance with the approved scheme before any dwelling is occupied and permanently retained thereafter.
- 12) The dwellings hereby permitted shall not be occupied until the window on the rear elevation of House 6 has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 13) Prior to the occupation of House 3 as identified on drawing no. GA08 Rev.5, the existing workshop as shown on drawing numbers 130/011/01, EX02 Rev 1 and EX03 shall be demolished. Any such waste materials resulting from the demolition of the workshop building shall also be removed prior to the occupation of House 3.
- 14) Demolition or construction works shall take place only between 0800 to 1830 on Mondays to Fridays, and between 0800 and 1330 on Saturdays

and shall not take place at any time on Sundays or on Bank or Public Holidays.

- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the rear elevations of Houses 4, 5 and 6.