



Appeal Decision

Site visit made on 16 August 2017

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 25 August 2017

Appeal Ref: APP/F2605/W/17/3174343

Chinnock, Dereham Road, Beeston, Norfolk PE32 2NQ

- 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 Mr Julian Unsworth against the decision of Breckland District Council.
 - The application Ref 3PL/2016/1293/F, dated 5 January 2016, was refused by notice dated 27 January 2017.
 - The development proposed is the construction of a new detached residential dwelling including new vehicular access to the road.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a new detached residential dwelling including new vehicular access to the road at Chinnock, Dereham Road, Beeston, Norfolk PE32 2NQ in accordance with the terms of the application, Ref 3PL/2016/1293/F, dated 5 January 2016, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are:
 - (a) Whether the proposal would be of an appropriate standard of design having regard to the level of amenity space provided for the occupiers of the existing and proposed dwellings and its effect on the character and appearance of the local area; and
 - (b) The effect on existing trees and hedges.

Reasons

Design

3. The new dwelling would have a rear garden of around 40 square metres (sq. m) and a front garden of around 25 sq. m. The garden space available to the occupiers of Chinnock would amount to approximately 55 sq. m, with around 29 sq. m at the rear and 26 sq. m to the side of the dwelling. The Council asserts that this provision would be inadequate but has not referred to any approved standards or other guidance as an indication of what level of provision it would expect to see. In my experience, about 40 sq. m of private amenity space is regarded by many other local authorities as an acceptable minimum for a two bedroom dwelling. The proposed provision would exceed that figure.

4. Subject to the planting of the new laurel hedge shown on the site layout plan the front garden to the new house would be semi-private rather than private but this is by no means unusual in residential layouts. The rear garden would be of regular shape and south facing and, as it would be enclosed by new fencing, would be a private space. It would be directly accessible by means of French windows from both the lounge and kitchen/breakfast room. In my view this area of private amenity space would be of a high standard and would provide a high level of usability for the occupiers of the new dwelling.
5. The existing garden to the rear of Chinnock is fully enclosed and is a quiet area of private amenity space. From my observations on my site visit this area appears to be used as a sitting out area in preference to the lawn to the front of the house which shows little sign of regular use. Although the hedge that currently encloses the rear garden would be replaced by a 1.8 metre high fence the existing level of privacy and usability of this space would not be reduced. The garden to the east of Chinnock is south facing and is partially screened by the house. The level of privacy to this area could easily be enhanced by an additional fence or hedge so that it could be used as a patio or other private amenity area to serve the existing dwelling.
6. The areas of private land within the proposed visibility splays could only be used for grass or other low level planting and should not be included in the calculation of usable amenity space. I see no reason to exclude any of the other areas discussed above and consider that this proposed provision would be sufficient, in quantitative and qualitative terms, to meet the needs of the occupiers of both dwellings.
7. Although larger than the existing dwelling, the scale and massing of the new house would not be disproportionate in relation to that property. The proposed layout provides adequate space for the turning of vehicles within the site and for each dwelling to have two dedicated parking spaces. The siting of the access and parking/turning areas would provide a satisfactory separation distance between the opposing windows of the houses and help to ensure the privacy of the occupiers of each of the properties. It would not, therefore, result in a cramped development. The new access and related visibility splays would provide for an enhanced level of safety compared to use of the existing vehicular access from Dereham Road.
8. The scale and massing of the new dwelling would be in keeping with the houses on the opposite side of Dereham Road and its external appearance would not be out of place given the variety in the style and design of properties in this part of the village. There would be some detriment to the visual amenity of the area due to the removal of the roadside hedge. However, as the properties opposite have open plan front gardens, this would not be so out of keeping as to cause material harm to the character and appearance of the area.
9. I find that proposed layout, form and appearance of the development would be of an acceptable standard of design that provides an appropriate response to the location and context of the site. Accordingly, I find no conflict with Policy DC1 of the Breckland Core Strategy and Development Control Policies Development Plan Document (2009) (CSDCP) which states that development will not be permitted where there are unacceptable effects on the amenity of neighbouring occupants or the future occupants of the proposed development. Neither would there be any conflict with Policy DC16 which seeks that all

development should achieve the highest standard of design which preserves or enhances local character.

Trees

10. There are no trees or hedges of significant amenity value within the site and I agree with the Council's Tree and Countryside consultant that the proposal does not give rise to any notable arboricultural implications. Excavation and construction works close to the boundary with Number 1A Bates Close could have potential to cause damage to the roots of trees within that property. It would be appropriate to require further assessment of that risk and the identification of any measures needed to protect those trees before construction works are commenced. Subject to that requirement being secured by a planning condition there would be no loss or damage to trees and other important landscape features and no conflict with CSDCP Policy DC12.

Other Matters

11. I viewed the site from the garden of No. 1A Bates Close and am satisfied that there would be no material effect on the living conditions of the occupiers of that property. The proposed new house would have no windows in the elevation that faces towards No. 1A and the new boundary fence would ensure adequate privacy for the occupiers of that dwelling when using their garden. There would be minimal overshadowing of the side windows to No. 1A and, as its lounge is also lit by French windows in the rear elevation, this would not result in an unacceptable reduction in the level of daylight in that room.
12. The proposed turning area would be close to the site boundary with No.1A but would be a reasonable distance from the nearest window in that property. Due to that degree of separation and the attenuation provided by the proposed boundary fence no unacceptable noise or disturbance would be likely to be caused by the manoeuvring of cars within the site. Some disturbance might be possible during the construction works but this would be of short duration and this risk would not justify a refusal of planning permission.
13. The proposal would improve highway safety by reducing the use of the poor quality vehicular access to Town House Drift but would not affect the rights of other persons entitled to use that route. The occupier of No. 1A has raised concerns regarding land ownership and private rights but these are matters that cannot be resolved the planning process.

Conditions

14. Permission is granted in accordance with the terms of the planning application but, in the interests of certainty, a condition is needed to tie the permission to the approved plans. As those plans do not show details of the external materials for the dwelling and of the fencing proposed within the site a condition requiring approval of these details is needed to ensure a satisfactory standard of development. For this same reason, and to ensure a satisfactory relationship with the adjacent dwellings, a condition is needed which requires that details of the finished slab level of the new dwelling be approved. It is necessary that these conditions be discharged prior to commencement of the development to ensure that the development is of an acceptable standard and to avoid abortive works.

15. Appropriate measures are required to protect trees in the neighbouring garden. As these have not been assessed as part of the application submission a condition has been attached which requires that the location of any trees that might be affected and their root protection areas are plotted and that suitable measures are put in place for their protection during the construction works. I have not accepted the Council's suggestion that a full landscape scheme be required as I consider that unnecessary for the development of a single dwelling. A condition requiring the approval of the proposed means of dealing with foul drainage is needed to ensure a satisfactory development and to avoid adverse effects on adjoining land.
16. A condition is needed that requires that the new access be constructed in accordance with the approved plans and that the existing access is closed off prior to the occupation of the new dwelling. Conditions are also needed to prevent surface water from the site discharging on to the highway and to require the completion and subsequent retention of the access visibility splays and the parking and turning areas within the site. These are required in the interests of highway safety. Finally, in view of the limited information provided with the application, there is a need for a condition which sets out the steps to be taken if any contaminated land is uncovered during the works. This is required to ensure the protection of adjacent land and controlled waters.
17. I have not accepted the Council's suggested condition that approval should be required for any gate or other barrier to be erected across the new access. It is not unusual for residential accesses to be closed off in this way and there are no particular risks to highway safety in this case that would justify the need for the Council's consent to be obtained for such works. Neither, in light of my findings as to the acceptability of the proposed site layout, do I see any justification for a condition that would remove the normal permitted development rights in relation to the new dwelling.

Conclusion

18. For the reasons set out above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Paul Singleton

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: Location Plan and Drawing No. 151-P-001 showing proposed site and floor plans and elevations.
- 3) No development shall take place until details/samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted and of all new fencing and other boundary treatments have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of the finished levels, above ordnance datum, of the ground floor of the proposed dwelling have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) No development shall take place until a tree survey and protection plan, covering all trees on land adjacent to the site, has been submitted to and approved in writing by the local planning authority. The submitted plan shall include the following details:
 - i) a plan showing the position of every tree on land adjacent to the site that could influence or be affected by the development;
 - ii) a schedule in relation to every tree identified listing:
 - information as specified in paragraph 4.4.2.5 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); and,
 - any proposed pruning, felling or other work;
 - iii) in relation to every existing tree identified on the plan referred to in i) above, details of:
 - any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area; and,
 - all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837) (or in an equivalent British Standard if replaced);
 - iv) areas of existing landscaping to be protected from construction operations and the method of protection.
- 6) No construction works above slab level shall be commenced until full details of the means of disposal of foul drainage have been submitted to and approved in writing by the local planning authority. The drainage works shall be completed in accordance with the approved details prior to the occupation of the dwelling hereby approved.
- 7) The new access shall be constructed with a minimum width of 4.5 metres and in accordance with the details shown on Drawing No. 151-P-001. The new access shall be completed and be available for use and the existing access from Town House Drift shall be closed off by means of new fencing to the southern boundary of the site prior to the occupation

of the new dwelling. The access shall thereafter be retained in the same position and for use exclusively for access purposes for the lifetime of the development.

- 8) The new vehicular access shall include measures for surface water drainage from the site to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
- 9) The visibility splays shall be provided in accordance with the details shown on Drawing No. 151-P-001 prior to the occupation of the new dwelling. The visibility splays shall thereafter be maintained and at all times shall be kept clear of any structure, vegetation or other obstruction exceeding 0.6 metre above the level of the adjacent carriageway.
- 10) The parking and turning areas shall be laid out, demarcated, levelled, surfaced and drained in accordance with the details shown on Drawing No. 151-P-001 prior to the occupation of the new dwelling and shall thereafter be retained and maintained for use for these specific purposes.
- 11) In the event that any contamination that has not previously been identified is found at any time during construction of the development work on the site shall be suspended and the existence and nature of the suspected contamination shall be reported in writing to the local planning authority. Before works are recommenced an investigation and risk assessment shall be carried out by a suitably qualified person and a report setting out the findings of that assessment and any proposals for appropriate remediation works shall be submitted to the local planning authority. All subsequent works shall be carried out in accordance with a remediation scheme approved in writing by the local planning authority. On completion of the approved works a verification report shall be submitted to the local planning authority for its approval in writing.

End of Schedule of Conditions