



Appeal Decision

Site visit made on 14 August 2017

by Peter Rose BA MRTPI DMS MCMi

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

Decision date: 4th September 2017

Appeal Ref: APP/L2630/W/17/3174870
29 Church Lane, Wicklewood, NR18 9QH

- 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 and Mrs Mann against the decision of South Norfolk Council.
 - The application Ref: 2016/2542, is dated 26 October 2016, and was refused by notice dated 15 December 2016.
 - The development proposed is demolition of existing outbuildings and erection of single storey dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing outbuildings and erection of single storey dwelling at 29 Church Lane, Wicklewood, NR18 9QH in accordance with the terms of the application Ref: 2016/2542, dated 26 October 2016, and subject to the conditions set out in the attached schedule.

Main issues

2. The main issues are:
 - (a) whether the proposal would involve an appropriate location for development with particular regard to the approach to settlement expansion expected of the development plan;
 - (b) whether the proposed development would provide acceptable living conditions for future occupants with regard to existing local noise, and;
 - (c) the effect of the proposed development upon the living conditions of existing neighbouring residents with regard to intensification of use of the existing access.

Reasons

Settlement expansion

3. The settlement of Wicklewood is defined as a Service Village in the *Great Norwich Development Partnership Joint Core Strategy for Broadland, Norwich and South Norfolk Adopted March 2011* (the *Core Strategy*). I note that the settlement provides a variety of local services and facilities consistent with its status, and Policy 15 of the *Core Strategy* indicates that land will be allocated for small-scale housing development in each Service Village.

4. Policy DM 1.3 of the *South Norfolk Local Plan Development Management Policies Document Adoption Version October 2015* (the *Local Plan*) states that all new development should be located so as to positively contribute to the sustainable development of South Norfolk and be led by the *Local Plan*. It states that the Council will work with developers to achieve proposals within the defined boundaries of settlements, and that permission for development in the countryside beyond the defined development boundaries will only be granted, amongst other reasons, if the scheme demonstrates overriding benefits in terms of economic, social and environmental dimensions as addressed in Policy DM 1.1. The Reasoned Justification to Policy DM 1.3 further states that development of small windfall sites will be supported in the settlements for infill schemes of compatible scale, form, function and character relative to the surroundings.
5. The appeal site lies outside the development boundary and, to that extent, I find the proposal would be contrary to the general presumption of Policy DM 1.3. I also note, however, the acknowledgement of possible exceptions to this restriction upon development and this is a matter to which I return as part of my overall planning balance to follow.

Living conditions of future occupants

6. The appeal site largely comprises the southern part of the former garden of 29 Church Lane. It is located on the south side of Church Lane, and is directly served by access from that road. The site is irregularly shaped and has been partially cleared of previous structures.
7. Open countryside lies to the north of Church Lane and to the south of the appeal site. The southern frontage of this part of Church Lane is predominantly residential in character and contains a number of relatively modern detached dwellings, including bungalows not dissimilar to that existing at No 29 and not dissimilar to the additional detached bungalow as proposed.
8. To the east are commercial buildings used for storage. This adjacent commercial site operated until the end of 2015 as a mushroom farm, and the appellant refers to a relatively high number of associated vehicles then using the site throughout the day. In November 2015 planning permission was granted for a change of use of the site to storage use¹. Whilst no specific evidence is before me, the appellant suggests this has resulted in less activity within the site, and a significant reduction in vehicle movements, and hence the site is considered quieter now than previously.
9. Notwithstanding the presence of the adjacent commercial premises, I also have little evidence of specific environmental harm arising from that use, and including any substantive history of complaints relating to noise or associated matters. The permitted use of that site, as defined, would appear to involve one of relative low intensity, and the use would have a similar physical relationship to the appeal site as it does to other existing dwellings in the vicinity.
10. A significant gap would be left between the eastern elevation of the proposed dwelling and its side boundary, and the adjacent storage buildings would act as a buffer to any outdoor activity within open areas beyond the boundary.

¹ Application Ref: 2015/1723

Living conditions of existing neighbouring residents

11. The existing garage and parking area for No 29 would be adjacent to the proposed garage of the appeal dwelling and the two properties would share a common access/drive passing in front of No 29. The other neighbouring dwelling to the west is separated by the width of the access and is largely enclosed by a substantial fence along its eastern boundary.
12. Given that the proposal involves a single bungalow, I find the subsequent intensified use of the existing driveway access unlikely to be a source of nuisance to existing occupiers of neighbouring dwellings.

Summary- living conditions

13. I therefore find that the proposed development would not create living conditions harmful to the future occupants of the dwelling by reason of noise, and that the development would not adversely impact upon the amenity of residents of the existing adjacent dwellings. Accordingly, the scheme would not be contrary to Policy DM 3.13 of the *Local Plan* which seeks, amongst other things, to ensure that development provides a reasonable standard of amenity and is not incompatible with neighbouring uses. The scheme would also accord with 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 buildings².

Other material considerations

1. Housing land supply
14. The appeal site lies within the authority's Rural Policy Area where the Council considers it can demonstrate a five-year housing land supply. At the time of its decision, the Council considered this to be some 16.94 years, and which it maintains has since increased³.
15. Reference is made to a new, more recently published joint Strategic Housing Market Assessment covering the period 2012-2036. Assessment of its findings by the authority, and of associated relevant matters, appears to be on-going and, whilst not yet formally tested through the local plan process, I note the Annual Monitoring Report 2015-2016 published January 2017 suggests the data could mean the authority would fall short of a five-year supply by 126 dwellings (4.67 years) in its Rural Area. Nevertheless, I have insufficient contrary information before me at this point to reliably doubt the Council's previous formal assessments of its ability to demonstrate a five-year housing land supply.
16. Even so, irrespective of the existence or otherwise of a five-year supply, the *Framework* still seeks for planning to deliver a wide choice of high quality homes and to boost significantly the supply of housing⁴.
2. Efficient use of land
17. Although the appeal site largely comprises garden land in a built-up area and is thereby excluded from the *Framework's* definition of Previously Developed

² Paragraph 17

³ See page 1 of Written Representations dated 24 July 2017

⁴ Paragraph 47

Land⁵, the scheme still seeks to make effective and efficient use of currently vacant land. The appeal site would appear to exceed the reasonable garden requirements of the host dwelling and, given the position of the land, its extent and its access, I find it difficult to anticipate any other realistic alternative use to housing which would not harm the living environment of existing residents.

3. Character and appearance

18. The appeal site occupies part of a predominantly residential setting. Visually, its existing open, vacant form does not contribute positively to the area.
19. The existing eastern boundary between the appeal site and the adjacent commercial premises also presents a relatively harsh and visually jarring appearance and which does not currently contribute to a wider, pleasant residential setting. This generally stark appearance is also sustained by a large storage building further at the rear of the appeal site, but which is proposed to be demolished.
20. The dwelling would be constructed of red facing bricks with a pantiled roof to match No 29, and would be of a design which generally seeks to complement and respect the residential context of the site. The boundary between the dwelling and No 29 would be planted with new native hedging.
21. I consider the development would therefore be an enhancement to the character and appearance of the appeal site and of its wider residential surroundings consistent with the expectations of the *Framework*. This seeks to promote or reinforce local distinctiveness and for development to take the opportunities available for improving the character and quality of an area and the way it functions⁶.

4. Outlook

22. Whilst the adjacent commercial buildings would remain visible from the proposed dwelling, no specific objection is raised by the authority in that regard. That eastern boundary adjacent to the rear garden of the proposed dwelling would be enclosed by a timber fence and which would, to some degree, contribute in mitigating the existing outlook, but this could be further addressed by appropriate planting should the appeal be allowed.

5. Other factors

23. The development would give rise to some modest economic benefits, including investment and expenditure associated with implementing the development, and some post-occupancy demand for local services. Social benefits would be an additional dwelling thereby increasing local housing supply and choice.

6. Sustainable development

24. The *Framework* makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development⁷. The purpose of the planning system is to contribute to the achievement of sustainable development⁸. Sustainable development is defined by the

⁵ See Annex 2 and paragraph 111

⁶ Paragraphs 60 and 64

⁷ Paragraph 49

⁸ Paragraph 6

Framework with reference to the policies in paragraphs 18 to 219 taken as a whole⁹.

25. Notwithstanding the benefits of the scheme, the development would lie outside the relevant defined boundary for new housing and, to that extent only, I find would not thereby accord with the development plan. Otherwise, I consider the scheme conforms with the development plan as a whole, and that the conflict with the development plan would also appear to be further qualified by the possible exceptions to Policies DM 1.3 as identified.
26. The Courts have held, however, that where a proposed scheme conflicts with the development plan, the starting point for analysis should not be that there is a presumption in favour of development as expected in paragraph 14 of the *Framework*¹⁰. Rather, the decision maker's starting point should be that such a scheme would not be sustainable development.

Overall planning balance

27. Notwithstanding that the scheme would be contrary to the development plan in relation to its defined boundary for new housing and would not thereby be sustainable development in that specific regard, the question which necessarily follows, reflecting both section 38(6) of the Planning and Compulsory Purchase Act, 2004 (the Act) and the Courts' judgement referred to above, is whether, nonetheless, there are material considerations which would warrant a decision in this instance other than in accordance with the development plan.
28. Paragraph 12 of the *Framework* reminds us of the statutory status of the development plan as the starting point for decision-making. Reflecting section 38(6) of the Act, it explains that proposed development which accords with an up-to-date Local Plan should be approved, and that proposed development which conflicts should be refused unless other material considerations indicate otherwise.
29. The proposal would conflict with the development plan to the extent described. Nonetheless, set against the housing and environmental benefits of the scheme, I find the harm arising by virtue of the scheme's location, given the setting and the physical characteristics of the site and the availability of nearby services, to be relatively modest. The weight I initially attach to the scheme's conflict with the development plan by reason of location is also qualified by the possible exceptions identified. In summary, I find the harm by reason of location to be out-weighed by the other considerations, and with particular reference to the benefits arising for local character and appearance.
30. In accordance with section 38(6), and as reflected in paragraph 12 of the *Framework*, I find that the weight and subsequent balance of other material considerations lead me to a decision in this particular instance other than in accordance with the development plan.

Conditions

31. I have considered the conditions suggested by the Council, and the appellant's response. In doing so, I have had regard to the advice set out in both the

⁹ Paragraph 6

¹⁰ East Staffordshire Borough Council and the Secretary of State for Communities and Local Government and Barwood Strategic Land II LLP dated 22 November 2016 [2016] EWHC 2973 (Admin)

government's *Planning Practice Guidance*, and in the *Framework*, in terms of both the need for individual conditions and of appropriate wording.

32. To provide certainty, a condition is imposed to ensure the development is undertaken in accordance with the relevant drawings.
33. To ensure a satisfactory standard of external appearance, conditions are imposed regarding external materials and boundary treatments. To mitigate the outlook towards the adjacent commercial premises, particular reference is made of the need for a scheme of planting and other screening adjacent to the eastern site boundary.
34. To safeguard the free and safe movement of vehicles and pedestrians in the vicinity of the site, a condition requires provision of parking and turning areas and of vehicular access prior to occupation.
35. A condition is also attached setting out precautionary arrangements in the event of any currently unidentified site contamination.
36. In the case of each of the pre-commencement conditions identified, I consider that resolution of the matters specified to be of sufficient significance to the achievement of a satisfactory development such that it would be inappropriate to proceed further without the prior clarification and certainty that would arise from their approval.

Conclusion

37. For the above reasons, the appeal is allowed.

Peter Rose
INSPECTOR

SCHEDULE OF CONDITIONS

Time limit

1. The development hereby permitted shall begin not later than three years from the date of this decision.

Drawings

2. The development hereby permitted shall be carried out in accordance with the approved plan Ref: 1341/1 Revision A.

Pre-commencement

3. Prior to the commencement of any development, full details, including samples and colours, of the materials to be used in the construction of all external surfaces of the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority, and the development shall be undertaken in accordance with the details as approved.
4. Prior to the commencement of any development, full details of the siting, design, materials and type of all boundary treatments to be erected shall be submitted to and be approved in writing by the Local Planning Authority. The details shall include a scheme of planting and other screening adjacent to the eastern site boundary. Development shall be carried out in accordance with the approved details. The approved details shall be completed prior to the first occupation of the dwelling, and shall be retained as such thereafter.

Pre-occupancy

5. In the event that contamination which 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. A report shall then be submitted to, and be agreed in writing by, the Local Planning Authority, and which shall set out results of an appropriate investigation and risk assessment together with a proposed remediation scheme to deal with the risk identified, and a programme for its implementation. The agreed remediation scheme shall be carried out in accordance with the details as approved and in accordance with the agreed programme.
6. Prior to the first occupation of the development hereby permitted, the vehicular access, on-site car parking and turning areas shall all be laid out, levelled, surfaced and drained in accordance with the approved details and shall be retained thereafter for those purposes.

---END OF CONDITIONS---