



Appeal Decision

Site visit made on 21 January 2020

by S A Schinaia MSc EngD FGS

an Inspector appointed by the Secretary of State

Decision date: 17th February 2020

Appeal Ref: APP/F2605/W/19/3237702

Land adjacent to 1 Beatrice Avenue, Dereham NR19 1AQ

- 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 Mr J Bladon against the decision of Breckland District Council.
 - The application Ref 3PL/2019/0211/O, dated 14 February 2019, was refused by notice dated 17 July 2019.
 - The development proposed is construction of dwelling.
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Decision

1. The appeal is allowed and outline planning permission with all matters reserved except access is granted on Land adjacent to 1 Beatrice Avenue, Dereham NR19 1AQ in accordance with the terms of the application, Ref 3PL/2019/0211/O, dated 14 February 2019, and the plans submitted with it, subject to the conditions set out in the schedule to this decision below.

Procedural Matters

2. The planning application was made in outline form with all matters reserved except for access. I have had regard to the indicative proposed site layout (Drg No. BLA02.01.01 Rev. D), presented on 24 June 2019 according to the Local Planning Authority (LPA) Decision Notice. Such a plan presents an end-terrace dwelling layout. I have regarded all elements of these drawings, including site plan, proposed block plan, indicative street scene and analysis of context, as indicative apart from the details of access. I have also had regard to the Tree Constraints Plan and the Tree Protection Plan of the Arboricultural Impact Assessment.
3. Since the refusal of planning permission, the Breckland Local Plan (BLP) has been adopted, which supersedes the Adopted Core Strategy and Development Control Policies (2009). Breckland District Council has brought to the attention of The Planning Inspectorate the policy changes and the new specific policies adopted from the BLP that are relevant to the application. The LPA has confirmed that the BLP policies do not affect their assessment and decision and the appellant's agent has confirmed in his final comments to The Planning Inspectorate that the assessment within his appeal statement stands in relation to the new policies. I have had regard to the new local plan and referenced to the policies relevant to this appeal.

Main Issue

4. The main issue is effect of the development on the character and appearance of the appeal site and its surrounding area.

Reasons

Character and appearance

5. The site is an unused plot of land on the south-east corner of Beatrice Avenue, Dereham, at the end of four blocks of terraced houses. Beatrice Avenue is a private road.
6. As pointed out by the LPA, the land is within Dereham's Settlement Boundary and its location is considered sustainable in terms of relationship with and access to services, as defined in Policy GEN03 of the BLP. Policy GEN03 sets out the strategic distribution of development following principles of sustainability and the availability within acceptable walking distance of services and facilities, such as public transport, community facilities, employment, schools, shops and post office. Therefore, subject to other material considerations, the principle of development of a new dwelling in this location is considered acceptable with regard to Policies GEN03 of the new LPA local plan.
7. According to the indicative site layout plan (Drg No. BLA02.01.01 Rev. D) and the appellant's statement, the appeal plot would have a size similar to that of the adjacent terraced houses in Beatrice Avenue and, therefore, would offer a similar layout of amenity space and building footprint. The building footprint would be reduced compared to the adjacent houses, but still sufficient to offer a reasonable residential building and would not result in a constrained form of development in terms of space and density within the street scene.
8. A dwelling as indicated in this position would match the appearance of the current dwelling at 1 Beatrice Avenue and would continue the line of the existing uniform block of residential properties, thus maintaining the character and appearance of the current street scene. The electricity substation located between the trees and the appeal land is made of low structures that occupy a small part of their plot and are screened by the current fence to the east side of the proposed building. This would maintain an open street scene at the end of the terrace and the avenue. Overall the layout and massing of the proposed development although reducing the urban density of the immediate surrounding area would not result in a cramped street scene locally and would be similar to the density and pattern of developments in this area of Dereham. Therefore, the proposal complies with Policies COM01, COM03 and GEN02 of the BLP, all of which seek to preserve the character and appearance of areas and residential amenities.
9. The indicative layout would prevent substantial interference with the tree branches that might result at later stage in a request from future occupants of the new dwelling for removal of the tree, thus affecting the character and appearance of the area. The Tree and Countryside Consultant of the Breckland Council has agreed to the indicative layout proposal and suggested to update the tree protection plan to the new layout. The proposal would therefore comply with Policy ENV06 of the BLP (previously DC12 of the Core Strategy), which seeks to retain and preserve natural features as an essential part of landscape character.
10. According to the indicative site layout plan, the plot of land would have a frontage size similar to the adjacent dwellings. Access would be offered at the end of Beatrice Avenue, but the access position would be slightly sheltered and would not encroach with main traffic in the adjacent London Road, leaving

plenty of space for manoeuvring when cars enter and exit Beatrice Avenue from London Road. Unlike adjacent sites, parking for two cars would be offered within the northern site at the entrance of the property, although the layout is to be agreed at reserved matter stage. There is space for pedestrian access, but pedestrian paths are not clearly defined along the avenue.

11. The Local Highway Authority (LHA) has not presented objections to the application. The LHA has noted that vehicles park in front of this plot, including customers of the business on the opposite side of Beatrice Avenue. Some residents of Beatrice Avenue have objected to the proposal as it would detract parking spaces for visitors in front of the plot. However, the LHA has stated that the applicant has indicated ownership or control of the road up to the central line of Beatrice Avenue and, therefore, there are no general rights to park vehicles in this area. The LHA, noting the presence of parking spaces on the layout plan, has asked for the inclusion of a condition on the creation of the parking area if planning permission is allowed. The access and parking arrangements proposed are therefore considered acceptable and conform with Policies COM01 and HOU06 of the BLP where they seek to provide appropriate parking provisions for developments.

Other Matters

12. I have considered the concerns of neighbours regarding the loss of residential amenity and privacy. Since the site has an orientation and a size similar to the adjacent properties, it can accommodate a dwelling while respecting neighbouring residential amenities, as it is currently experienced by the adjacent terraced dwellings, and providing the similar amenity space as enjoyed by neighbouring properties, thus complying with Policy COM03 of the BLP, which seeks the protection of amenities.
13. Some neighbours objected to the possible loss of access to the rear gardens of 1 – 3 Beatrice Avenue, I understand due to the possible closure of the passage adjacent to or within 1 Beatrice Avenue. I have not found any further reference to the closure of this access and I agree with the neighbours that this issue should be clarified and agreed by the appellant and the LPA at reserved matter stage as part of the layout approval. I believe that the appeal site has the potential to grant such access if no other arrangements can be found. However, this is an issue that should be discussed at reserved matter stage.

Conditions

14. The conditions set out in the schedule are based on those suggested by the council, with the amendments and the wording needed for an outline planning permission. Standard conditions relating to the submission and timing of reserved matters applications and the commencement of the development are imposed. It is necessary to require compliance with the submitted plan in relation to access.
15. Following the advice of the LHA, a condition is included regarding parking to ensure the permanent availability of the parking and manoeuvring areas, in the interests of satisfactory development and highway safety.
16. A condition is imposed in accordance with Policy COM03 (8) of the BLP on the risk assessment and management of contaminated land. This is to ensure that risks from land contamination to the future users of the land and neighbouring

land are minimised, together with risks to controlled waters, property and ecological systems. To ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, it is necessary for this to be a pre-commencement condition.

Conclusion

17. In conclusion, subject to all matters reserved except access, the proposal would not result in a cramped form of development and would be in keeping with the continuity of adjacent dwellings and open street scene, therefore not detrimental to the character and appearance of the surrounding area. On balance, considering the acceptable principle of development and the acceptable parking and access arrangements provided, the proposed development is acceptable. Therefore, I conclude that the appeal should be allowed subject to the schedule of conditions presented below.

S A Schinaia

Inspector

Schedule of conditions

1. Details of the layout, scale, appearance and landscaping (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. 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.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted must be carried out in strict accordance the following approved drawings, but only for those matters not reserved for later approval:
 - Drg No. BLA02.01.01 Rev. D – Proposed Site Layout – Dated 14/02/2019
5. Prior to the first occupation of the development hereby permitted the proposed parking area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
6. The following details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby approved:

A. Site Investigation

A site investigation and risk assessment to determine the nature and extent of any contamination on the site, whether or not it originates on the

site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; (iii) an appraisal of remedial options, and proposal of the preferred option(s).

B. Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

The above must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.