



Appeal Decision

Site visit made on 4 February 2020

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th February 2020

Appeal Ref: APP/G2625/W/19/3240624

530 Earlham Road, Norwich, NR4 7TF

- 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 Joel Callow against the decision of Norwich City Council.
 - The application Ref: 19/00504/F dated 1 February 2019, was refused by notice dated 22 May 2019.
 - The development proposed is a new dwelling house as infill in garden of 530 Earlham Road.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has provided additional plans (numbered A.01 – A.07) and visualisation images to accompany this appeal. These appear to show the proposed dwelling in brick and timber boarded finishes, a tiled roof, and the eaves and ridge on the northern elevation reduced below the rest of the dwelling. They also suggest (amongst other things) the dwelling could be reduced from 3 to 2 bedrooms. These proposals differ to the proposal upon which the Council reached its decision.
3. The revised plans represent a significant and material change from the planning application, that would be substantially different to that determined by the Council. I have applied the 'Wheatcroft Principles'¹ and find that the acceptance of the amended plans would deprive those who should have been consulted on the changed development the opportunity of such consultation. I have therefore dealt with the appeal on the basis of the scheme subject of the planning application determined by the Council.

Main Issues

4. The main issues are the effect of the proposed development upon:
 - the character and appearance of the area;
 - the living conditions of the occupiers of No. 530 Earlham Road with particular reference to outlook, privacy and outdoor amenity space provision; and,

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

- the living conditions of the future occupiers of the proposed new dwelling with particular reference to outlook, internal floor space and outdoor amenity space provision.

Reasons

Character and appearance

5. The new dwelling would occupy the northern outdoor amenity space serving No. 530 Earlham Road (No. 530), bound by a tall hedgerow from the verge on the southern side of Earlham Road. The buildings along this part of the wide and well vegetated southern verge are set well back behind the verge on this thoroughfare into the city. No. 530 is a substantial property with an extensive side elevation in dark red bricks and a dark roof. However, the hedgerow and trees and the distance it is set back from the carriageway and path, means it forms part the backdrop behind the verge, trees and hedgerow.
6. Around the appeal site the hedgerow, verge, verge trees and woodland make an important positive contribution to the verdant character. Although there is a short metal wire fence in front of the boundary hedgerow, the hedgerow is viewed above and through it and positively contributes to the overall character and appearance of this part of Earlham Road. The new dwelling and timber fence would be located almost flush to the site boundary necessitating the removal of the hedgerow. It would be replaced with a timber fence and the timber boarding of the ground floor of the dwelling.
7. The two-storey dwelling would have walls finished primarily in white render, with some timber boarding and a grey metal roof and windows. Similar rendered and timber materials were used No. 532 to the rear of the appeal site. Other buildings north of Earlham Road, integrate some render, have a similar roof pitch and appear of a similar density. In these regards in principle, the form of the dwelling is not entirely out of keeping with the wider area. However, its height, location flush to the highway boundary, the loss of the hedgerow, and extent of white render would give the appearance of substantial and stark feature along this maturely landscaped verdant thoroughfare throughout the year. For these reasons it would be significantly harmful to and be out of keeping with the character and appearance of the appeal site and its surroundings. An existing tree in the verge would provide some screening. However, it is not within the appeal site and not under the control of the appellant, therefore its long-term retention cannot be guaranteed.
8. I note the reference to the gable of No. 565 facing the highway boundary at similar distance to the proposal before me. Although the distances may be similar the site specific circumstances of that dwelling are different, for example its setting in relation to other nearby development. It is therefore viewed in a different context to the proposed development and not directly comparable to the appeal proposal.
9. For the reasons set out above, the proposed development would conflict with Policy JCS2 of the Joint Core Strategy for Broadland, Norwich and South Norfolk (2014) (the JCS), Policies DM3 and DM12 of the Norwich Development Management Policies Local Plan (2014) (the DMPLP), and paragraph 127 of the National Planning Policy Framework (2019) (the Framework). In combination and amongst things, these policies require that proposals should respect, enhance and respond to the character and local distinctiveness of the area.

10. The Council has referred to the proposed arrangement resulting in a modest curtilage for the host dwelling that would appear constrained and cramped. However, size and position of the remaining garden areas and parking areas, would give in the appearance of a reasonable level of space around No 530. This aspect of the development would not appear harmful to local character and appearance, and not conflict with Policy JCS2 of the JCS or Policies DM3 and DM12 of the DMPLP. However, this would not mitigate the harm I have found above.

Living conditions – No. 530

11. The northern elevation of No. 530 has three small windows and an obscured glass door on the ground floor and two rooflights on the first floor. The windows and door would face onto a new access passage to the south of the new dwelling. The passage would be enclosed by the side walls of the dwellings and a fence (of an unspecified height) required to provide privacy to the new rear outdoor amenity space. This access passage is not shown within the appeal site on the plans. However, it is on land under the appellant's control and is clearly indicated as an access route to the new amenity space.
12. The new dwelling would be configured with the front door leading to the bedrooms on the ground floor and main living space on the first floor. The only rear door would be accessed through bedroom No. 2. Due to this, use of the passage to access the rear outdoor amenity space is likely. The passage would afford users clear and close proximity views through the windows into the kitchen and lounge of No. 530. There are no means of preventing this incursion of privacy on the plans before me.
13. Therefore, for the reasons set out above, the proposed development would conflict with Policy DM2 of the DMPLP. Amongst other things, this states that development will be permitted where it would not result in an unacceptable impact upon the living conditions of neighbouring occupants in respect of loss of privacy. The development would also conflict with paragraph 127(f) of the Framework, which expects development should create places with a high standard of amenity for existing and future users.
14. The loss of the northern outdoor amenity space for No. 530 would result in it being served by a curved lawn area to the side, which appears sufficiently private. The other side (south and west) of that hedgerow are car parking spaces, an area of lawn and a rear courtyard garden area, with some outbuildings. These areas are enclosed by the dwelling and approximately 1.8m and 2m high fencing and gates, which results in them appearing adequately private to provide private outdoor amenity space.
15. The Council has not made it clear exactly how much private amenity space would be considered sufficient for the host dwelling. The spaces suggested by the appellant are not clearly demarcated on the application plans. However, even excluding the side/rear parking area and space for bin storage, based upon my site visit and the information before me, if the space was indicated and retained as such, the host dwelling would retain a sufficient quantity and quality of private amenity space. In this regard the proposed development would not be likely to result in harmful living conditions to the occupiers of No 530 with regard to private outdoor amenity space provision. Accordingly, in this regard the development would not conflict with Policy DM2 of the DMPLP, which expects development to provide an adequate level of external private

amenity space. The development would also not conflict with paragraph 127(f) of the Framework, the relevant provisions of which I have referenced above.

16. The Council suggests there would be harm to the outlook from No. 530 from the fence separating No. 530 and the new dwelling. Whilst a fence is proposed the height of it is not clear. If it were of a sufficient height to secure the privacy of the new outdoor amenity area, by virtue of its proximity and height, it would be likely to result in a poor-quality outlook from the ground floor windows on the northern elevation serving the kitchen and lounge area. However, the kitchen is also served by a front window and roof lights. The lounge is served by large glass patio doors. The size and outlook of these other windows in both of these rooms is considered to provide adequate outlook and daylight.
17. On the first floor of the northern elevation of No. 530 there are two roof lights serving bedrooms. The roof lights face northwards and this view would be largely unaffected. To the east, some of the first floor and the eaves and roof of the new dwelling would be visible at a perpendicular angle. The orientation and height of the roof lights relative to the height of the new dwelling, means that whilst there would be some change in outlook, this would not be so detrimental, that it would result in harmful living conditions to the occupiers of No. 530.
18. For the reasons set out above, I do not find there would be conflict with Policy DM2 of the DMPLP in respect of the outlook from No. 530. In this regard, DM2 states development will be permitted where it would not result in an unacceptable impact upon living conditions of neighbouring occupants in respect of loss of outlook. In this regard it would also not conflict with paragraph 127(f) of the Framework, the relevant provisions of which I have referenced above.

Living conditions – new dwelling

19. The proposed arrangement would result in the new dwelling being provided with private outdoor amenity space to its rear, facing west towards a wooded area of tall mature trees with a grass field and verge beyond. The amenity space would measure approximately 6.5m deep by 8.4m in width. To the south it would be enclosed by the new passageway and two storey elevation of No. 530, to the north by an approximately 2m new wooden fence, with the existing approximately 1m high wall enclosing the west.
20. The outdoor amenity space would experience enclosure and shading from No. 530 to the south, significant tree shading from the tall mature trees to the west, and some limited enclosure from medium sized verge trees to the north. Although the outlook to the trees would be reasonably pleasant, it would also make the amenity space significantly shaded and enclosed. Therefore, there would be a conflict with Policy DM2 of the DMPLP which requires development provides satisfactory living conditions and a high standard of amenity. There would also be conflict with paragraph 127(f) of Framework, the relevant provisions I have referenced above.
21. Policy DM2 of the DMPLP applies the Technical Housing Standards – National Described Space Standards (2015) (the NDSS). The new dwelling would provide approximately 83.75 square metres (sqm) of floor space. The Council believes the dwelling provides two double bedrooms and is therefore a 5-

person house, requiring a minimum of 93 sqm. If it were classed as a 4-person dwelling, the requisite floor space would be 84 sqm.

22. Whilst I note the Council's concerns, the appeal proposal is for a market dwelling. The internal walls could be re-configured to change a second double bedroom into a single, bringing the floor space close to the 4-person standard. However, the floorspace of the second bedroom in itself, is likely to make little difference as to the number of occupiers in the future. Therefore, whilst the proposal might fall just below the NDSS standard for a 4-person dwelling and there would be a conflict with Policy DM2 of the DMLP, the conflict is very minor, and does not result in harm. Therefore, I find that there would not be harm to the living conditions of future occupiers having regard to internal floorspace with reference to Policy DM2 of the DMLP or paragraph 127 of the Framework.

Other Matters

23. The internal space would have access to adequate natural light, and the new dwelling would be designed to comply with Passivhaus standards for energy efficiency. The proposal is accompanied by an Arboricultural Impact Assessment from October 2015 relating to a different development. It suggests the development would not be likely to impinge upon the root protection areas of notable nearby trees. The Council considers the impacts upon trees could be mitigated by a planning condition they have suggested, and I see no reason to disagree.
24. The appellant has set out how the development complies with various criteria in paragraph 127 of the Framework. It might be compliant with some of the criteria in 127. However, for the reasons I have set out earlier, it is not compliant with all aspects of paragraph 127, and it would result in harm. I note the appellant's reference to densities in the London Plan, which does not form part of the development plan for the appeal site. However, the development would result in the provision of a new energy efficient dwelling, making more efficient use of land, in what can be considered an accessible location well placed to access facilities and services. This attracts modest weight in favour of the development. Subject to the imposition of suitable planning conditions, to secure matters such as car parking, cycle storage and bin storage the development would appear to comply with the relevant development plan policies in this regard.

Conclusion

25. The proposed development would result in harm to the character and appearance of the area and to the living conditions of occupiers of No. 530 and future occupiers of the proposed dwelling. There are no considerations advanced which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR