
Appeal Decision

Site visit made on 6 July 2020

by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2020

Appeal Ref: APP/F2605/W/20/3244986

1 Albion Terrace, Front Street, Litcham PE32 2QG

- 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 Andrew Fitt against the decision of Breckland District Council.
 - The application Ref 3PL/2019/0258/F, dated 18 February 2019, was refused by notice dated 24 July 2019.
 - The development proposed is demolition of existing garage and outbuildings and erection of two new dwellings and associated carparking.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garage and outbuildings and erection of two new dwellings and associated carparking at 1 Albion Terrace, Front Street, Litcham PE32 2QG in accordance with the terms of the application, Ref 3PL/2019/0258/F, dated 18 February 2019 subject to the conditions set out in the schedule to this decision notice.

Procedural Matter

2. Since the Council's determination of the planning application the subject of this appeal, it has adopted the Breckland Local Plan 2019 (the Local Plan). The Council has supplied copies of the policies it considers to be relevant. The appellant has had the opportunity to comment on the points raised in the Council's statement and the policies from the Local Plan it relies on. I have therefore proceeded on that basis.

Main Issue

3. The main issue is the effect of the proposal on highway safety.

Reasons

4. The Appeal Site is located to the western end of the village of Litcham. It forms part of the external curtilage to 1 Albion Terrace an existing residential property. It is accessed from the B1145 Front Street close to the oblique junction of Front Street with B1145 Lexham Road/Back Street.
5. The B1145 is classified as a Category 3A2 Main Distributor Route ('inter-primary link') within Norfolk County Council's Route Hierarchy. These roads primarily cater for essential cross county short to medium distance journeys.

6. Front Street is of relatively straight alignment and is bounded by residential properties most of which have little or no direct frontage to the highway. There is no dedicated footway provision along the majority of its length. Lexham Road, Back Street and Front Street are all subject to a local speed limit of 30mph.
7. Within his Technical Note 2020 (TN) the appellant has provided speed surveys which record the 85th percentile speeds as 26.3mph on the Front Street westbound approach and 31.4mph on the Lexham Road eastbound approach. As such there is no dispute between the parties that the visibility splays should be calculated using formula in Manual for Streets 2007 (MfS) and Manual for Streets 2 2010 (MfS 2). This results in a requirement for visibility splays of 36 m westbound and 46 m eastbound.
8. Plan ref CTP-19-648 Sk01 within the TN shows these being achieved within the existing adopted highway using an X distance of 2 metres only. Norfolk County Council as Highway Authority (HA) object to this and considers that a distance of 2.4 metres should be used.
9. MfS states that "A minimum figure of 2m may be considered in some very lightly-trafficked and slow speed situations but using this value will mean that the front of some vehicles will protrude slightly into the running carriageway of the major arm. The ability of drivers and cyclists to see this overhang from a reasonable distance, and to manoeuvre around it without undue difficulty, should be considered". MfS 2 states that "A minimum X distance of 2m may be considered in some slow-speed situations when flows on the minor arm are low".
10. Traffic from the east would be travelling at a slow speed when approaching the junction with Lexham Road. That from the west may be faster but the appellants speed survey still demonstrates that traffic using the road is overall of a relatively slow speed, generally in accordance with the speed limit. I saw this to be the case at my site visit.
11. Furthermore, the data within the TN shows the number of cars using the road within a 24 hour period. Just using the data between 0700 and 1900, on the day with the highest number of traffic movements there were 466 westbound and 463 eastbound. This equates to 77 movements an hour or just over one a minute. I spent some time at my site visit at about midday on a Monday observing the traffic. The level of traffic recorded in the TN is generally higher than what I witnessed on site, but this may be expected given the current travel restrictions. While I acknowledge the comments of local residents regarding the existing level of traffic using Front Street, the only substantive evidence before me, combined with my own observations during the site visits leads me to the view that Front Street is not heavily trafficked.
12. There is an existing access from the appeal site which I observed is used by the residents of No 1. The Council states that the expected traffic generation of the proposed development from statistical data contained in the TRICS (Trip Rate Information Systems) database would be in the region of an additional 12 daily vehicular movements. This has not been disputed by the appellant.
13. From my observations during the site visit, including exiting the appeal site by car, I found that drivers would not need to significantly encroach onto the highway to see cars approaching from either direction. When driving along Front Street I saw that there is a very good level of visibility in both directions towards the access and drivers, cyclists and pedestrians would be able to see cars

emerging from the access. This is reinforced by the findings regarding forward visibility in the appellant's TN.

14. At the time of my site visit there was a car parked outside the front of Albion Cottages and this did not interfere with visibility towards the junction with Lexham Road, and clear views were available of approaching traffic.
15. There were no cars parked to the east within the visibility splay at the time of my site visit. This is not to say though that such parking does not occur as I noted no highway restriction in this respect. However, I am mindful that both MfS and MfS2 make the point that parking in visibility splays in built-up areas is quite common, yet it does not appear to create significant problems in practice.
16. Ideally parking spaces should be provided outside the visibility splay. However, in this instance given the low speeds of traffic approaching the junction from the east, then some encroachment would be acceptable. Cars may have to edge further into the highway, but given the specific conditions emerging from the appeal site and approaching the junction, would be travelling slowly. This together with the relatively low level of traffic that would be generated by the proposal, together with the fairly low levels of car movements along Front Street means that the specific conditions at the junction would mean it unlikely, in my view, that the reduced X distance would have a materially unacceptable impact on highway safety.
17. I recognise that the lack of a designated footway may mean that pedestrians would be in the road. However, the street is located to the edge of the village with no obvious attractor to the west to which pedestrians would be walking. Accordingly, the number of pedestrians is not likely to be significant at this point. Furthermore, due to the alignment of the road, pedestrians would have good visibility of the access and cars emerging from it. On balance, I am satisfied that this together with the low number of cars using the junction, and their very low speed is sufficient to ensure that the proposal would not be materially harmful to pedestrian safety.
18. The HA raise further concerns regarding the oblique alignment of the Lexham Road/Back Street/Front Street junction which, notwithstanding the road markings and a duty of care on the part of the motorist, it considers means that drivers will 'straight line' through the junction especially travelling eastbound resulting in crossing into the opposing traffic lane.
19. While I did not see this myself, a number of residents and the appellant have also commented on this occurrence on a regular basis. Therefore, I do not doubt it occurs. However, from my observations on site, a driver on leaving the appeal site would not need to encroach into the carriageway a significant distance to see vehicles doing this manoeuvre. Furthermore, drivers approaching from Lexham Road have a clear view of the access and would see cars emerging from it. In addition, the appellant has demonstrated through tracking diagrams, that there would be sufficient room for a car undertaking such a manoeuvre along with one leaving the appeal site.
20. The proposal would comply with the required parking standards contained within the local plan for proposed dwellings. The tracking details also demonstrate that the cars that would be parked within the appeal site would be able to turn satisfactorily and leave the appeal site in a forward gear. I have seen no substantiated evidence to lead me to a different conclusion.

21. Therefore, for the reasons above I conclude that the proposal would not be harmful to highway safety. There would therefore be no conflict with Policies COM01 and TR02 of the Local Plan and paragraphs 108 & 109 of the National Planning Policy Framework (the Framework) which requires that proposals do not compromise highway safety and provide adequate parking and a safe, suitable and convenient access for all.

Other matters

22. The proposal is within the Litcham Conservation Area (CA). The CA covers a large part of Litcham and I saw at my site visit that its significance is largely derived from the number of high quality historic buildings, together with the use of mainly traditional materials, and the siting of the buildings and their relationship to each other. In the vicinity of the appeal site the buildings are mainly two storey, sited at the back edge of the pavement and constructed from red brick with flint detail and pantile roofs.
23. Existing buildings on the site would be demolished. The appellant's Heritage Statement confirms that they have been the subject of much later alteration and I saw at my site visit that they therefore retain little historical detail. The proposed two storey houses would be sited to the rear of existing buildings but would not be incongruous given the presence of other backland development in the surrounding area.
24. The proposal is of a fairly standard design but takes some design cues such as the fenestration design, heads and cills and gable detail from local buildings. In addition, the red brick and flint detail would further aid with integration with the local built form. The use of modern materials for the windows and roof although not ideal, given its location away from the main road would be acceptable and I saw other examples in the CA. I am satisfied therefore that the proposal would preserve the character and appearance of the CA.
25. To the rear of the appeal site are a number of bungalows. Although sited at a lower level to the proposed houses, given the proposed lengthy intervening distance there would be no materially unacceptable loss of privacy, overshadowing or overbearing impact caused. Furthermore, the only window on the side elevation of the houses would serve a bathroom and is shown to be obscure glazed. Occupiers of other surrounding properties therefore would not suffer an unacceptable loss of privacy.
26. Any damage to services or water pipes would be for the parties to address outside of the planning system.
27. Although I note resident's concerns, there is no substantiated evidence before me that there are any protected species on the site.

Conclusion

28. For the reasons given above I conclude that the appeal should be allowed.

Zoe Raygen

INSPECTOR

Conditions

29. I have had regard to the various planning conditions that have been suggested by the Council and the HA and considered them against the tests in the Framework and the advice in the Planning Practice Guidance and have made such amendments as necessary to comply with those documents. In the interests of certainty, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
30. A condition regarding materials is necessary to protect the character and appearance of the area.
31. I have imposed a condition requiring the details of a satisfactory position for refuse bins to be collected from in order to protect highway safety.
32. Given the previous use of the appeal site conditions requiring information to be submitted prior to work commencing on site regarding contaminated land are necessary to ensure that it is safe for the future occupiers. Details of a Construction Environmental Management Plan and a condition restricting the hours of construction activity are necessary and justified to protect the living conditions of existing residents
33. Details of boundary walls and fences are required given the removal of the buildings along the eastern boundary of the site to protect the privacy of the neighbouring occupiers.
34. Conditions 9-13 are required in the interests of highway safety. I have slightly amended the HA's suggested condition regarding the implementation of the visibility splays to ensure compliance with the approved plan and that the level of obstruction is at a realistic level.

SCHEDULE OF CONDITIONS

- 1) The development must be begun not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 07C, 06B, 5, 4, 3, 2
- 3) The development hereby permitted shall be constructed using the materials specified on the planning application form and / or submitted drawings.
- 4) Unless otherwise agreed in writing, 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. 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'.

- 5) No development shall take place until detail of a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved CEMP. The CEMP shall include, though not necessarily be restricted to, the following details;
 - i) Measures to minimise and control noise, vibration, dust and fumes during site preparation and demolition works;
 - ii) Details of the site parking of all vehicles of site operatives and visitors;
 - iii) The location, extent and duration of any temporary stockpiling areas;
 - iv) Measures to prevent mud being deposited on the surrounding highway, and
 - v) A programme of implementation for items (i) to (iv) above.
- 6) No construction activities shall take place outside the hours of 0800 to 1800 Mondays to Fridays or 0900 to 1400 on Saturdays and not at any time on Sundays or Bank/Public Holidays.
- 7) No dwellings hereby permitted shall be occupied until their associated bin storage and bin access, together with the identification of an area to place bins on collection day, has been implemented in accordance with details to be submitted to and approved in writing by the local planning authority in respect of all of the dwellings. The store and access shall thereafter be kept available for refuse storage at all times.
- 8) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwellings until details of the boundary walls and fences have been submitted to and approved in writing

by the local planning authority. The approved details shall be implemented on site prior to the first occupation of the dwellings.

- 9) Prior to the first occupation of the development hereby permitted the vehicular access crossing over the verge shall be constructed in accordance with a detailed scheme to be agreed in writing with the Local Planning Authority in accordance with the highways specification (TRAD 5) and thereafter retained at the position shown on the approved plan. Arrangement shall be made for surface water drainage to be intercepted and disposal of separately so that it does not discharge from or onto the highway.
- 10) Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order (2015), (or any Order revoking, amending or re-enacting that Order) no gates/bollard/chain/other means of obstruction shall be erected across the approved access.
- 11) Notwithstanding the submitted details the proposed private drive shall be maintained in perpetuity at a minimum width of 4.5 metres for a minimum length of 10 metres as measured from the near edge of the highway carriageway and shall be constructed perpendicular to the highway carriageway for that said length.
- 12) Prior to the first occupation of the development hereby permitted visibility splays in accordance with plan ref CTP-19-648 SK01 shall be provided to west and east side (respectively) of the access where it meets the highway. The splays shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway.
- 13) Prior to the first occupation of the development hereby permitted the proposed access, on-site car parking and turning areas shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.