
Appeal Decision

Site visit made on 2 September 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2020

Appeal Ref: APP/Y2620/W/20/3253354

Dennisby House, The Street, Swanton Novers, Melton Constable, Norfolk NR24 2QZ

- 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 Charlie Barnes against the decision of North Norfolk District Council.
 - The application Ref PF/19/1366, dated 1 October 2019, was refused by notice dated 20 March 2020.
 - The development proposed is described as the re use of outbuilding to form a new dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. There are four main issues. These are a) the principle of the proposed development having regard to the development plan and sustainable patterns of new development; and the effect of the proposed development on b) the safe use of the highway with specific regard to visibility; c) trees of local amenity value; and d) the living conditions of neighbouring occupiers with specific regard to noise disturbance.

Reasons

Principle of Development

3. The appeal building is a substantial structure. It is of utilitarian design, rectangular in shape with an asymmetric pitched roof. The frame is made up of metal and timber, the supporting posts of which are concreted into the ground. The front is open, and the sides, rear and roof are covered in corrugated profile cement sheeting with some gaps for transparent panels. There is a dwarf wall of concrete breezeblocks around the lower parts of the sides and rear. There is no floor slab that I could see during my site visit and the building contained a trailer, some furniture and what appeared to be other scrap items. It is sat on a largely overgrown site, to the rear of houses that face The Street. Whilst I shall come onto this in more detail on the third main issue, there is a substantial belt of tall mature leylandii trees running along the rear and one side boundary that effectively form the building's backdrop.

4. The appeal site is in the village of Swanton Novers. This is a small rural settlement bereft of services and not an area identified by the Council's settlement hierarchy to be suitable for new open market housing. Not featuring within the hierarchy, it does not have a settlement boundary and as such is for its purposes designated as countryside.
5. The appeal scheme seeks to re use the appeal building, advancing it as a conversion into a three bedroom dwelling. Policy HO9 of the Local Plan¹ sets out the criteria by which such schemes will be considered. Amongst other things, it states that the building is worthy of retention due to its appearance, historic, architectural or landscape value, and it is structurally sound and suitable for conversion to a residential use without substantial rebuilding or extension and the alterations protect the character of the building and its setting.
6. The Council explain that they no longer apply the worthiness of retention criteria owing to paragraph 79b of the Framework². For clarity, this states "*.....the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets*".
7. I must admit to some confusion here. Firstly, the above section of the Framework considers development and how such might represent the optimal viable use or be enabling development securing the future of a heritage asset and as far as I can see from the evidence the appeal building is not one. Secondly, the Council are referring to paragraph 79 of the Framework, the opening gambit of which states "*planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply*". One such circumstance is set out in paragraph 6 above. There is no indication in the evidence that the appeal scheme would represent an isolated home and given that the appeal building is in amongst other occupied dwellings, I would not be able to agree that, if it were a dwelling itself, it would be an isolated home for the purposes of the Framework. Put simply, it would not be alone, remote or far from other places or people. In terms of the appeal scheme therefore, the criteria of paragraph 79 of the Framework would not apply.
8. I would also be uncomfortable simply not applying a criteria of one of the policies of the adopted development plan which has primacy for decision making purposes. One may legitimately reduce weight to a policy in a situation where there may be a lack of compliance issue with the Framework, but this would not be the case here since paragraph 79 does not apply.
9. With that in mind, the building is a modern shed type structure. It has no features of architectural interest nor any specific historic merit. There is nothing that particularly sets this building aside from the many other similar ones that adorn the rural landscape in various forms. Such buildings are designed and built to serve a function and are the proverbial ten a penny. Consequently, I do not find that the building would be worthy of retention through re use.

¹ North Norfolk Local Development Framework Core Strategy (Incorporating Development Control Policies) 2008

² The National Planning Policy Framework 2019

10. Policy HO9 also sets out that, for relevant development to be acceptable, a building must be structurally sound and suitable for conversion to a residential use without substantial rebuilding or extension and the alterations protect the character of the building and its setting.
11. Whilst I have not seen a structural survey of the building, it did not strike me as being structurally unsound. The frame certainly appeared to be in good order, and I did not see any deterioration of significance. Internal works aside, it seems based on what I have read that the appeal scheme would replace the roof and the majority of the walls. An entirely new front face to the building would be added. The absence of any complete floor slab also leads me to conclude that this would either be substantially added to or replaced in its entirety. When taken together, these works would be large scale, representing either wholly new elements or replacements meaning that one could not legitimately say that the building would be suitable conversion or that it would not represent substantial rebuilding. In essence, it appears to me that a dwelling would be created using remnants of the existing building rather than one resulting out of the conversion or re use of the building in the true sense and arguably in the spirit of Policy HO9.
12. As effectively the establishment of a new dwelling that falls outside of the exceptions offered by HO9, it would be such not supported by the Council's settlement hierarchy as it is set out by Policy SS1 of the Local Plan. The spatial strategy as it is contained in the settlement hierarchy is so to encourage sustainable patterns of new development. This means to direct it to those areas that have an acceptable level of access to services and facilities on which occupiers would rely for day to day living and reduce the need to travel.
13. As I have said above, Swanton Novers is a small rural settlement that lacks such services aside from some businesses, a hall and a play area which means future occupiers of the proposed dwelling would have to travel. The appellant sets out that a bus service runs through the village, but I have seen no details of which ones or their frequency. Local roads are narrow and rural, unlit and without segregated pavements. They would be unsuitable for walking or cycling. There does not appear to be a usable local public rights of way network. Swanton Novers evidently has some social clubs that operate and this would no doubt be beneficial socially but they would not be services such as shops, education, wider employment opportunities and healthcare that occupiers of new housing would rely on day to day. With this in mind, travel to and from the proposed development would be actively encouraged, and likely be through the use of the private car. This is the least sustainable transport option.
14. The appellant states that the appeal site is around three miles from Briston and Melton Constable. Future occupiers may use services in these settlements. The appeal scheme is for a single dwelling and as such journeys to and from it may not be significant in number. However, Briston and Melton Constable are service villages in their own right and thus where development should be directed in favour of areas like Swanton Novers. It seems to me that, despite the appeal site in this case not being isolated, any dwelling established at it would represent no more locationally sustainable an approach than one that would be remote, the same distance from a large settlement.

15. Taking all of this into account, I find that the principle of the appeal scheme would not be acceptable as either one for a conversion to a dwelling or the establishment of a wholly new dwelling. In terms of the latter, it would not prevent dispersed dwellings that will lead to a dependency on travel by car to reach basic services to ensure a more sustainable pattern of development. In regard to the former, it would not represent any of the exceptions for new housing development in the countryside. In so being, it would therefore be contrary to the aims of Policies SS1, SS2 and HO9 of the Local Plan which I have specified.

Highway Safety

16. The access for the proposed dwelling would be via an existing connection with The Street, immediately north of Dennisby House. It would be facilitated by the demolition of an existing dilapidated outbuilding. The Council have concerns that it would not provide for sufficient visibility in both directions, required to be 2.4m x 43m for the development type and road conditions.
17. The appellant has provided a plan with a splay annotated on. It shows that a compliant one could be provided. I remain concerned however as to whether it could be in reality. Firstly, the plan I have seen is not to scale so I am unable to corroborate the measurements. Secondly, and from my observations on site, I remain unconvinced that the splay would not cut across the frontage of land owned by a third party. Specifically, the front garden and driveway of the semi detached dwelling to the immediate north of the proposed access and where boundary vegetation and a post and rail fence are located.
18. To be certain of these matters, I would require a scaled plan with the splay marked, along with some further assertions that the land within the splay would be either public highway or that which is owned and thus under the control of the appellant. In the absence of this information, I am unable to come to a definitive view on whether the access for the proposed development, and visibility from it specifically, would be acceptable in highway safety terms. The appeal scheme would therefore conflict with Policy CT5 of the Local Plan which explains, amongst other things, that development should provide for safe and convenient access on foot, cycle, public and private transport and a proposal is capable of being served by a safe access to the highway network.

Trees

19. The Council's concerns in regard to this main issue appear to stem from the impact that pruning would have on the substantial and mature belt of leylandii trees that form the northern and western boundaries of the appeal site. Whilst evergreen and not native to the area, the aforementioned belt is a strong feature of the side and rear boundaries of the appeal site, not only garnering a strong sense of enclosure but also contributing to the verdant character of what is a small rural settlement. I would therefore be inclined to agree that, despite the fact that they not statutorily protected, they have some local amenity value.
20. In order to facilitate the proposed development, I have no doubt that some pruning would be required. Indeed, the appellant suggests a height reduction and some thinning, not only for the requirements of the development and turning the area surrounding the building into a functioning residential plot, but

also in light of the evident fact that the trees have not received any significant attention in some time.

21. It seems to me that, provided any management is either subject of further assessment or a planning condition, a tree belt of some significant height and depth could be retained, provided that any works thereto ensure that the examples do not wind up either overly lop sided or pruning runs too close beyond the existing live foliage. The trees subject of the belt are very hardy and taking into account the fact that some management is clearly required, they could easily remain a key feature of the local green landscape going forwards.
22. With this in mind, the proposed development would comply with Policy EN4 of the Local Plan which states, amongst other things and in regard to this main issue, that new development retains existing important landscaping and natural features in order that it represents development designed to a high quality that reinforces local distinctiveness.

Living Conditions

23. In regard to this main issue, the Council expressed concerns that the use of gravel for the proposed access and private driveway would have the potential to give rise to noise disturbance to neighbouring occupiers from vehicular comings and goings.
24. I can see this to a point, but equally local residents will be well used to such sounds since there are other driveways with loose material coverings nearby. In any case, and as suggested by the appellant, there seems the possibility of agreeing an alternative surface through the imposition of a planning condition.
25. I am therefore satisfied that the appeal scheme would not give rise to harm in regard to the living conditions of existing neighbours. Such that there would not be any conflict with Policy EN4 of the Local Plan. Amongst other things and in regard to this main issue, this policy seeks to ensure that proposals do not have a significantly detrimental effect on the residential amenity of nearby occupiers.

Other Matters

26. The Council have set out that they are able to demonstrate the supply of housing sites as required by the Framework, 5.73 years according to their most recent evidence. The appellant does not contend this but states that the development plan is out of date in that it is over five years old. Resulting in it not being applicable to the appeal scheme.
27. I disagree. It may be of some age, but this is not the determining factor in whether its provisions would apply. They would apply regardless of their age given the primacy of the development plan for decision making purposes. This would also be the case even if weight were reduced to its policies for a specific reason. I am also mindful that, even if there are more or less exceptions and some wording may vary, the Council's policies in regard to the encouragement of sustainable patterns of new development broadly align with the approach of the Framework, as are those that consider the living conditions of occupiers (paragraph 127 f), good design (section 12) and highway safety (paragraphs 109 and 110).

28. Were the Council to be in an undersupply situation with regard to their supply of housing sites and my decision on this case taken in light of the so called tilted balance of paragraph 11 of the Framework, I would make the following conclusions.
29. As I have explained above, there would be multiple harms arising out of the appeal scheme which would be mainly of an environmental nature. These would relate to the principle of the proposed development and how it could adversely affect the safe use of the highway. Those policies important to these matters may receive reduced weight in a paragraph 11 situation but the harms would remain and accordingly conflict with the Framework. I would ascribe these harms substantial weight given what they relate to.
30. There would be some social benefits of the provision of a dwelling. It would contribute to an undersupply situation if there was one. It could have the potential to improve the vitality of a rural community. There would also be some economic benefits in the sustaining of employment in the construction/renovation industry and future taxation and expenditure from residents. There may be support for services in nearby settlements but these services are part of larger settlements in any case that benefit from an incumbent population. In addition, and as a single dwelling, the associated benefits would be limited and unlikely to be sufficient in light of the harms I have found. I would therefore conclude that the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The appeal scheme would not therefore be sustainable development for which the presumption in favour applies.

Conclusion

31. I have found that the appeal scheme would not be harmful to either locally important trees or the living conditions of neighbouring occupiers. As a lack of harm however, this would not be sufficient, by definition, to weigh against harm. The harms that I have found would result in conflict with the development plan and the Framework. It is for these reasons that, taking into account other matters that have been raised, the appeal is dismissed.

John Morrison

INSPECTOR