
Appeal Decision

Site visit made on 28 July 2020

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2020

Appeal Ref: APP/V2635/W/20/3248522

Former Car Park, Mulberry Road, Fairstead, Kings Lynn, Norfolk PE30 4SR

- 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 Shaz Butt, Blend Properties LLP against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 19/00904/F, dated 16 May 2019, was refused by notice dated 6 December 2019.
 - The development proposed is the erection of 7 no. dwellings and associated car parking plus provision of 10 car parking spaces to the existing public car park.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 7 no. dwellings and associated car parking plus provision of 10 car parking spaces to the existing public car park at Former Car Park, Mulberry Road, Fairstead, King's Lynn, Norfolk PE30 4SR in accordance with the terms of the application, Ref 19/00904/F, dated 16 May 2019, subject to the conditions in the attached Schedule.

Procedural Matter

2. The original planning application form states that the development is for 8 dwellings however the number of dwellings has been reduced to 7 during the application process. Therefore, I have used the revised description from the appeal form in the above heading for accuracy.

Main Issues

3. The main issues are:
 - the effect of the development on the provision of community car parking facilities;
 - whether the development would provide suitable living conditions for future occupiers.

Reasons

Car Parking Facilities

4. The appeal site currently comprises part of a car park located on Mulberry Road and adjacent to William Booth Road. It is currently laid to tarmac with grass and trees around. The surrounding area is predominantly residential in nature

- but to the south are commercial and community premises including a primary and nursery school and surgery. The proposed development would introduce 7 dwellings to the northernmost part of the existing car park. Access would be via the existing access and through the car park to the properties.
5. The proposed development would result in the loss of some of the existing car parking spaces available for public use. However, the scheme would retain 41 of the existing spaces and would also provide an additional 10 public parking spaces. The dwellings would be served by a total of 16 parking spaces and includes the provision of 2 visitor spaces which complies with the requirements of the Council's parking standards.
 6. I note the extensive comments received from local residents about the high level of usage of this car park. However, the Appellant has carried out a Car Park Appraisal. This provides evidence in relation to the level of demand for parking spaces in this location. I note that at school pick up times the car park is heavily used, however the submitted appraisal demonstrates that at other times the car park was not full to capacity. I have also had regard to the comments from the Highways Authority who considered that, with the exception of the 3pm period during school times, the car park would generally have the capacity to cater for the locality. I also note that the authority does not generally recommend that off-site parking provision is provided for school drop off and pick up.
 7. Based on the evidence before me, whilst there may be a degree of harm arising in respect of school pick up times as a result of the loss of some spaces, this would be limited in its occurrences to a small part of the day and in school term times only. I therefore consider that this would not result in severe harm to the highway network as a result of increased on street parking.
 8. I note that the Council consider that by refusing the permission they can assist in retaining the car park for community use, however, I have considered that the Appellant would be within his rights to prevent public access to the car park. Notwithstanding this, the proposed development would provide sufficient parking spaces for the dwellings as well as providing 10 additional public spaces. I find that this would be a limited reduction in parking spaces that would not result in a significant loss or harmful impact upon the provision of a community asset.
 9. Consequently, I find that the proposal would comply with Policies CS01 and CS08 of the King's Lynn and West Norfolk Borough Council Local Development Framework Core Strategy (2011) (Core Strategy) and DM1, DM9 and DM15 of the Site Allocations and Development Management Policies Plan (2016) (SADMPP). Collectively, these seek to encourage accessibility, enhance community wellbeing, optimise site potential by making the best use of land including brownfield, achieve safe access and adequate parking facilities and seek to ensure that development leading to the loss of a community facility in an area will still be served by suitable provision, amongst other things. There would also be no conflict in respect of paragraphs 92, 127 and 182 of the National Planning Policy Framework (2019) (the Framework).

Living Conditions

10. The proposed development would comprise a row of terraced, two storey dwellings. They would front onto William Booth Road, with rear gardens and rear parking.
11. In design terms the dwellings would be relatively simple in their appearance. However, the use of porch and gable features would add visual interest. The lack of excessive detailing would not result in a development that I would consider to be bland. In fact, the proposed dwellings would be of a fairly typical estate style design. Within the immediate area there is a high proportion of two storey terraced properties as well as bungalows and these predominantly have relatively simple designs. Variation appears to be in the materials used however, aside from projecting porches, the detailing to these properties are limited. As such, the proposed dwellings would not appear out of keeping with the area and would not appear bland or poorly designed.
12. The proposed rear gardens would be relatively modest. However, there are no specific requirements for garden sizes in the development plan. Furthermore, the proposed gardens would reflect the general size of those in the area and for two and three bed properties the garden sizes do not appear unacceptable.
13. The rear gardens of the proposed dwellings would be accessed via gates. The parking spaces would be located adjacent to the rear boundaries. However, this is not an uncommon arrangement and it is incumbent on residents to park considerately. I have been provided with limited evidence to demonstrate that the location of the parking spaces in relation to the rear gates would be so harmful in terms of obstruction as to result in a disadvantage to the occupiers of the proposed dwellings.
14. Consequently, my findings above lead me to conclude that the proposed development would provide suitable living conditions for future occupiers of the properties. Accordingly, the development would comply with Policies CS01 and CS08 of the Core Strategy and DM1 and DM15 of the SADMPP. These require, amongst other things, new development to respond to the context and character of the area, achieve high standards of sustainable design and assess the amenity of any future occupiers against a number of factors. The aims of paragraphs 122, 127 and 130 of the Framework would also be met.

Other Matters

15. A number of local objections have been made concerning, in addition to the above matters, overlooking to the bungalows, additional noise and disturbance, potential loss of the trees, potential expansion of the surgery, lack of affordable or social housing in the scheme, and practicalities during construction.
16. Conditions can be applied to ensure that construction works are carried out at appropriate times and do not adversely affect the surrounding neighbours as well as in order to protect the retained trees. The positioning and layout of the proposed dwellings is sufficient to ensure that there would be little overlooking to the nearby properties given the intervening roadways. I have little before me to suggest that a development of this scale would give rise to undue harm in terms of additional noise and disturbance. Whilst I note the development does not include social or affordable units, these are not a policy requirement for a development of this scale. I note the reference to the potential expansion

of the surgery however I have little detail before me relating to this therefore I cannot conclude that this in itself would be a reason to preclude this development.

Conditions

17. In addition to the standard time limit condition I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty. The Council have suggested a number of conditions which I have considered against the advice in the Planning Practice Guidance and amended where necessary.
18. Conditions for details of surface water drainage, contamination investigation, remediation and measures for unsuspected contamination are necessary in the interests of the living conditions of future occupiers. Conditions for on site parking for construction vehicles, the provision of public and residents parking in accordance with the approved details, provision of access and suitable signage are necessary in the interests of highway and pedestrian safety. I have imposed a condition restriction of working hours in the interests of protecting neighbouring living conditions. I have also imposed conditions relating to boundary treatments and the protection of trees on site in the interests of the visual character of the area.
19. Conditions 3, 4, 5, 6, 7 and 14 are required to be pre-commencement conditions as it is fundamental to have these details agreed prior to works commencing on site. The Appellant has confirmed his agreement to these.

Conclusion

20. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

R Norman

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 1000 P3; 1801 P7 and 2000 P4.
- 3) No development shall commence on site until full details of the surface water drainage arrangements have been submitted to and approved in writing by the local planning authority. These shall include the results of percolation testing on site. The drainage details shall be constructed as approved before any part of the development hereby permitted is brought into use.
- 4) No development shall commence on site until a scheme detailing provision for on-site parking for construction workers' vehicles for the duration of the demolition and construction period has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented until the development is completed.
- 5) Prior to the commencement of groundworks, an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. 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).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11'.

- 6) Prior to the commencement of groundworks, 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 must be prepared, and is subject to the approval in writing of the local planning authority. 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.

- 7) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of groundworks, other than that required to carry out remediation, 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 produced and is subject to the approval in writing of the local planning authority.
- 8) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 5, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 6, which is subject to the approval in writing of the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared which is subject to the approval in writing of the local planning authority in accordance with condition 7.
- 9) Vehicular access to and egress from the adjoining highway shall be limited to the access shown on the approved plan. Any other access or egress shall be permanently closed, and the footway/highway verge shall be reinstated in accordance with a scheme to be agreed with the local planning authority prior to the occupation of any dwelling hereby permitted.
- 10) Prior to the first occupation of the development hereby permitted the proposed on-site access, 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.
- 11) Prior to the first occupation of the last dwelling hereby permitted, the ten parking spaces to the south of the site as shown on the approved plan on Borough Council owned land shall be laid out, demarcated, levelled, surfaced and drained in accordance with details to be approved in writing by the local planning authority. They shall thereafter be retained for that specific use unless otherwise agreed in writing by the local planning authority.
- 12) Prior to the first occupation of any dwelling hereby permitted, signage for the car park shall be provided in accordance with details to be submitted to and agreed in writing by the local planning authority.
- 13) Construction or development work on site, along with collections and deliveries of waste products, material and equipment, shall only be carried out between the hours of 0800 and 1800 weekdays, and 0900

and 1300 on Saturdays, with no work allowed on Sundays and Bank Holidays.

- 14) No development or other operations shall commence on site until the existing trees and/or hedgerows to be retained have been protected in accordance with a scheme that has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the erection of fencing for the protection of any retained tree or hedge before any equipment, machinery or materials are brought on to the site for the purposes of development or other operations. The fencing shall be retained intact for the full duration of the development until all equipment, materials and surplus materials have been removed from the site. If the fencing is damaged, all operations shall cease until it is repaired in accordance with the approved details. Nothing shall be stored or placed in any fenced area in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made without the written approval of the local planning authority.
- 15) Prior to the first occupation of the development hereby permitted, a plan shall be submitted to and approved in writing by the local planning authority indicating the positions, heights, design, materials and type of boundary treatments to be erected. The boundary treatments shall be completed before the development is first occupied or in accordance with a timetable to be approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 16) Prior to the first occupation of the development hereby permitted details shall be submitted to and agreed in writing by the local planning authority showing appropriate signage in relation to residents parking only. The approved signage shall be displayed prior to the first occupation of any dwelling hereby permitted.