
Appeal Decision

Site visit made on 17 November 2020

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 July 2021

Appeal Ref: APP/U2615/W/20/3245040

Former Ferryside Building, 98 High Road, Gorleston, Norfolk NR31 0PH

- 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 Ms Lucy Brown, Dawson Brown Ltd against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/16/0190/F, dated 14 March 2016, was refused by notice dated 24 July 2019.
 - The development proposed is 6 houses and 28 flats with associated works.
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Decision

1. The appeal is allowed and planning permission is granted for 6 houses and 28 flats with associated works at Former Ferryside Building, 98 High Road, Gorleston, Norfolk NR31 0PH in accordance with the terms of the application, Ref 06/16/0190/F, dated 14 March 2016, subject to the conditions in the attached schedule.

Procedural Matters

2. The description of development changed during the application process as a result of amendments to the originally submitted scheme. I have used the revised description from the Appeal Form in the above heading.
3. I have taken the address in the heading above from the Appeal Form as it is more precise than the one given on the original application form.
4. Examination of the Emerging Local Plan is in progress, including an emerging allocation policy. I have had regard to this. At this stage the adopted Policies of the Great Yarmouth Local Plan: Core Strategy 2013 – 2030 (2015) remain relevant.
5. The Appellant has submitted revised plans with the appeal which make amendments to the proposed development. I have considered these plans however they did not form part of the scheme that was considered by the Council. I have not been provided with confirmation that these plans have been formally considered by the relevant statutory consultees and neighbours and as such I do not consider that it would be fair or reasonable to accept these without such consultations being carried out. Should the Appellant wish to proceed with the amended plans then a new application would need to be submitted to the Council.

Main Issues

6. The main issues are:

- The effect of the development on the character and appearance of the area having regard to the Gorleston Conservation Area;
- Whether the development would provide suitable living conditions for future occupiers with particular regard to open space; and
- The effect of the development on the protected trees;

Reasons

Character and Appearance

7. The appeal site comprises of a vacant building with associated outbuildings and land. It has a low brick and flint wall to part of the front boundary with High Road and is bounded to the side and rear by Ferryboat Lane and Malthouse Lane. The surrounding area is mixed in use with residential properties on High Road, the Fire Station adjacent and businesses on Malthouse Lane. The existing building is set back within the site from High Road giving a reasonably open character with mature trees visible within the site.
8. The proposed development would involve the demolition of the existing buildings on the site and its redevelopment with 6 houses fronting High Road and 28 flats to the side and rear of the appeal site. Parking would be in the centre of the site via a shared access off High Road.
9. The site is outside of, but adjacent to, one part of the Gorleston Conservation Area. It currently forms a relatively prominent site and had a degree of openness due to the set back of the existing building and the low-level walls, including the historic flint wall.
10. The proposed development would introduce properties around the perimeter of the site, however would retain an undeveloped area alongside the proposed access point, which would serve to retain some sense of openness when viewed from along High Road. The proposed development would alter the overall appearance and views into and out of the Conservation Area, nevertheless it would reflect the overriding character of the adjoining Conservation Area and the surroundings by introducing a design and scale of residential properties that complements the existing dwellings in the vicinity.
11. The proposed dwellings fronting High Road would reflect, in design and scale terms, the properties along the opposite side of the road. They comprise terraced dwellings with bay window features which would be largely replicated by the front elevations of the proposed dwellings. The properties opposite and in proximity to the appeal site are located reasonably close to the road with small front gardens or areas of hardstanding and the proposed development along High Road would also reflect this siting. I find that there would be adequate spacing between the proposed frontage dwellings and the properties opposite to ensure that a tunnelling effect would not occur.
12. Whilst the proposed development of the site would alter its character from a relatively open, low density development, to one with dwellings running alongside the boundaries of the site, this would reflect the existing character and appearance and densities of much of the surrounding area. A degree of

space between the appeal site and the developments to the south would be retained by the positioning of the proposed access, a piece of undeveloped and landscaped land and Ferryboat Lane. This would serve to ensure that the appeal site would not appear overdeveloped.

13. Consequently, when viewing the appeal site from within the adjacent Conservation Area, the proposed dwellings and spacing visible along High Road would not appear out of character with the surroundings or have a harmful impact on the character or appearance of the Conservation Area.
14. The proposed flats would be located along the side and rear of the appeal site. They would range from three to four storey buildings, with the four storey elements being located towards the corner of the site along Malthouse Lane. Although these would be of a greater scale than the predominant housing in the immediate vicinity, they would be seen within the context of the commercial buildings on Malthouse Lane and the adjacent Fire Station. As such, I find that they would not appear at odds with the character of the area which is more varied to the rear of the appeal site.
15. Accordingly, based on the evidence before me, I find that the proposed development would not be harmful to the character and appearance of the area and would preserve the character or appearance of the Conservation Area. It would therefore comply with Policies CS3, CS9 and CS10 of the Great Yarmouth Local Plan: Core Strategy 2013 – 2030 (2015) (Core Strategy) which collectively seek to promote design led housing developments, respond to the surrounding scale, form, massing and materials, make efficient use of land, reinforce local identity and conserve and enhance the significance of the heritage assets and their settings, amongst other things. It would also meet the requirements of Section 72 of the Listed Buildings and Conservation Areas Act and chapters 12 and 16 of the National Planning Policy Framework (2019) (the Framework).

Living Conditions

16. The proposed development would see the dwellings located around the perimeter of the appeal site, with a shared vehicular access off High Road leading to a central shared parking area. The proposed houses would have small private garden areas, however the proposed flats would be reliant on the communal landscaped areas within the site itself.
17. The majority of the central area would be laid to hardstanding and would be demarcated for residents' parking spaces. There would be some areas within the site which would be planted with new shrubs and there would be a green area adjacent to Ferryboat Lane.
18. The provision of open space within the appeal site, for the occupiers of the flats in particular, would be limited and the centre of the site would be dominated by the parking and hardstanding areas. However, I have had regard to the location of other areas of open space within the vicinity. I note that they are located some distance from the appeal site and would involve crossing a main road. Nevertheless, the provision of some communal areas within the site, albeit limited in size, and the availability of public open space taken together would ensure that future occupiers would not have unacceptable living conditions.

19. A local objector has raised concerns over the internal sizes of the proposed properties. However, the Council have not raised concerns over this aspect of the proposal, and I have been presented with little evidence to lead me to conclude that the internal sizes of the rooms would fail to provide suitable living conditions for future occupiers.
20. Consequently, whilst I find that the proposed development would not provide a high level of useable and private outdoor space, the presence of some areas of landscaping within the site, the availability of communal outdoor areas in the surroundings and the contributions to existing open space provision ensures that the proposed development would not be harmful to a degree that would render the proposed development unacceptable. In this regard the proposal would therefore be in accordance with Policy CS15 f) of the Core Strategy and paragraphs 8 and 92 of the Framework. Collectively, these require development to contribute to the provision of recreational green space and incorporate access to existing green infrastructure and promote healthy communities, amongst other things.

Trees

21. There are trees within the appeal site which are covered by a Tree Preservation Order (TPO). Of these trees, the proposed development would result in the need to remove two, namely T3 and T4, which are a Yew and Holly tree, along with two other trees not falling under the TPO.
22. The Holly Tree, although protected, appeared to show some damage which affects its life expectancy as well as its visual contribution to the site and surroundings. As such, the proposed removal of this tree would not be unduly harmful, and I find that this has been sufficiently justified.
23. I note the comments of the Assistant Grounds Manager and Arboricultural Officer, which highlights the Yew tree as being of good amenity value and that its loss has not been justified. However, based on the evidence before me I conclude that its loss would be suitably mitigated by the proposed replacement planting, which would provide a suitable mix of trees and shrubs to ensure the loss of this tree would not be unduly harmful.
24. I find that in this instance the proposed removal of some of the trees has been sufficiently justified and mitigated against. As such, the proposed development would comply with Policy CS11 g) of the Core Strategy which seeks to ensure that new development takes measures to avoid or reduce adverse impacts on existing biodiversity and geodiversity assets and requires suitable measures to mitigate any adverse impacts.

Other Matters

25. The site is in proximity to Listed Buildings, the closest of these being Providence Villa, 95 and 96 High Road. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The appeal site, although relatively open, is sufficiently separated from these buildings to ensure that the development would have little impact on the buildings themselves or their settings. The Council have not raised any concerns over the impact of the proposed development on the Listed Buildings or their settings

and I have little evidence before me which would lead me to conclude differently.

26. A unilateral obligation dated 14 April 2020 has been submitted. This makes provision for 3 affordable rented dwellings to be provided on site, a contribution for habitat mitigation, a contribution towards off-site open space, play equipment and maintenance and the provision of an open space scheme, and a library and monitoring contribution. The Council have acknowledged that they agree with the principle of the terms of the submitted undertaking however note that they would prefer a formalised legal agreement. I have considered the content of the submitted agreement, and the justification put forward for the requested contributions, as well as the mechanisms to secure these. I find that the provisions within the document have been sufficiently justified as being necessary and reasonably related in kind, and I am satisfied that the submitted unilateral agreement provides suitable mechanisms to secure the necessary provisions.
27. In their statement the Council acknowledge that they can only demonstrate a housing land supply of 3.42 years as of 1 April 2019. I have not been provided with any additional information as to whether this remains the current position, nevertheless I have found the proposed development to be acceptable for the above reasons and therefore should I find that the tilted balance is engaged as a result of the housing land supply this would not alter my overall conclusions in this case.
28. Local objections have been received concerning, in addition to the above matters, the removal of the roof following the refusal, concern over the safety of materials on site during previous works, impacts from pollution, the lack of information provided at application stage and highway safety and access concerns.
29. In relation to the removal of the roof, the Council have confirmed that the building does not have any legal protection and so could be partly or fully demolished without consent at any time. Contamination and surface water conditions can be imposed to ensure that adverse effects from pollution are avoided. Conditions can also be imposed to ensure that highway safety is not severely affected. Matters relating to the safety of the site previously and the quality of the submissions are not matters for me to conclude upon.

Conditions

30. I have been provided with a list of suggested conditions which, with the exceptions of conditions 1 and 12, the Appellant is in agreement with. I have considered these conditions against the tests contained within the Framework and the Planning Practice Guidance and amended where necessary.
31. In addition to the standard time limit condition, I have imposed a condition listing the approved plans as this provides certainty. The Appellant has advised that due to impacts from the Covid pandemic they would request the standard time limit condition be extended to 5 years however I have not been presented with sufficient evidence that this would impact the development to the extent that would justify this change therefore I have imposed the standard 3 year time limit.

32. Conditions for the provision of access and parking areas, restrictions on access, restrictions on window openings, provision of visibility splays, provision of cycle parking, works to the bus stop and one way scheme and the use of the parking spaces are all reasonable and necessary to ensure that the development does not have an adverse impact on highway safety. I note the Appellant's view that the parking restrictions could be secured at the conveyance stage. However, there is no legal requirement for it to be carried out at that stage and I have limited evidence to suggest that this would be forthcoming therefore I find this condition to be necessary and reasonable.
33. Conditions for the removal of materials from the site, finished floor levels, boundary treatments, landscaping and tree retention and external materials are necessary in the interest of the character and appearance of the area and views of the site in the context of the Conservation Area.
34. I have imposed a condition relating to unsuspected contamination to ensure that the site is safe for its intended end use. An archaeological investigation condition is necessary to ensure that any items of historic value are suitably preserved.
35. I have imposed a condition restricting hours of construction to protect the living conditions of nearby residents from noise and disturbance. I have omitted the final sentence of the suggested condition relating to noise generating works only as I am not satisfied that this could be reasonably enforced or certain of the types of works that this would encompass.
36. Conditions for surface water drainage arrangements, the mitigation of noise from the port and provision of the bin storage areas are necessary to ensure good living condition for future occupiers of the development.
37. Conditions removing Permitted Development rights should only be imposed in exceptional circumstances. The justification put forward for this suggested condition would not represent an exceptional circumstance in this instance and therefore I have not imposed this condition.
38. A number of the conditions are required to be pre-commencement as it is fundamental to have these works agreed in advance of works in order to achieve a satisfactory development.

Conclusion

39. For the reasons given above, and having had 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: FRD-020 001 Rev A1; FRD-020 002 Rev A1; FRD-020-001 Rev A4; FRD-020 002 Rev 6; FRD-001.008; FRD-001.009; FRD-001.0010; FRD001/003/A2; FRD001/004/A2; FRD001/005/A2; FRD001/006/A2; FRD-01 Revision A and 21246-cclxx-00DR-C-4000 revPO2.
- 3) The existing buildings on the site shall be demolished and all associated materials removed from site, other than those that have been agreed with the Council may be retained for on-site recycling prior to the commencement of any works to implement this planning permission.
- 4) In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the local planning authority. All development shall cease and shall not recommence until: 1) a report has been submitted and agreed in writing by the local planning authority which includes results of an investigation and risk assessment together with proposed remediation scheme to deal with the risk identified and 2) the agreed remediation scheme has been carried out and a validation report demonstrating its effectiveness has been approved in writing by the local planning authority.
- 5) Prior to the first occupation of the development hereby permitted the vehicular access 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 and thereafter retained at the position shown on the approved plan. Arrangement shall be made for surface water drainage to be intercepted and disposed separately so that it does not discharge from or onto the highway.
- 6) Means of vehicular access to and egress from the completed development hereby permitted shall be derived from and to the C632 High Road only.
- 7) No gate/door/ground floor window if installed shall open outwards over the highway.
- 8) Notwithstanding the submitted details, unless otherwise agreed in writing by the local planning authority, the proposed private drive shall be maintained in perpetuity at a minimum width of 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 distance.
- 9) Prior to the first occupation of the development hereby permitted a visibility splay measuring 2.4 x 43 metres shall be provided to each side of the access where it meets the highway and such splays shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway.
- 10) Prior to the first occupation of the development hereby permitted the proposed access, on-site car and cycle parking, servicing and turning areas shall be laid out, demarcated, levelled, surfaced and drained in

accordance with the approved plan and retained thereafter for that specific use.

- 11) Prior to the first occupation of the development hereby permitted, secure cycle parking for 35 cycles shall be provided and retained thereafter for that specific use.
- 12) Other than parking spaces 1 to 12 (inclusive) as shown on the approved plans, which shall be allocated between the terraced houses, there shall be no restriction on the use of the remaining car parking spaces shown on the approved plans by occupiers of, or visitors to, any of the buildings hereby permitted.
- 13) No works shall commence above slab level on the site until the Traffic Regulation Order for the promotion of one way driving in a south-westerly direction on the U61215 Ferryboat Lane has been promoted by the Highway Authority.
- 14) Prior to the first occupation of the development hereby approved the existing bus stop adjacent to the proposed access shall be relocated to the local bus operators' requirements in accordance with a detailed scheme to be agreed in writing with the local planning authority.
- 15) At the vehicle access to the site the existing highway boundary shall be marked out on site prior to the commencement of construction and permanent demarcation shall be provided in accordance with details to be agreed in writing by the local planning authority.
- 16) A) No development shall take place until an archaeological written scheme of investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and 1) the programme and methodology of site investigation and recording, 2) the programme for post investigation assessment, 3) provision to be made for analysis of the site investigation and recording, 4) provision to be made for publication and dissemination of the analysis and records of the site investigation, 5) provision to be made for archive deposition of the analysis and records of the site investigation and 6) nomination of a competent person or persons/organisation to undertake the works set out within the written scheme of investigation.

and

B) No development shall take place other than in accordance with the written scheme of investigation approved under condition A.

and

C) the development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological written scheme of investigation approved under condition A and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

- 17) Construction work shall not take place outside the following hours: 08:00 to 18:00 Mondays, 08:00 to 18:00 Tuesdays, 08:00 to 18:00 Wednesdays, 08:00 to 18:00 Thursdays, 08:00 to 18:00 Fridays, 08:30

to 13:30 Saturdays and no work shall take place on Sundays or Bank/Public Holidays.

- 18) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100-year critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall include full detail plans of the roads, footways, cycleways, foul and surface water drainage which shall be submitted to and approved in writing by the local planning authority in consultation with the highway authority. All construction works shall be carried out in accordance with the approved plans.
- 19) No development shall take place until details of the proposed finished floor levels and ridge height of the flats hereby approved have been submitted to and approved in writing by the local planning authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding property. The development shall be carried out as approved.
- 20) Unless otherwise agreed in writing by the local planning authority, the residential terrace properties fronting onto High Road shall, based on the topographic information supplied by the applicant, have a finished ground floor level of 20.3m AOD and a maximum overall finished ridge height of 29.3m AOD in accordance with the supporting information submitted by the applicants.
- 21) Prior to the occupation of the development, the communal bin storage shall be provided and made available for use for the phase of development to which it will serve and be retained for that purpose thereafter.
- 22) Prior to the commencement of the development hereby permitted, all boundary treatments shall be submitted to and approved by the local planning authority. The boundary treatments to the dwelling houses shall be complete before the occupation of the dwelling or phase of development to which they relate. The existing boundary wall around the site shown to be retained on the approved plan shall be retained in accordance with the approved layout plan, where the existing buildings form part of the boundary on the corner of Malthouse Lane and Ferryboat Lane and the existing access way on the Malthouse Lane details of the boundary treatment shall be submitted to and agreed in writing with the local planning authority. The boundary treatment shall then be carried out in accordance with the agreed details and completed before the phase of development backing onto Malthouse Lane is first occupied.
- 23) Unless otherwise agreed in writing by the local planning authority, the landscaping and tree replacement shall be carried out in accordance with the details set out in the Farmland Forestry Arboricultural Assessment incorporating the Tree Protection Plan submitted with the application and appeal and Ferryside Plan Accommodating Existing Trees, and specifically:

- The Horse Chestnut and Sycamore trees situated to the southern boundary of the site and the three Sycamore trees by the Ferryboat Lane boundary shall be retained and protected during the construction process in accordance with the details set out in the report.
 - The existing Sycamore tree in close proximity to the dwellings fronting High Road shall be retained and protected during development in accordance with details to be submitted to and agreed in writing by the local planning authority prior to commencement of the development. In addition, the details shall include a Construction Method Statement for the Root Protection Area shown on the approved plan. The development shall then be carried out in accordance with the agreed details.
 - Five semi-mature replacement trees selected for planting; namely Lime trees "Tilia Cordata 'Greenspire', Yew Aureomarginata and Ilex Pyramidalis" shall be provided on the site, the details and siting of which shall be submitted to and agreed in writing by the local planning authority prior to the development commencing. The trees shall be planted prior to the parking area being brought into use and any trees that die in the first five years of planting shall be replaced in the next available planting season.
- 24) Prior to the commencement of development, details of measures to mitigate against potential adverse effects from noise generated from the operation of the port to future occupiers of the residential development shall be submitted to and agreed in writing by the local planning authority. The development shall then be carried out in accordance with the agreed details and retained thereafter.
- 25) Prior to the commencement of the development hereby permitted, details of the external materials to be used in the external elevations and roof coverings of the development and external hard surfaces shall be submitted to and agreed in writing by the local planning authority. The development shall then be carried out in accordance with the agreed details.