



Appeal Decision

Site Visit made on 27 July 2021

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2021

Appeal Ref: APP/L2630/W/21/3267615

Land to rear of The Close, The Close, Little Melton NR9 3AE

- 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 Daniel Bear against the decision of South Norfolk District Council.
 - The application Ref 2020/1989, dated 11 September 2020, was refused by notice dated 11 December 2020.
 - The development proposed is erection of low carbon, single storey, 4 bedroom residential dwelling with integrated garage/surface parking and private amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for erection of low carbon, single storey, 4 bedroom residential dwelling with integrated garage/surface parking and private amenity space at Land to rear of The Close, The Close, Little Melton, NR9 3AE in accordance with the terms of the application, Ref 2020/1989, dated 11 September 2020, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. I have taken the description of development from the decision notice as this more accurately describes the proposed development. The appellant has agreed to this description.
3. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). Both parties were invited to provide representations in relation to the revised Framework. Neither party considered that the revised Framework altered their previous position in relation to this appeal.
4. A nearby resident requested that I view the site from an adjacent neighbouring property, in order to consider the effect of the proposed removal of a line of Beech trees on the character and appearance of the surrounding area. However, the interested party was not available to provide access as had been previously arranged. Nonetheless, I am satisfied that I was able to fully assess the impact of the development upon the character of the surrounding area, from vantage points within the site and on surrounding land.

Main Issue

5. The main issue is whether the appeal site is a suitable location for the proposed development, having regard to the Council's strategic approach to the location

of new development and in particular, the accessibility of the site to services and facilities.

Reasons

6. The appeal site was previously occupied by a piggery and now comprises large areas of concrete hardstanding, various sheds and areas laid to grass. The appeal site is located to the rear of The Close, which is a private lane that currently accommodates various residential properties. These neighbouring properties are all located within the defined development boundary¹ of Little Melton. However, other than part of the access, the appeal site is located outside of the defined development boundary and is therefore in the countryside. The appellant has provided ownership information linking the appeal site with the property at 4 The Close (No 4). However, the ownership of the land has no bearing on whether the site is within the development boundary.
7. Local Plan² Policy DM1.3 sets out the Council's approach to the 'sustainable location of new development'. This policy states that, in areas outside of the defined development boundaries, permission for development will only be granted where specific development management policies allow or where there are 'overriding' social, environmental and economic benefits. These dimensions of sustainability are described in Local Plan Policy DM1.1 and the Framework. In this case, neither party has identified any other relevant development plan policies which would support the principle of development.
8. The Council has referred to two appeal decisions³, in respect of sites located elsewhere in the District, where an Inspector previously considered the application of Policy DM1.3. The Inspector concluded that, in order to demonstrate that overriding circumstances exist, the cumulative social, economic and environmental benefits must be weighed against the conflict with the spatial strategy which underpins Policy DM1.3. I agree with this approach. However, in the cases cited by the Council, the Inspector concluded that there would be harm to the character and appearance of the surrounding area. In contrast, there is no such harm alleged by the Council in relation to the proposed development in this case.
9. Local Plan paragraph 1.3, which provides the justification to Policy DM1.3, outlines the purposes of the policy. It states that the policy aims to guide new development to sustainable locations at an appropriate scale. It also states that the countryside should retain its distinctive South Norfolk Character and that these distinctive characteristics should be protected. In terms of the latter, the Council has confirmed that the proposed development would not have an adverse impact upon the character and appearance of the surrounding area. This is a position with which I agree, given the close visual connection between the site and neighbouring properties on The Close and the highly limited visibility in the wider landscape. With regard to the former, in order to establish whether the site would be a suitable location, it is necessary to consider the level of access to services and facilities.

¹ As defined on Map 014 of the South Norfolk Local Plan Site Specific Allocations and Policies Document 2015

² South Norfolk Local Plan Development Management Policies Document, October 2015

³ APP/L2630/W/20/3260880 and APP/L2630/W/20/3260292

10. Although the site is located outside of the development boundary of Little Melton, it is directly adjacent to it. Indeed, the appeal site is within a reasonable walking distance of the village, via the existing private drive serving properties on The Close. The services and facilities within the village are therefore easily accessible on foot. Indeed, the distance to these services and facilities from the site is comparable to that from other properties at the fringes of the village.
11. Services and facilities in Little Melton include a primary school, local shop, public house and a village hall. The Council has provided a copy of Joint Core Strategy⁴ Policy 15. This policy outlines that Little Melton is a 'Service Village' where there is generally a good level of services and facilities. Indeed, Policy 15 states that service villages are capable of accommodating a quantum of residential growth of between 10 and 20 dwellings, through allocations. Whilst the appeal site is not within the village and does not benefit from an allocation, the thrust of Policy 15 suggests that one dwelling could easily be served by the existing range of services and facilities within the village. Indeed, an additional dwelling would benefit their continued vitality. In addition, there are several bus stops within close proximity to the site which provide regular bus services to the city of Norwich, which has a far more extensive range of services and facilities.
12. For the reasons outlined above, the proposed development, would not harm the settlement strategy which underpins Policy DM1.3. There would be no harm to character and appearance, and I have concluded that the future occupiers of the development would have sufficient access to services and facilities in the village, with further services and facilities accessible by sustainable modes of transport. In accordance with the 'overriding circumstances test' within Policy DM1.3, it is necessary to consider the benefits of the proposed development.
13. Notwithstanding that the appellant and his family intend to occupy the dwelling, there is no obligation to secure this in perpetuity. Nonetheless, the proposed development would result in an addition to housing stock. There would also be associated benefits in support for employment during construction and the support to local facilities from the increase in population. These benefits would be limited in scale, in respect of one home. As such, I afford them moderate weight. However, I afford very little weight to the 'low carbon' credentials of the dwelling and the removal of existing infrastructure in improving the general condition of the site (those benefits are either not robustly demonstrated, or not reliant on the scheme before me respectively).
14. Drawing together my reasoning above, Local Plan Policy DM1.3 does not place a blanket ban on housing within the countryside and provides a degree of flexibility in this regard. The proposed development, which does not harm the purposes of the settlement strategy, is in my view exactly the type of development to which this flexibility should be applied. I have reasoned that there would be no adverse consequences of the proposed development, with reference to DM 1.3, in terms of accessibility or character and appearance. Conversely there would be limited benefits, as described in paragraph 13 above. These benefits, combined, are 'overriding' (based on an ordinary definition of the word) and justify allowing the proposal. As such, the proposed development would comply with Local Plan Policy DM1.3.

⁴ Joint Core Strategy for Broadland, Norwich and South Norfolk, amendments adopted January 2014

Other Matters

15. Interested parties are concerned that the proposed development would set a precedent with regard to additional development being located outside of the defined development boundary. However, every case should be treated on its own merits with regard to the site-specific circumstances. In my experience, even very slight differences in the nature of a scheme or its surrounding context may lead to very different assessments in terms of planning merits. In this case, there would be no harm to the character of the surrounding area and the site provides good access to services and facilities. On that basis, to allow this appeal would not set a precedent for other development beyond the development boundaries.
16. The site plan submitted to the Council shows that a row of Beech trees on the site boundary would be removed. Several interested parties have suggested that the removal of these trees would adversely affect the character of the surrounding area. The Council's case report addresses the loss of the Beech trees in detail, concluding that the trees are unmaintained and are not notable landscape features worthy of retention. I concur with this assessment and conclude that the removal of the Beech trees would not be harmful to the character of the surrounding area. Notwithstanding this conclusion, a condition requiring details and implementation of planting will provide control over additional boundary planting. A representation has been made by an interested party that the trees may not be within the appellant's ownership, however that is a private legal matter, and allowing the appeal would not alter land ownership.
17. Interested parties have also referred to the 'Norwich Southern Bypass Landscape Protection Zone'. However, there is no robust evidence before me as to the extent, precision or certainty of that zone, or in any event to justify that the highly limited change resulting from the proposal would meaningfully affect it.
18. Representations have also been made with regard to the effect that the removal of the Beech trees will have on noise from traffic on the 'Southern Bypass'. Notwithstanding that no detailed evidence has been provided to support this assertion, there would be no harm in this regard, given that a significant number of trees would remain, both within the site and between the site and the surrounding road network.
19. Interested parties have highlighted the potential for the Beech Trees to provide a habitat for bats, indicating that their proposed removal could adversely affect a protected species. However, no evidence of the presence of bats has been provided and the Council has not raised this as an issue, nor made reference to the landscape here or in the wider area being particularly ecologically valuable in that regard. In addition, the Council did not request the submission of any ecological surveys. Therefore, on balance, I consider that there is no evidence to indicate that the proposed development would have an adverse impact upon a protected species.
20. In terms of the construction impacts of the proposed development, the site is not located in particularly close proximity to neighbouring dwellings and construction activities would therefore be unlikely to lead to any unacceptable disturbance to living conditions. In addition, the site is relatively large given the

small scale of development proposed. As such, construction related activities are unlikely to obstruct third party land.

21. Various representations have been received in relation to the effect of the proposed development on highway safety, both during construction and operation. However, the Council's case report found no harm in relation to these matters, and I note that the Highway Authority did not raise objection to the development on highway safety grounds. Given the limited scale of the proposed development and the location of the site, accessed via a private drive, I do not consider that there would be any adverse impact on highway safety.

Conditions

22. I have considered the Council's suggested conditions in light of advice contained in the Planning Practice Guidance and the tests within the Framework. As a result, I have amended some of the conditions so that they are enforceable, precise, relevant, necessary and reasonable in all other respects. With regard to Section 100ZA of the Town and Country Planning Act 1990 (as amended), the appellant has given his written agreement to the pre-commencement conditions, relating to tree protection, as recommended by the Council. I have revised these conditions such that they now form a single condition which is more precise [Condition 3]. However, the effect of the condition remains unchanged and as such the appellant has not been prejudiced in this regard.
23. Conditions relating to timeliness [1] and the identification of plans [2] are necessary to provide certainty.
24. Tree protection measures [3] are to be implemented to protect the wellbeing of the trees to be retained and in the interest of the character and appearance of the surrounding area. Details are required prior to commencement of development because there are several trees subject to Tree Preservation Orders within and adjacent to the appeal site. However, the Arboricultural Impact Assessment (AIA) submitted with the planning application, relates to a previously proposed scheme for a different quantum of development to that which is currently proposed. For this reason, I have amended the Council's suggested wording to include reference to a revised AIA. The appellant has agreed to this provision.
25. Details of proposed planting and boundary treatments [4 and 5] are required in the interest of preserving the character and appearance of the area. Details of surface water drainage [6] and foul water disposal [7] are required to protect against flooding and in the interest of public health. Proper implementation of the proposed access, parking and turning areas is required in the interest of highway safety [8]. Water consumption is restricted [9] in the interest of using water efficiently and to assist in reduced energy consumption in accordance with the development plan⁵.

⁵ Joint Core Strategy (2014) Policy 3

Conclusion

26. The proposed development complies with the development plan taken as a whole. There are no other matters raised which suggest that a decision should be made other than in accordance with the development plan. As such, I conclude that the appeal should be allowed, subject to the conditions in the attached schedule.

Luke Simpson

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: 001 Rev B, 003 Rev E, 0100 Rev C, 0170 Rev B, 0171 Rev A.
- 3) No site clearance, preparatory work or development shall take place until a revised Arboricultural Impact Assessment, including a scheme for the protection of retained trees (denoted by a solid blue line on the approved plan 003 Rev E), showing the proposed line and dimensions of all service trenches (and method for installation), in accordance with British Standard BS 5837 Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced), has been submitted to, and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 4) No development shall take place above slab level until full details of the boundary planting, including species, sizes, spaces or density and siting, have been submitted to and approved in writing by the Local Planning Authority. The planting shall be undertaken in accordance with the approved details prior to occupation of the dwelling hereby permitted. Any plants, including replacement plants, which die, are diseased, are removed or otherwise fail within the first ten years following planting, shall be replaced with the same species and size of plant.
- 5) No development shall take place above slab level until a scheme, including a plan indicating the positions, design, materials and type of boundary treatment to be erected or retained, has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment scheme shall be completed before the dwelling is first occupied in accordance with the approved details and shall be retained in accordance with those details thereafter.
- 6) No development shall take place other than the works required for the laying of foundations, until full details of the means of sustainable surface water drainage have been submitted to and approved in writing with the local planning authority. The details shall include the results from percolation tests if appropriate and incorporate installation of water efficiency and water saving devices such as rain saver systems. The approved scheme shall be implemented prior to first occupation of the approved dwelling and retained as approved thereafter.
- 7) No development shall take place other than the works required for the laying of foundations, until full details of the means of foul water and sewage disposal have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to first occupation of the approved dwelling and retained as approved thereafter.

- 8) Prior to the first occupation of the dwelling hereby permitted, the vehicular track / drive and on-site parking and turning areas, shall be provided in accordance with the details shown on the approved plan referenced 003 Rev E. These areas shall be levelled, surfaced, drained and be retained thereafter available for that specific use.
- 9) The development hereby approved shall be designed and built to achieve a water consumption rate of no more than 105 litres/person/day. All required water conservation measures installed to achieve this rate shall be retained/upgraded to ensure the required water consumption rate is not exceeded for the lifetime of the development.