

Appeal Decision

Site Visit made on 22 June 2021

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2021

Appeal Ref: APP/G2625/W/21/3268636

Land Adjacent to 1 Dell Crescent, Norwich NR5 8QB

- 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 GCP PROJECT 022 LTD against the decision of Norwich City Council.
 - The application Ref 20/01232/F, dated 7 October 2020, was refused by notice dated 11 December 2020.
 - The development proposed is described on the application form as 'erection of 8 No. two bedroom flats'
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Decision

1. The appeal is allowed and planning permission is granted for erection of 8 No. two bedroom flats at Land Adjacent to 1 Dell Crescent, Norwich, NR5 8QB in accordance with the terms of the application, Ref 20/01232/F, dated 7 October 2020, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by GCP PROJECT 022 LTD against Norwich City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Both parties refer to a previous appeal for a 'new apartment building comprising eight apartments' which was allowed in January 2016, under appeal reference APP/G2625/W/15/3006563 (the Previous Appeal). This consent has now lapsed. A copy of the appeal decision has been provided by the appellant. I note that the number of residential units and vehicle parking spaces previously approved is the same as currently proposed under this appeal. Both parties have also confirmed that the currently proposed development is broadly consistent with the scheme approved under the Previous Appeal. On that basis and given that the appeal was determined within the context of the same development plan documents, the conclusions reached by the Inspector are material to the consideration of this appeal.
4. 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. The Appellant has provided a response stating that the changes do not alter their previous representations. No response has been received from the Council. I have had regard to the revised Framework in considering this appeal. Neither party would be prejudiced by this approach.

Main Issue

5. The main issue is the effect of the proposed development on highway safety and the living conditions of neighbouring occupiers, with particular regard to on-street parking and traffic generated.

Reasons

6. The appeal site is located at the end of Dell Crescent, a cul-de-sac. The site is currently vacant and was previously occupied by a scout hut. There are neighbouring residential buildings on each side of the proposed access, including a block of flats on one side and semi-detached two storey dwellings on the other. The flats have a dedicated parking area and the adjacent neighbouring dwellings predominantly include off-street parking to the front or side. During my site visit, I noted that several vehicles were parked on-street along Dell Crescent in the vicinity of the appeal site.
7. The Council's reason for refusal states that the proposed development would result in increased pressure on on-street parking along Dell Crescent, which together with increased vehicular movements would have an adverse impact upon 'residential amenity' and highway safety.
8. The Council's representations suggest that the development would give rise to increased on-street parking on Dell Crescent. However, I consider that the provision of 8 vehicle parking spaces is sufficient to ensure that future occupiers would have sufficient off-street parking available to them, such that there would not be any significant increase in on-street vehicle parking. Indeed, the Council's case report accepts that the development complies with their parking standards, as set out within the Development Plan. The Council's appeal submissions do not deviate from this position. In addition, the site is located in close proximity to a bus stop on Dereham Road, which provides regular links to Norwich City centre. This further supports the level of proposed parking provision as it provides an alternative mode of transport for future occupiers and visitors.
9. Whilst I recognise that vehicles park on either side of Dell Crescent, I noted during my site visit that there was still sufficient width in the carriageway to accommodate a single vehicle or emergency vehicle. I also note that the Highway Authority did not object to the proposed development on these, or any other grounds. Furthermore, the development would provide an adequate level of off-street parking and there is no evidence to suggest that it would result in an increase in parking on Dell Crescent. For the same reason, the proposed development would not result in vehicles obstructing the footway. As such, the proposed development would not have an adverse impact upon the safety of pedestrians.
10. No detailed evidence has been provided by the Council in relation to the vehicular traffic that would be generated by the development. In addition, Dell Crescent is a cul-de-sac and vehicle speeds are therefore likely to be low. For these reasons, the relatively low number of increased vehicular movements associated with the provision of eight dwellings, would not result in an adverse impact on highway safety.
11. In terms of living conditions, I accept that there may be existing parking pressure on Dell Crescent, which is inconvenient to residents. However, the

proposed development would not add to this pressure, given that it provides sufficient off-street parking on the appeal site. The Council suggests that vehicles may park along the proposed access into the appeal site. However, no evidence has been provided to support this assertion.

12. Both parties also refer to the prospect of an alternative vehicular access onto Dereham Road. However, Dereham Road is a main arterial route and in accordance with DMLP¹ Policy DM30, access should be taken from alternative points. There is no evidence before me to suggest that the proposed access would not provide a secure and suitable access into the site. This is consistent with the findings of the Inspector in relation to the Previous Appeal.
13. For these reasons, I conclude that the proposed development would not have an adverse impact upon highway safety and would not harm the living conditions of neighbouring occupiers. The development would therefore comply with DMLP Policy DM30, which seeks to ensure that development does not have an adverse impact on highway safety. It would also comply with Core Strategy Policy 2, which requires in part that development proposals provide walking and cycling friendly neighbourhoods. In addition, the proposed development would comply with DMLP Policy DM2, which seeks to ensure that development does not result in unacceptable living conditions for existing or future occupiers.
14. The development would also comply with the relevant provisions of Framework Chapter 9 ('Promoting Sustainable Transport'). In particular, it would comply with Framework Paragraph 111, which states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

15. Whilst they did not object to the planning application, Norfolk County Council, as the Local Highway Authority (LHA), has made representations outlining concerns in relation to the location of the proposed bin store, adjacent to Dereham Road. The LHA is concerned that refuse collection from Dereham Road would result in an adverse impact upon highway safety. As such they have suggested that the bin store should be located adjacent to Dell Crescent and that details and implementation could be secured by planning condition. The appellant has accepted this. I consider that such a condition is necessary in this instance given that Dereham Road is a main arterial route, which should not be obstructed.
16. Interested parties have raised concerns in relation to the stability of land with reference to former mine shafts and tunnels which allegedly run below the site. The Council has concluded that the development would be acceptable in this regard, subject to conditions requiring that the development is undertaken in accordance with the submitted Geotechnical report with a subsequent completion report required by planning condition. This was the conclusion reached by the Inspector in relation to the Previous Appeal and there is no evidence before me to indicate that the circumstances have changed since that decision was made. Therefore, subject to conditions, there would be no adverse impact with regard to land stability.

¹ Development Management Policies Local Plan 2014

Conditions

17. Suggested conditions have been considered 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 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 written agreement to the pre-commencement conditions recommended by the Council. The effect of these conditions has not been altered by my revisions and therefore the appellant has not been prejudiced in this regard.
18. In addition to the standard time limitation condition, the Council has suggested a condition requiring that the development is carried out in accordance with the approved plans. I consider this condition to be necessary in the interest of clarity, albeit the inclusion of the Design and Access Statement and Preliminary Ecological Appraisal (PEA) is not necessary.
19. The Council has also suggested conditions requiring submission of details for approval in respect of materials, landscaping and tree protection measures. I consider these conditions are necessary in the interest of the character and appearance of the area. With regard to the lighting element of the landscaping condition, I have included a requirement for adherence to the conclusions of the PEA. This is because these recommendations need to be followed in order to avoid potential harm to bats, which are a protected species.
20. Conditions which require submission of details pertaining to vehicle parking and turning areas, closure of unused highway access, specification of access on highway land and refuse collection from Dell Crescent, are all considered necessary in the interest of highway safety. The Local Highway Authority has requested a condition relating to construction traffic management, which would seek to control the route of construction traffic off-site. This condition would not be enforceable. However, a condition requiring a construction method statement is reasonable and I have included a provision requiring submission and approval of details of the site construction access, in the interest of highway safety.
21. Conditions requiring the submission of details relating to contamination and Are necessary in the interests of the living conditions of future occupants and nearby residents. For the same reason, conditions are necessary to ensure that the development is carried out in accordance with measures identified in the Land Stability Site Assessment Report and that suitable noise attenuation standards are achieved. However, the Council's suggested noise attenuation condition included a requirement that windows are fixed shut. This would be unreasonable given that the appellant may be able to comply with the noise attenuation requirements without the need for windows to be fixed shut.
22. Finally, a condition requiring that the development meets building regulation standards for water efficiency is considered necessary in the interests of the environment.

Conclusion

23. The proposed development would comply with the development plan as a whole and in particular the policies relating to highway safety and living conditions. There are no material considerations which indicate that a decision

should be made other than in accordance with the adopted development plan policies. I therefore conclude that the appeal should be allowed.

Luke Simpson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: OAS 20-172-AR01 Arboricultural Impact Assessment & Method Statement (Received 16th October 2020); RS/N20411/jcm Additional Information Letter from Structural Engineer Received 16th November 2020 and Site Investigation report (SIC East Anglia Ltd., dated March 2007); 3314.0219N Sheet 1 (Received 13th October 2020); 3314.0219N Sheet 2 (Received 13th October 2020); 3314.0219N Sheet 3 (Received 13th October 2020); 3314.0219N Sheet 4 (Received 13th October 2020); 3314.0219N Sheet 5 Rev A (Received 26th November 2020); 3314.0219N Sheet 6 Rev A (Received 24th November 2020); 3314.0219N Sheet 7 (Received 13th October 2020).
- 3) No development shall take place until the following components dealing with contamination of the site have been submitted to and approved in writing by the local planning authority:
 - a) A Preliminary Risk Assessment (PRA) which identifies all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, and potentially unacceptable risks arising from contamination at the site.
 - b) If the PRA identifies a potentially unacceptable risk from contamination, a site investigation scheme, based on the PRA, providing information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c) A written report containing the site investigation results and the detailed risk assessment, and based on these, if required, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - d) Any works on site shall be in accordance with the scheme as approved. The development shall not be occupied until a verification plan and a proposed Monitoring, Maintenance and Contingency Plan (MMCP) have been submitted to and agreed in writing by the local planning authority. The verification plan shall provide details of the data that has been collected in order to demonstrate that the works set out in the approved remediation strategy are complete, and shall identify any requirements for longer-term monitoring of pollutant linkages,

maintenance and arrangements for contingency action. The proposed MMCP shall identify how these requirements will be met, and should thereafter be adhered to.

- 4) If, during development, contamination not previously identified is found to be present, then no further development shall be carried out in pursuance of this permission until a remediation scheme to deal with such contamination has been submitted to and approved by the Council as Local Planning Authority detailing how this contamination shall be dealt with in accordance with the agreed remediation scheme. Development shall only continue when evidence is provided to the Local Planning Authority and approved, to confirm that the contamination no longer presents an unacceptable risk.
- 5) All imported topsoil and subsoil for use on the site shall either (a) be certified to confirm its source and that it is appropriate for its intended use or (b) in the absence of suitable certification, analysis of the imported material will be required along with evaluation against the derived assessment criteria for this site. No occupation of the development shall take place until a copy of the certification has been submitted to and approved by the Local Planning Authority.
- 6) No development shall take place until a supplementary Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the local planning authority. This supplementary AMS shall provide full details of the methods proposed for the protection of trees within the highway adjacent to the existing site access to be used for construction purposes.

The development shall thereafter be undertaken in accordance with these approved details and the approved Arboricultural Method Statement (AMS) Arboricultural Impact Assessment (AIA) and Tree Protection Plan (TPP).

- 7) With the exception of any demolition, site clearance works, archaeological work, tree protection works, ground investigations and below ground works, no development shall take place until a detailed scheme to manage surface water run-off, including a timetable for implementation, has been submitted to and agreed in writing with the local planning authority. The surface water drainage scheme shall be implemented, managed and maintained in full accordance with the agreed details.
- 8) No development above damp proof course level shall take place until details of the following provisions have been submitted to and agreed in writing by the local planning authority:
 - a) car and motorcycle parking
 - b) vehicle turning
 - c) electric vehicle charging points
 - d) cycle storage
 - e) works within the highway arising from works to the access points

No dwelling, hereby approved, shall be occupied until these provisions have been constructed in accordance with the approved plans, and made

available for use in accordance with the details as agreed, and once provided, they shall be retained thereafter.

- 9) No development above damp proof course level shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

Existing landscape details:

- a) details of existing boundary treatments and forms of enclosure;

Hard landscape details:

- b) details of the materials for paved areas, including manufacturer, product type and colour;
- c) proposed and existing functional services above and below ground;
- d) external lighting including specifications for lighting location and position within the site, height and levels of illumination proposed. (The details shall take into account the recommendations contained within the Preliminary Ecological Appraisal Version 2 Received 16th October 2020 and shall also specify that any external lighting includes cowling, or other similar device, to ensure that the lighting only illuminates the site directly);
- e) new boundary treatments at the site, including the material and colour finish of any walls, fences or railings;
- f) details of any minor artefacts and structures;
- g) biodiversity enhancements;
- h) proposed finished levels or contours;

Soft landscape details:

- i) planting plans showing the location, species and numbers of proposed new trees, hedging, shrubs and other planting on the site;
- j) planting schedules, noting species, planting sizes (at time of planting) and proposed numbers and densities where appropriate;
- k) written specifications (including cultivation and other operations associated with plant and grass establishment);

Implementation and management details:

- l) an implementation programme clearly indicating a timescale for the completion of all landscaping works; and
- m) a landscape management plan, including management responsibilities and a schedule of maintenance operations for all landscaped areas for a minimum period of five years following implementation.

- 10) If within a period of five years from the date of planting, any tree or plant (or any tree or plant planted in replacement for it) is removed, uprooted or is destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the

same place no later than the end of the first available planting season (October-March inclusive) and shall thereafter be retained.

- 11) No development above damp proof course level shall take place until a schedule and samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out and retained in accordance with the approved details.
- 12) With the exception of any demolition to remove ground slabs, ground Investigations, site clearance works and tree protection works, no development shall take place, in pursuance of this permission until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The construction shall be carried out in accordance with the approved details. The CMS shall provide for:
 - a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;
 - d) the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate;
 - e) wheel washing facilities, where appropriate;
 - f) measures to control the emission of dust and dirt during construction; and
 - g) a scheme for recycling/disposing of waste resulting from demolition and construction.
 - h) details of the site construction access
- 13) No dwelling hereby approved shall be occupied until the vehicular/pedestrian/cyclist accesses shown on approved plan reference '3314.0219N Sheet 5 Rev A' have been constructed and made available for use.
- 14) No dwelling hereby approved shall be occupied until the vehicular access with Dereham Road and any vehicular access from Dell Crescent not shown on approved plan reference '3314.0219N Sheet 5 Rev A' has been permanently closed, and the footway/highway verge reinstated in accordance with a detailed scheme to be submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be retained in accordance with the approved details.
- 15) No dwelling hereby approved shall be occupied until a detailed specification for the construction of the approved access, where it crosses the public highway, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be retained in accordance with the approved details.
- 16) Groundworks for the development hereby approved shall be carried out in accordance with the advice given in the submitted Site Investigation report (SIC East Anglia Ltd., dated March 2007). Within three months of the completion of the development, a report shall be submitted to the

Local Planning Authority showing how the treatment of the site has implemented the advice contained in the Site Investigation report.

- 17) The building envelope of the development shall be constructed to provide sound attenuation against external noise and ensure internal sound levels no greater than:
 - a) 35dB LAeq(16 hour) in the main living rooms of the dwellings (for daytime and evening use): and
 - b) 30dB LAeq(8 hour)/45dB LAmx(fast) in the bedrooms of the dwellings (for night time use)
- 18) The development hereby approved shall be designed and built to achieve a water consumption rate of no more than 110 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.
- 19) Notwithstanding the details indicated on approved plan reference '3314.0219N Sheet 5 Rev A', prior to first occupation of the dwellings hereby approved, a scheme for the provision of a refuse bin store, to be serviced from Dell Crescent, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented prior to first occupation of the approved dwellings and shall be thereafter retained in accordance with the approved details.