



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: 15 September 2021

Appeal Ref: APP/G2625/W/21/3272095

3 Guardian Road, Norwich NR5 8PE

- 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 Hannah Burney against the decision of Norwich City Council.
 - The application Ref 20/01410/F, dated 16 November 2020, was refused by notice dated 6 January 2021.
 - The development proposed is described as 'construction of single dwelling'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). Accordingly, both parties were invited to provide representations in relation to the revised Framework. The Council has provided representations, but no response has been received from the appellant. Given that both parties have been given the opportunity to make representations, I have had regard to the revised Framework in considering this appeal.

Main Issues

3. The main issues are as follow:
 - The suitability of the site for the proposed development, with regard to its location in an area identified for employment development.
 - The effect of the development on the living conditions of the occupiers of 3 Guardian Road (No 3), with particular regard to the amount and quality of private outside space.
 - Whether the proposed development would provide for a satisfactory standard of living accommodation for future occupiers of the development, with particular regard to the amount of external garden space and its quality.
 - The effect of the proposed development on highway safety.
 - The effect of the proposed development upon the character and appearance of the site and surrounding area, with particular regard to the proposed removal of existing trees and an existing hedgerow.

Reasons

Suitability of the site

4. The proposed development is for a two-storey detached dwelling which would be located on land adjacent to No 3. The site is located between the A140, a haulage depot and a three-storey block of flats.
5. During my site visit, I noted that the location of the proposed dwelling is enclosed by a fence and thus physically separated from the existing property and garden at No 3. The appellant asserts that the land has been separated in this way for between 15 and 20 years. However, no evidence has been provided to demonstrate this and the appellant recognises that the lawful use of the site is residential. As such, I consider this part of the site to form part of the existing residential curtilage of No. 3.
6. Local Plan¹ Policy DM12 sets out the principles for all new residential development within the District. It states that new residential development will be permitted, except in certain circumstances, including where the site is located on land which is specifically designated for non-residential purposes. It is common ground that the site is part of a wider area of land designated as an employment area, as shown on the Local Plan Policies Map. The designated employment area includes the adjacent haulage depot, other employment units and the appeal site.
7. Local Plan Policy DM16 states that the employment areas defined on the Policies Map will be prioritised for employment uses and other forms of economic development. In this case, residential development is proposed within a designated employment area. The proposed development would therefore conflict with Local Plan Policies DM16 and DM12. The appellant accepts that there would be a conflict with these policies. There would also be a conflict with Core Strategy² Policy JCS5, which states that land identified for employment uses will only be considered for other uses that are ancillary and supportive to its employment role.
8. The appeal site is located in the corner of the designated employment area and is separated from the existing haulage depot by the existing dwelling at No 3. In this regard it currently has limited potential to accommodate additional employment development.
9. I accept that the existing dwelling at No 3 constrains the potential for the site to be developed for employment uses. However, this consideration does not justify an additional dwelling in this location, which would exacerbate this situation, further reducing the prospect of employment uses coming forwards on the site.
10. The appellant suggests that the absence of a development plan policy restricting development within an existing residential curtilage provides justification for the proposed development. I do not accept this assertion. The appeal site is within a designated employment area and as such, the proposed development should be considered with regard to its consistency with the aforementioned employment policies.

¹ Norwich development management policies local plan – Adopted December 2016

² Greater Norwich Development Partnership – Joint Core Strategy for Broadland, Norwich and South Norfolk, Adopted March 2011, amendments adopted January 2014

11. The location of the development would further constrain the future potential of the site for employment use. The proposed development would therefore conflict with Local Plan Policies DM12 and DM16, as well as Core Strategy Policy JCS5.
12. The proposed development would also conflict with Framework Paragraph 81, which states in part that planning policies and decisions should create conditions in which businesses can invest, expand and adapt.

Living conditions for occupiers of No 3

13. The existing area of outside space serving No 3 comprises of a narrow garden, extending to the rear and side of the property. During my site visit, I noted that this outside area was particularly cramped. Furthermore, the garden is surrounded by an existing Haulage Depot.
14. The appellant suggests that the existing level and quality of private outside space would remain largely unaltered. However, the premise for this conclusion centres on the assumption that the fenced off area of land, comprising the location of the proposed dwelling, does not provide an area of outside space for No 3. I do not accept this assertion. This area of land is fenced off and overgrown at present but there is no reason why it could not be utilised as outside space.
15. As such, the proposed development would materially reduce the amount of outside space available to No 3. A substandard, narrow and cramped area of outside space would remain, which would have a harmful impact upon the living conditions of the occupiers of No 3. There is disagreement between the appellant and the Council with regard to the figures provided in relation to the amount of private outside space. However, even if I accept the figures provided by the appellant, my conclusions, which are based on the observations made during my site visit, remain unaltered.
16. The development would therefore have a harmful impact upon the living conditions of the occupiers of No 3. As such, it would conflict with Local Plan Policy DM2, which requires that development does not have an unacceptable impact upon the living conditions of existing occupiers.
17. Core Strategy Policy JCS2 and Local Plan Policies DM3 and DM12 are not relevant to this main issue.
18. The proposed development would also be contrary to Framework Paragraph 130, which in part aims to ensure that new development provides a high standard of living conditions to existing users.

Standard of accommodation for future occupiers

19. The proposed dwelling would also include provision of an area of private outside space to the side and rear. The plans submitted to the Council indicate that this garden would be smaller than that which would be retained at No 3. Indeed, the proposed outside space would be cramped and of insufficient size to provide adequate living conditions for future occupiers. The proposed garden would be set further away from the haulage depot than that of No 3, but it would be hemmed in between the existing dwelling and a three-storey block of flats.

20. The Council's reason for refusal suggests that the proximity of the garden to the adjacent road and haulage depot would lead to harm from exposure to noise, odour and pollution. No technical evidence has been provided by either party in relation to odour and pollution and I have not identified any harm in this regard. However, in relation to noise, the appellant submitted a Noise Impact Assessment³ (NIA) to the Council as part of the planning application.
21. The NIA outlines that existing ambient noise levels at the rear façade of No 3 are 57dB (LAeqT) at night time and 64 (LAeqT) during the daytime. The NIA states that noise sources include both the traffic from the adjacent highway and to a lesser extent, the operation of the adjacent haulage depot. The NIA and the Council's representations both refer to the guidance contained within British Standard BS8233:2014, 'Guidance on sound insulation and noise reduction for buildings'. This sets out that it is desirable that external noise levels do not exceed 50dB (LAeqT), or 55dB (LAeqT) in noisier environments. The existing noise levels at the rear of No 3 exceed this guidance. It is reasonable to conclude that similar levels of noise would be experienced from the rear of the proposed dwelling and there is no evidence before me to suggest otherwise.
22. The NIA focuses on mitigation measures in respect of the proposed internal areas but does not provide any detailed conclusions on the impact upon the proposed outside space. The erection of the dwelling itself would likely have some mitigating effect on the noise levels to the rear of the proposed dwelling. However, the existing noise levels from the rear façade of No 3, as outlined in the NIA, take into account the presence of the existing building at No 3. In addition, the NIA concludes that the ambient noise levels include the 'regular' activities of the adjacent haulage depot, which is located to the rear. The evidence before me therefore indicates that the proposed dwelling would not sufficiently mitigate the level of ambient noise experienced from the proposed outdoor space. Given the constrained and cramped size of the proposed outside space, a planning condition requiring noise mitigation measures would not be appropriate in this instance.
23. The appellant suggests that noise impacts would be no more severe in respect of the proposed dwelling than those experienced at No 3 at present. However, that there is already harm to the occupiers of No 3, does not justify the harm which would arise to the living conditions of future occupiers of the proposed dwelling.
24. In conclusion, the proposed development, in providing what I find would be an inadequate and substandard area of outdoor space for the occupiers of the proposed dwelling, which would also likely be subject to undue noise disturbance, would not provide for a satisfactory standard of living accommodation. As such, it would conflict with Local Plan Policy DM2, which requires that development does not result in disturbance from noise and that provision is made for appropriate and integral private outside space.
25. Core Strategy Policy JCS2 and Local Plan Policies DM3 and DM12 are not relevant to this main issue.

³ Planning Noise Impact Assessment produced by Spectrum Acoustic Consultants (MM1230/20278/Rev. 0)

26. The proposed development would also be contrary to Framework Paragraph 130, which in part aims to ensure that new development provides a high standard of living conditions to future users.

Highway Safety

27. The proposed development would include alterations to the existing vehicle parking layout to provide additional parking spaces for the proposed dwelling. The existing access is via a dropped kerb onto the A140 and crosses an access serving the adjacent Haulage Depot. The proposed development would include alteration of this access, such that it would be arranged more centrally. However, the new access would still cross the existing haulage depot access.
28. Norfolk County Council (the Highway Authority) has provided representations in relation to this appeal. The Highway Authority has outlined that the A140 is designated as a Principal Route which has the primary purpose of carrying traffic, usually at speed, within the urban area. The carriageway adjacent to the appeal site comprises five lanes, with a speed limit of 30mph. During my site visit, I noted that the highway was heavily trafficked. Whilst my site visit only represents a snapshot in time, it is reasonable to conclude that the highway is generally heavily trafficked, taking into account the road layout (comprising five lanes) and given that this is a Principal Route.
29. The proposed revisions to the parking arrangement and access point would be such that they would allow vehicles to access and egress in forward gear. This would be an improvement on the current situation. However, an additional dwelling would result in additional vehicle movements in this location. The evidence before me indicates that there would be a net increase of 6 two-way movements per day.
30. The proposed development would result in an increase in the number of vehicles waiting on the highway to either turn right into the site or turn right onto the carriageway. Vehicles entering the site may also have to wait on the highway in order to allow other vehicles to leave the site or adjacent haulage depot. This increases the risk of collisions arising from oncoming traffic. This likelihood is further exacerbated by the close proximity of the proposed access to the existing junction between Guardian Road and Bowthorpe Road.
31. The Highway Authority has provided evidence to show that within the last 5 years there have been 11 personal injury accidents on the A140 in the vicinity of the Appeal Site. Ten of these accidents were located at the nearby junction of Guardian Road with Bowthorpe Road. The appellant has asserted that there are no recorded accidents at the existing site access or the associated haulage depot access. Whilst this may be the case, data does not usually include accidents which have not been reported to the police. Furthermore, the proliferation of accidents in close proximity to the appeal site indicates that this section of the A140 is particularly susceptible to even the slightest change in circumstances.
32. Neither the presence of the existing haulage depot access, nor the existing residential access, provide justification for the increased number of vehicular movements in this location. Similarly, the fact that there are numerous access points onto the A140 elsewhere does not justify the harm that the development would cause to highway safety in this location.

33. The appellant suggests that the additional vehicular movements will result in a negligible change to overall traffic flows of the A140. Whilst this is accepted, this does not overcome the specific context within which the additional vehicular movements would occur and the risk that this would pose to the safety of highway users in this particular location.
34. Taking all of these considerations into account, the additional vehicular movements that would result from the proposed development would have an adverse impact upon highway safety. The wording of Local Plan Policy DM30, on Access and Highway Safety, sets out requirements for new development. This policy states that new access points onto 'principal routes' such as the A140, will only be permitted where vehicles can access and egress in forward gear and where there is no practical alternative access onto a more minor route. The development complies with these requirements and the policy does not include a more general requirement in relation to highway safety. Furthermore, Core Strategy Policy JCS6 is not applicable to issues pertaining to highway safety.
35. However, Framework Paragraph 110 requires that applications for development are assessed to ensure that they provide safe and suitable access to the site and that adverse impacts upon highway safety can be sufficiently mitigated. Framework Paragraph 112 also requires, in part, that development creates safe places including minimising conflict between road users. Given my conclusions in relation to highway safety, the development would be contrary to Framework Paragraphs 110 and 112.
36. Therefore, whilst there is no conflict with the relevant development plan policies in relation to this main issue, the Framework is a material consideration which indicates planning permission should be refused on the grounds of the adverse impact upon highway safety. This approach is consistent with Framework Paragraph 111.

Character and Appearance

37. There are several mature trees and a hedgerow located to the front of the appeal site, adjacent to the existing parking spaces. The existing proliferation of buildings in the surrounding area are typically interspersed with mature trees and hedgerows. Indeed, the trees and hedgerow within the appeal site help to break up the urban grain of the area, which would otherwise be dominated by the adjacent block of flats, No. 3 and the haulage depot. In this regard they make a significant contribution to the character of the surrounding area.
38. The appellant submitted an Arboricultural Impact Assessment⁴ (AIA) to the Council as part of the planning application. This report confirms that the proposed development necessitates the removal of the existing beech hedgerow and beech trees within the site, with one Lime tree retained. Given the positive contribution that the existing hedgerow and trees currently make, their removal would be harmful to the character of the surrounding area.
39. No proposals have been advanced for equivalent replacement planting within the site. Having reviewed the submitted site plan, I note that the parking area would be extended such that there would be limited space to accommodate

⁴ Arboricultural Impact Assessment and Preliminary Method Statements (TPSar1920820)

equivalent additional planting to the front of the appeal site. Furthermore, it is not clear whether any additional planting to the front of the site would create a visual obstruction to vehicles accessing and egressing. As such, the harm to the character and appearance of the area could not be overcome through the imposition of a planning condition requiring provision of replacement planting.

40. The AIA does not provide sufficient evidence to justify the removal of the trees based on their condition. Indeed, it concludes that the structural integrity of the Beech Trees can be maintained through crown works.
41. The proposed development would therefore be harmful to the character and appearance of the surrounding area and would conflict with Core Strategy Policy JCS2 and Local Plan Policies DM3 and DM12, which in part require that new development respects and enhances local distinctiveness and character. There would also be a conflict with Local Plan Policy DM7, which states in part that trees and significant hedge masses should be retained or otherwise replaced by equivalent planting, unless there are exceptional circumstances.
42. In addition, the proposed development would conflict with Framework Paragraphs 130, 131 and 174(b), which in part outline that development should be sympathetic to local character and that trees make an important contribution to this character and should be retained wherever possible. There would also be a conflict with the social objective of Framework Paragraph 8, which seeks in part to ensure that 'places' are 'beautiful'.

Other Matters

43. The proposed development would result in a net increase of one dwelling. There would be some social and economic benefits associated with the provision of an additional dwelling, including the resultant increase to the District's housing stock. This is consistent with Framework Paragraph 60, which sets out the aim of significantly boosting the supply of homes. There would also be some temporary economic and social benefits during the construction period, through support for construction jobs. However, these benefits would be limited, given the small scale of the development. They would not therefore outweigh the harm which the development would cause in relation to the main issues.

Conclusion

44. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations including the provisions of the Framework, the appeal should be dismissed.

Luke Simpson

INSPECTOR