
Appeal Decision

Site visit made on 27 September 2021

by David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2021

Appeal Ref: APP/V2635/W/21/3272572

**Land between 5 and 6 Brellows Hill, Terrington St Clement, Norfolk
PE34 4PF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Medalright Ltd against the decision of the Borough Council of King's Lynn and West Norfolk.
 - The application Ref 20/01837/O, dated 19 November 2020, was refused by notice dated 21 January 2021.
 - The development proposed is a new single storey dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issues

2. The application was submitted in outline with all matters reserved except for access. The Local Planning Authority (LPA) dealt with it on that basis, and I have done likewise. The site address in the decision banner is taken from the LPAs decision notice, which I consider more accurately identifies the site.
3. The main issues in this appeal are the effect of the proposed dwelling on: (i) open space provision in the area; and (ii) the living conditions of the occupiers of No.6 Brellows Hill, with particular reference to outlook.

Reasons

Open Space

4. The appeal site in terms of its character and function is open space. It is laid out as an area of maintained grass of sufficient size to usefully serve as amenity space for the local community and as area for informal play for children. It is situated within a residential estate generally characterised by reasonably tightly arranged development with further homes immediately to the west along Wanton Lane. A public path connecting Brellows Hill and Wanton Lane passes immediately alongside the open space and consequently there is nothing to prevent residents from either Brellows Hill or Wanton Lane accessing and using the appeal site as local pocket of open space.
5. The Local Planning Authority (LPA) submit that the appeal site was originally conceived to serve as public open space as part of the approved plans (in 1988) for the residential development that includes Brellows Hill. Terrington Parish Council have provided considerable evidence of their efforts to establish this open space after the housing development was completed and to

subsequently maintain it for the benefit of the local community. From the evidence before me, including from local residents, and from my site observations, there is very little to support the appellant's assertions that the area is of limited value as open space. The fact that the site is surrounded by housing and not part of the wider landscape enhances its status as a green pocket of open space within this residential area. Technically the site may not be identified as open space on the Local Plan Policies Map. However, this map should not be treated as a definitive record of all areas of publicly accessible open space, particularly for those smaller, informal pockets of land such as appeal site.

6. The appeal proposal would result in the complete loss of the existing open space as an accessible area of amenity and community value. Due to the relatively tight pattern of development in the area I am not persuaded that private back gardens in this area would adequately compensate for the loss. There would be significant social harm from the loss of an area that allows the local community to meet and children to play. There would also be a localised environmental harm to the character of the area from the loss of a valuable green breathing space within the otherwise tightly arranged pattern of development in this part of Terrington St Clement.
7. I therefore conclude that the appeal proposal would have an unacceptably detrimental impact on open space provision in the area. The proposal would be contrary to Policy DM22 of the Site Allocations and Development Management Policies Plan 2016 (*the SADMPP*) which seeks to protect locally important areas of open space including those where there is, amongst other things, public access and visual amenity value. The proposal would also fail to accord with paragraph 99 of the National Planning Policy Framework (NPPF) which states that existing open space should not be built on unless it has been shown to be surplus to requirements; or would be replaced by equivalent; or better provision or would comprise an alternative form of provision for sports and recreation.

Living Conditions

8. The appeal site is positioned to the south of No.6 Brellows Hill, a bungalow property with two windows on its front elevation. There appears to be little dispute that these openings serve habitable rooms. These openings face south towards the appeal site, separated by a small, open front garden area and the narrow public path. The appeal proposal is in outline and so does not seek to fix the details of the position, scale or design of the proposed dwelling. Nonetheless, given the arrangement of the appeal site, the need to ensure the proposed dwelling has acceptable private amenity space and the proximity of other nearby dwellings it is difficult to conceive of a layout that would not position the proposed dwelling in proximity to the front elevation of No.6. Accordingly, a dwelling on the appeal site would significantly remove the current open outlook from these openings on No.6. Due to its proximity the proposed dwelling would appear as a harmfully overbearing feature.
9. I therefore conclude the appeal proposal would result in significant harm to the living conditions of the occupiers of No.6 Brellows Hill, with particular reference to outlook. The proposal would be contrary to SADMPP Policy DM15 which seeks, amongst other things, to ensure development proposals protect the amenity of neighbouring occupants. It would also conflict with the NPPF at

paragraph 130(f) which seeks to ensure that developments promote health and well-being including a high standard of amenity for existing residents.

Conclusion

10. On the main issues in this appeal, I find there would be significant harm such that the proposed development would be contrary to the relevant, up-to-date policies of the development plan. It would also conflict with related parts of national planning policy. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) upholds the primacy of the plan led system, such that proposals contrary to the development plan should only be approved where material considerations indicate otherwise. I have considered the recent appeal decision¹ elsewhere in the Borough submitted by the appellant but find it of limited relevance to the specific circumstances and main issues before me in this appeal. The minimal contribution of a single additional dwelling towards boosting housing supply, in an otherwise sustainable settlement, including its potential for a self-build or for a smaller developer, is of limited weight. Overall, these are not material considerations to indicate a decision should be made other than in accordance with those development plan policies most important for determining the proposal.
11. I have taken into account all other matters raised but there is nothing that leads me to conclude other than the appeal should be dismissed for the reasons given.

David Spencer

Inspector.

¹ APP/V2635/W/20/3253880 – Land off Sandy Lane, Docking