



Appeal Decision

Site visit made on 4 January 2022

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 FEBRUARY 2022

Appeal Ref: APP/U2615/W/21/3274278

35 Yarmouth Road, Ormesby St Margaret, Great Yarmouth NR29 3QE

- 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 Del Porter against the decision of the Great Yarmouth Borough Council.
 - The application Ref 06/21/0146/F dated 18/02/2021, was refused by notice dated 26/04/2021.
 - The development proposed is described as full planning permission for a self-build dwelling
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Decision

1. The appeal is allowed and planning permission is granted for full planning permission for a self-build dwelling at 35 Yarmouth Road, Ormesby St Margaret, Great Yarmouth NR29 3QE in accordance with the terms of the application, Ref 06/21/0146/F dated 18/02/2021, and the plans submitted with it, subject to conditions set out in the schedule attached to this decision.

2. Procedural Matters

3. The Council has drawn my attention to changes in local planning policy since the submission of the appeal I understand that the Great Yarmouth Local Plan Part 2 (2021) (the Local Plan) has been adopted. The appellant was given the opportunity to comment on this change.
4. Similarly, the National Planning Policy Framework 2021 (the Framework) has been published. The revised Framework does not diverge significantly from the previous version with regard to relevance to this appeal. No party would be prejudiced or caused any injustice by me proceeding with the appeal in light of this change in policy.

Main Issues

5. The main issues in this appeal are (i) whether the development would be in a location suitable for a new dwelling and (ii) the effect of the proposed development on the character and appearance of the Ormesby St Margaret Conservation Area.

Reasons

Location

6. The appeal site is located outside of the Ormesby St Margaret development boundary and forms part of the front garden to 35 Yarmouth Road. The site is bounded to the north, east and west by residential properties and gardens, with an equestrian facility to the south and open countryside beyond. For the purposes of development plan policy, the site lies within open countryside.
7. Policy GSP1 of the Local Plan allows for development outside of defined settlement boundaries subject to criteria such as comprising agriculture or forestry development or the provision of utilities and highway infrastructure. The proposed development does not meet the criteria outlined within Policy GSP1.
8. Policy CS2 of the Great Yarmouth Local Plan, Core Strategy 2013-2030 (the Core Strategy) sets out a settlement hierarchy for development. The policy confirms that in the countryside development will be limited to conversions/replacement dwellings/buildings and schemes that help to meet rural needs.
9. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard to the development plan is to be had then determination of an appeal must be made in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the Framework also makes it clear; the development plan is the 'starting point for decision making', not its end.
10. The cornerstone of the Council's case in relation to the first reason for refusal is that the proposed development would be outside of the development boundary of the village.
11. Ormesby St Margaret is classified in the Core Strategy and the Local Plan as a primary village, comprising a settlement containing good local services and facilities.
12. The appeal site is adjacent residential properties in an area characterised by large dwellings set within substantial plots. The immediate area does have a rural sense of openness. However, the site is clearly distinguishable from the countryside, and would be located within a residential area close to the settlement boundary of the village.
13. Whilst outside of the settlement boundary the proposed development would spatially read as being part of the village.
14. The appellant has drawn my attention to a planning approval for residential development on the adjacent site¹. I have not been provided with substantive details relating to the adjacent scheme, however I do note that the adjacent site was approved for a development of 6 new dwellings and a barn conversion. The Council contend this differs from the appeal site and was approved when there was a lack of a five year housing land supply providing a larger number of dwellings.
15. Notwithstanding this I find that the proposed development would relate well locationally to the existing residential dwellings, and the settlement in general, particularly in light of the approval of residential development on the adjacent site which I give significant weight.

¹ 06/18/0499/F

16. The proposed development would be contrary to Policy CS2 of the Core Strategy, and Policy GSP1 of the Local Plan. In the context of a plan-led system, this must weigh against the proposal. However, I do not consider that the proposed development would undermine the Council's settlement strategy or the purpose of the policies which are seeking to protect rural character and avoid urban/suburban sprawl.
17. I conclude that the proposed development would be in a location suitable for a new dwelling.

Character and Appearance of the Conservation Area

18. The site is within a predominantly residential area within the Ormsby St Margaret Conservation Area. In accordance with the statutory duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990; I am required to have special regard to the effect of the proposed development on the character or appearance of the area.
19. Policy CS10 of the Core Strategy amongst other things requires the conservation and enhancement of designated heritage assets, and their settings. Policy E5 of the Local Plan also seeks to conserve and enhance the significance of heritage assets, including any contribution made by their setting, by positively contributing to the character and local distinctiveness of the area.
20. The Conservation Area in this location is characterised by residential properties, set within large plots set back from the road frontage. This pattern of development accounts for a relatively small linear area, with residential properties nearby being more densely located, albeit some still within generous gardens.
21. Whilst spatially the appeal site and adjacent dwelling are set back significantly on their plots these are, in general, not the common form of development in the conservation area. Notwithstanding this a set back with an open verdant front boundary plays a role in defining the character of the area which is part of the Conservation Area's significance as a heritage asset.
22. The appeal site has a small timber fence separating the site the Yarmouth Road, with an expansive level front lawn. The front garden of the appeal site is open and devoid of landscaping unlike adjacent properties. Landscaping to the front of the surrounding plots adds to the character and appearance of the conservation area.
23. The proposed development of a chalet dwelling includes a set back from the adjacent highway, and whilst this would introduce built form closer to the highway this is not out of keeping with the wider area. There is also opportunity to introduce landscaping to the front boundary which would assimilate the plot into the wider area and enhance the conservation area, this could be controlled by the imposition of a planning condition.
24. I find that the proposed development would not compromise the spatial rhythm or pattern of development thereby would conserve or enhance the Conservation Area.
25. Paragraph 199 of the Framework states that great weight should be given to the conservation of a designated heritage asset when considering the impact of

a proposal on such an asset. This is irrespective of the level of harm. I find that the proposed development would not harm of the significance of the Conservation Area.

26. I conclude that the proposed development would conserve and enhance the character and appearance of the Ormesby St Margaret Conservation Area. There is no conflict with Policy CS10 of the Core Strategy, Policy E5 of the Local Plan and the Framework which seek to ensure developments preserve and enhance the character and appearance of the conservation area.

Conclusion and Conditions

27. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity.
28. I have imposed a standard condition relating to the commencement of development. I have included a condition specifying the relevant plans as this provides certainty. In the interest of safeguarding the character and appearance of the area I have imposed conditions relating to details of the external materials.
29. I have imposed conditions relating to the submission of a tree protection plan and method statement, and biodiversity and landscape enhancements in the interest of the protection and enhancement of the environment.
30. The Council have suggested that conditions relating to contaminated land during construction, bin storage, cycle parking and restricting hours of construction. However, no substantive evidence has been submitted to demonstrate the requirement for these conditions. Also given the scale, layout and nature of the proposed development I do not consider it necessary to require the details of bin storage or cycle parking as there is ample room within the site to accommodate these. I therefore consider the proposed conditions to be unnecessary.
31. The Council have suggested a condition relating to removal of permitted development rights relating to garages / outbuildings and fences / boundary treatments to maintain a sense of openness to the frontage. Conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity². The current host dwelling may benefit from permitted development rights, and I am not persuaded that the removal of permitted development rights would be justified.
32. For the above reasons I conclude that this appeal should be allowed.

C Pipe

INSPECTOR

² Planning Practice Guidance Paragraph: 017 Reference ID: 21a-017-20140306

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Drawing Number 20102-001.
- 3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until an Arboricultural Method Statement and Tree Protection Plan, in accordance with BS 5837: Trees in Relation to Design, Demolition and Construction, have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.
- 6) No development shall take place until a scheme to enhance the biodiversity interest of the site, including landscape scheme along the front boundary has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented prior to the occupation of the development hereby approved and retained in perpetuity.
- 7) Prior to the first occupation of the development hereby approved a 2.4metre wide parallel visibility splay (as measured back from the near edge of the adjacent highway carriageway) shall be provided across the whole of the site's roadside frontage. The splay shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent carriageway.
- 8) Prior to the first occupation of the development hereby approved the proposed access, on-site car and cycles parking/turning area shall be laid out, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.