



Appeal Decision

Site visit made on 15 November 2022

by C Harding BA(Hons) PGDipTRP PGCert MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2022

Appeal Ref: APP/Y2620/W/22/3303744

Wishing Well, The Street, Happisburgh, Norwich NR12 0AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr David Pugh against North Norfolk District Council.
 - The application Ref PF/22/1121, is dated 28 April 2022.
 - The development proposed is material change of use for the existing detached building to the frontage of the Wishing Well dwelling house.
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Decision

1. The appeal is dismissed and planning permission for material change of use for the existing detached building to the frontage of the Wishing Well dwelling house is refused.

Preliminary Matters

2. This appeal is being considered concurrently with another appeal¹ at this site relating to a refusal to grant prior approval for the development proposed. However, the cases involve different considerations and different legislation applies. Accordingly, I have considered each separately and on its merits.
3. The appeal is made against the failure of the Council to give notice of its decision with the prescribed period. However, the Council has provided putative reasons for refusal, and these have framed my main issues.
4. The proposed development would be accommodated within an existing detached building within the grounds of Wishing Well, which is a residential property. There is dispute between the parties with regard to the planning history of the detached building in question. However, it does appear to be common ground that the detached building was originally granted planning permission at the time of the approval² of the property known as Wishing Well, and at that time it was a garage. It also appears to be common ground that planning permission was granted in 2009³ for alterations to the garage, including a loft area, office and shower.
5. Since that time, the planning history of the building is less clear, and changes to the elevations have taken place through the introduction of a door and windows, and the removal of the garage door. The appellant also acknowledges that it has previously been used as both living accommodation in association

¹ APP/Y2620/W/22/3297965

² PF/1989/2574

³ PF/2009/0934

with the main dwelling and as an Airbnb rental property. No evidence of any approval for these uses or alterations, if indeed required, is before me.

6. However, it is not within the scope of an appeal under section 78 of the Act to formally determine the lawfulness of any of these previous activities or alterations, or whether the proposed development requires planning permission, as questioned by the appellant. If the appellant wishes to ascertain whether either the previous uses and alterations, or the proposed development would be lawful, they may make applications under Section 191 and 192 of the Act.
7. On these terms I must consider the appeal before me, which would result in the creation of a separate dwelling. The appeal should be determined in accordance with the development plan unless material considerations indicate otherwise.
8. The appellant has made reference to reclaiming the cost of the planning application fee, however no formal costs application has been made. In any event, costs may only be awarded in relation to costs directly relating to the appeal, and not the original planning application. Accordingly, I have not pursued this matter further.

Main Issues

9. The main issues are as follows:

- Whether the proposed development would provide acceptable living conditions for future occupiers, and the effect that it would have upon the living conditions of the occupiers of nearby properties, and;
- The effect of the proposed development upon highway safety.

Reasons

Living Conditions

10. The provided plans do not include any indication of scale, although external dimensions have been provided, along with some, but not all internal dimensions and an indication of overall floorspace. No external windows or doors are shown on the plans, and no elevational drawings have been provided.
11. Whilst at my site visit, I was able to see the building in question, and note where windows are currently located. It seems unlikely that the proposed development would result in the existing windows and doors being removed, and I note that no external alterations are included within the application description. Furthermore, the appellant has indicated that no works are proposed other than a boundary wall.
12. However, in considering this issue, I cannot rely on the existing windows because the lawfulness of these previous alterations is in dispute. As the provided plans provide no indication of openings, I am unable to conclude that the proposed development would provide adequate living conditions for future occupiers in this respect.
13. With regards to the size of the proposed dwelling, the provided plans indicate that the dwelling would have two bedrooms, with a single bedroom at ground

floor, and a further bedroom within the roof space. The plans indicate an overall floorspace of around 50 square meters (sq.m).

14. The North Norfolk Design Guide Supplementary Planning Document ('the SPD') indicates that dwellings should include at least 20sq.m of habitable floor area, excluding toilets, bathrooms and circulation space. Whilst levels of overall floorspace have been provided, it is not possible to ascertain the size of all individual rooms, and therefore be satisfied that the required level of habitable internal space would be achieved. The SPD forms part of the development plan, and I afford it considerable weight as a result.
15. Accordingly, it has not been demonstrated that the proposed development would provide adequate living conditions for future occupiers with regard to the level of natural light available in, and size of, the living space to be provided. It would therefore be contrary to Core Strategy EN4 which requires new development to provide acceptable levels of residential amenity.

Highway Safety

16. The proposed development would be accessed via an area that would be shared by both the proposed dwelling and Wishing Well. It is not disputed that at present the property can accommodate up to five vehicles, and that at present vehicles parked within the site can manoeuvre in order to allow access and egress to the site in forward gear.
17. The appellant has indicated that in carrying out the development, a new wall would be constructed within the existing area of hardstanding in order to demarcate the private amenity space of both the existing dwelling and the proposed development. Although, few details of this structure have been provided other than a general indication of its likely location, it would inevitably lead to the loss of some of the overall parking area and limit the space available for the safe manoeuvring of vehicles.
18. The level of parking proposed to be provided is unclear, with the appellant considering that following the proposed development, between four and five spaces would remain available for the existing dwelling, and that a further single space would be provided for the proposed development. This is reflected on the provided site plan, however this is not drawn to scale and as a result, I am not satisfied that this level of parking could be achieved.
19. Furthermore, the comments of the appellant's expert witness indicate that the resultant situation would allow two vehicles to be accommodated at both the existing property, and that proposed with adequate space to allow turning. I consider that the provision of two spaces at each property would be a more realistic outcome.
20. The Council's Parking Standards indicate that two car parking spaces would be required in order to serve the proposed two-bedroomed property. It is also expected that for properties of three or more bedrooms, a minimum of three spaces be provided. The appellant has indicated that the existing property has seven bedrooms, and therefore at least three parking spaces should be retained. It has not been demonstrated that this would be the case, and accordingly, the proposed development would lead to an underprovision of parking for the existing dwelling. This would lead to a greater pressure to park

outside of the site, where only limited levels of on-street parking are currently available.

21. Even if it is accepted that vehicles are not required to turn within the site, and that as a result, the level of car parking provision could be increased, this would require vehicles to either reverse onto, or out of both the existing dwelling and the proposed dwelling. I accept that such arrangements are not uncommon, are evident elsewhere in the local area and that no evidence of any previous accidents based on such an arrangement in the local area has been presented to me. However, in this instance such an arrangement would be complicated by the presence of two properties sharing the same access to do so, and furthermore, the level of movements would likely be higher than at single property.
22. Whilst traffic speeds are generally low, the site is within a village with relatively low levels of traffic, and a visibility splay could be achieved, I observed that street parking is prevalent on the road outside of the site, and that this reduces the usable width of the road as a result. This situation would further complicate manoeuvres either into or out of the site in reverse gear, to the detriment of highway safety.
23. Accordingly, the proposal would lead to an adverse effect on highway safety, either through increased pressure on on-street parking where only limited spaces are available, or as a result of vehicles being unable to both enter and leave the site in forward gear. It would therefore be contrary to Core Strategy Policies CT5 and CT6 which together, and amongst other matters, require development to provide safe access for private transport, be served by a safe access to the highway network, and provide adequate vehicle parking in accordance with the Council's parking standards.

Other Matters

24. The Conservation of Species and Habitat Regulations 2017 require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected sites, either alone, or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
25. Had I been minded to allow the appeal, it would have been necessary to carry out an appropriate assessment in order to establish whether the proposal on its own or in combination with other projects would like have significant effects on the integrity of the European sites including whether mitigation to achieve nutrient neutrality would be necessary and could be achieved. However, as I have concluded that the proposed development would be otherwise unacceptable, it is not necessary for me to pursue this issue further.
26. I note the appellant's comments with regard to the loss of part of Happisburgh Conservation Area ('the CA'), to coastal erosion, however there is no dispute between the parties as to whether the proposed development would preserve or enhance the character and appearance of the CA. As I am dismissing the appeal for other reasons, I do not need to consider this matter further.
27. The evident frustration of the appellant with the conduct of the Council is not a factor to which I can afford any weight in the consideration of this appeal, with the proposal being considered on its merits. Furthermore, issues raised in

relation to a separate application for prior approval⁴ are of limited relevance to this particular appeal, and in any event that application is subject to its own separate and concurrent appeal⁵.

28. Even if the development were to not have a detrimental effect on the character and appearance of the area, and not fetter the occupation of Wishing Well as a dwelling in its own right, these would only be neutral factors, and would not weigh in favour of the proposal.
29. My attention has been drawn to a number of other developments within the local area. Some of these are of little relevance to the appeal before me due to their nature as they relate to different forms of development or are not in comparable location, and others were evidently granted permission a considerable time ago, within a different policy context. Furthermore, the character of Happisburgh is such that there is a diversity of dwelling types and site arrangements. Accordingly, none of the examples cited appear to be directly comparable to the specific circumstances of the appeal site and proposal before me. Accordingly, I afford only very little weight to these examples in reaching my decision.
30. The appellant has indicated he considers that his Human Rights have been adversely affected by their treatment by the Council over a number of years. However, there is no suggestion that the dismissal of this appeal would, itself, infringe upon appellant's rights.

Conclusion

31. Having regard to the above, the proposed development would conflict with the development plan as whole.
32. The proposed development would result in some benefits, including a modest boost to housing supply in a location where dwellings are being lost to coastal erosion, and would provide a small degree of support to the local economy.
33. The appellant has set out that the proposed dwelling would be used to accommodate an older relative. As a result, the proposal would be beneficial in terms of allowing a person with the protected characteristic of age to remain in accommodation in close proximity to their family. However, no evidence has been provided with regards to the exact nature of the circumstances of this family member, and whether it is imperative that they are accommodated within the site. Moreover, the proposal would create a separate dwelling with no mechanism to link its occupation to the existing dwelling. Accordingly, I can afford this only moderate weight in reaching my decision.
34. In doing so I have had due regard to the Public Sector Equality Duty (PSED) set out under s149 of the Equality Act 2010, however, the harm that would result from the proposed development in terms of providing adequate living conditions to future occupiers of the development, and harm to highway safety, would outweigh its potential benefit in allowing an older family member to reside at the site.

⁴ PU/11/0019

⁵ APP/Y2620/W/22/3297965

35. As these benefits would not outweigh the harm or conflict with the development plan that I have identified, I therefore conclude that the appeal should be dismissed.

C Harding

INSPECTOR