



Appeal Decision

Site visit made on 21 February 2022

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 3 January 2023

Appeal Ref: APP/L2630/W/21/3273728

Brooke House, Brooke Gardens, Brooke, NR15 1JH

- 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 Muj Malik of Kingsley Healthcare Ltd against the decision of South Norfolk District Council.
 - The application Ref: 2020/0333, dated 14 February 2020, was refused by notice dated 20 November 2020.
 - The development proposed is an extension to Brooke House to provide an additional 26 bedroom care facility (Class C2), with associated ancillary uses, highway and landscape works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the application a revised National Planning Policy Framework (the Framework) was published in July 2021. I have therefore determined the appeal before me having regard to the Framework.
3. Following the Council's determination of the appeal, Natural England (NE) issued a letter on the 16 March 2022, detailing the adverse effect of nutrient pollution on Habitats Sites within the district, in particular The Broads Special Area of Conservation (SAC). Whilst the appeal site lies outside of the catchment areas of the River Wensum Special Area of Conservation and the Broads SAC it is necessary to assess the potential impacts of additional nutrient loads on those Habitats Sites from foul and surface water drainage. Subsequently, the appellant provided additional evidence to demonstrate that the discharge route for foul water is outside of the identified SSSI Catchment Areas of the River Wensum and The Broads SACs and Ramsar. Similarly, the submitted evidence establishes that all watercourses concerned with surface water outfall from the proposed development are outside of the catchment areas.
4. The Council were provided an opportunity to review the appellant's evidence. Subsequently, the Council confirmed the additional evidence demonstrated that this issue of nutrient neutrality had been adequately addressed and I see no reason to take a different view.
5. During the appeal, the Council advised of the introduction of the Green Infrastructure Recreational Avoidance Mitigation Strategy (GIRAMS) which requires new development to mitigate the potential for recreational activities to disrupt the protection of Habitats Sites. However, as future residents of the

appeal scheme would not be likely to leave the grounds of Brooke House, the Council concedes that the proposed development is not likely to have a significant effect on the integrity of Special Protection Areas, SACs and Ramsar sites and as such there would be no conflict with the GIRAMS. I see no reason to take a different view based upon the evidence before me.

6. A recent appeal decision¹ at Poringland, Norwich has been brought to my attention concerning the Council's ability to demonstrate an adequate five year housing land supply. The Council have been given an opportunity to comment on this matter and I shall return to this matter within this decision letter.

Main Issues

7. The main issues are:-

- i) whether the proposed development would preserve or enhance the character and appearance of Brooke House, the Brooke Conservation Area and the setting of the Historic Parkland; and
- ii) the effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to noise and disturbance.

Reasons

Character and appearance

8. The appeal site lies within the Brooke Conservation Area (CA). The CA is a sizeable area including the built up area of the village and some of the surrounding fields and farmsteads. There is a strong linear arrangement of dwellings running from west to east along High Green and The Street. Many historic buildings are present together with estate clusters of more modern development extending from these highways. Whilst dwellings are mixed in terms of their size, type and age, they are typically set within large plots containing numerous mature trees and vegetation. Front gardens are typically deep and well-maintained areas with extensive landscaping and front boundaries delineated by mature hedgerow. Overall, the area comprises a pleasant, spacious and sylvan appearance with a distinctly semi-rural village character.
9. Although no conservation area appraisal is available, based upon the evidence before me and my observations, the heritage significance of the CA is largely derived from the historic form of the settlement in part arranged around the water feature of The Meres and extending along the main roads, the siting of the buildings and their relationship to each other and to open space and the number of high quality historical and listed buildings together with the use of traditional materials.
10. The appeal site comprises a parcel of land forming part of the extensive curtilage of Brooke House, a substantial property dating from around the 1930s and a non-designated heritage asset (NDHA). It is an imposing and attractive two-storey property designed as a 'country villa' in an arts and crafts style that is mainly finished in a light coloured render with some areas of brick. It comprises a number of wide and shallow hipped bays and a large and steeply

¹ APP/L26

pitched pantiled roof structure with low eaves and tall chimneys that provides symmetry and adds to the buildings' prominence.

11. Albeit Brooke House is not typical of the size, scale and design of local village vernacular, notwithstanding the addition of a single storey extension to one side, it is fairly centrally positioned within extensive grounds that are characterised by vast areas of grassland together with numerous mature trees and vegetation. Overall, Brooke House is a quality and visually attractive building set within a spacious and sylvan plot that is typical of the prevailing character of the wider CA.
12. Notwithstanding some containment by woodland blocks nearby, the property occupies a fairly prominent position at the edge of the settlement beyond which the wider surrounds include agricultural fields scattered with occasional trees, woodland blocks, cricket pitch and rural lanes. In addition to forming part of the CA, the appeal site also forms part of the remains of a former parkland landscape created for the late Brooke House, a Country Historic Park and Garden, a non-statutory designation.
13. The appeal scheme would introduce a large two-storey extension of substantial size, height and mass. Despite some changes along the building line, these are modest in number and size and even with the inclusion of large areas of glazing, these would not resolve the bulkiness of the building which would result as a consequence of the cumulative effect of its largely unrelieved width, height and depth and flat roof form. Although variation is a characteristic of the locality, fenestration tends to lead towards subservience and flat roofs are not commonplace.
14. As a result, the appeal scheme would appear as a box-like structure of stark, jarring and uncharacteristic appearance. It would have an unbalancing effect and appear at odds with the original building. This effect would be compounded by the predominant use of brick as its external finish and the inclusion of copper cladding and roof edge detailing. Whilst I note that the extension has been designed to be of a distinctively different contrasting style that can better respond to the improvement in 21st century care facilities, the proposed addition would be overly dominant in its relationship to the original building and it would not therefore be sufficiently subtle or subservient to it. It would compete with the original building rather than complement it and it would be a ready focus thus appearing overwhelming and drawing the eye away from Brooke House. In my view, it would fail to assimilate with the existing built form and nor would it blend into its surroundings against a wooded backdrop. The loss of an area of open and undeveloped space to the side of Brooke House would erode the spatial characteristics of the appeal site thus giving rise to a cramped and overdeveloped appearance of the site, contrary to the prevailing spacious character of the CA and the historic parkland.
15. Although the proposed building would be positioned close to existing mature vegetation that would provide some partial screening, it would nonetheless remain partly visible in glimpsed views through and over vegetation from some limited viewpoints from the highway and footpath network to the south, despite the presence of some evergreen specimens, particularly during the winter months when foliage is much less dense.
16. Additionally, there is no guarantee that the existing vegetation would survive for the lifetime of the proposed development and it therefore cannot be relied

upon to provide screening to an otherwise unacceptable development. To this extent, given the prominent position of the appeal site adjacent to Brooke House and at the edge of the settlement with open countryside views to the south, the appeal scheme would be read as a visually obtrusive addition causing a detrimental impact on the character and appearance of the property itself and of the surrounding area.

17. The Framework acknowledges that planning decisions should not attempt to stifle innovation, originality or initiative. However, it also seeks to reinforce local distinctiveness and to integrate new development into the natural, built and historic environment. Accordingly, for the reasons given above, I consider that the proposed development would fail to preserve or enhance the appearance of this part of the CA, and its contribution to the designated area as a whole.
18. The current y-shaped junction of The Street (North) and its triangular grass island forms one of a pair of broadly identical road junctions at each end of The Meres, a pond feature forming an important focal point of the village and the CA. By reason of its loss, it would unbalance the form of the water feature and together with additional footpaths, these would lead to a greater urbanisation of this part of the highway and the village. It would erode the verdant and spacious characteristics of the village and represent a visual intrusion. Although the scheme would make provision for additional green space, including in front of the existing seating area of The Meres and additional grass verges, overall there would be a detrimental change to the character of the CA which would not be offset by these additional green areas.
19. There is some reference to vehicles passing in close proximity to the trunk of a tree at the edge of The Meres. However, there is little evidence before me that demonstrates that the current road layout is hazardous insofar as it relates to the long-term health of this tree.
20. An important element of good design is the appreciation of and understanding of context. In this instance, I consider that the erosion of the spacious and verdant qualities of the settlement and the bold and angular building form together with its uncommon fenestration and roof form would not accord with Policy 2 of the Joint Core Strategy for Broadland, Norwich and South Norfolk (adopted 2011, amended 2014)(JCS) which seeks to create a strong sense of place and respect local distinctiveness.
21. Overall, I find that the proposed development would fail to respect the character of Brooke House, a NDHA, and it would have a harmful and erosive effect on the character and appearance of the CA and the setting of the historic parkland. It therefore fails to preserve the significance of the heritage asset and thus in addition to the conflict with JCS Policy 2, the scheme would also fail to accord with Policies DM2.1, DM3.8 and DM4.10 of the South Norfolk Local Plan Development Management Policies Document (2015)(LP) and the guidance of design principle 3.4.1 of the South Norfolk Place-Making Guide. Among other things, these policies and guidance seek to achieve a high quality design that enhances the environment and existing locally distinctive character. Development affecting the significance of a designated heritage asset must have regard to, and positively respond to that significance by sustaining and, where possible, enhancing and better revealing the significance of the asset. Albeit Policy DM2.1 is supportive of development proposals that assist the

creation of new employment opportunities and the expansion of existing businesses such proposals are not supported where there would be a significant adverse impact on the local and natural environment.

22. The harm identified to the CA would amount to 'less than substantial harm' in the context of the Framework. It is put to me that it would be at the low end of 'less than substantial harm', however, the Framework does not specify a sliding scale within the 'less than substantial' category of harm. The Framework advises that heritage assets are an irreplaceable resource and these should be conserved in a manner appropriate to their significance. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. In these circumstances, paragraph 202 of the Framework requires this harm to be balanced against the public benefits of the proposed development. This is a matter I shall return to in the planning balance below.

Living conditions

23. The appeal site comprises a large parcel of land positioned at the end of Brooke Gardens, a shared private driveway leading from The Street. It is a narrow route which could be said to be partly circuitous as it encircles The Coach House, a large building that has been subdivided into five dwellings with associated garden and parking areas. A number of other dwellings are also positioned along its length and the area adjoining the access route is predominantly residential.
24. The proposed development would introduce a substantial sized extension to the existing care home to provide in the region of 25 additional bedrooms and therefore increasing overall capacity of the care home to 60 beds. As a result, there would be a consequent intensification in vehicular traffic entering and exiting the site as a result of additional staff, visitors, service vehicles, deliveries and emergency vehicles attending the property.
25. Whilst the proposal would generate in the region of 12 full-time and 6 part-time jobs, their arrival and departure would mainly be governed by the operation of 12-hour shift patterns that are not set to change as a consequence of the appeal scheme. Taking account of the appellant's Transport Statement, this indicates that the busiest period for vehicles accessing and egressing the site would be the 'AM Peak'. At present, this accounts for 11 staff arriving and 3 departing. The appeal scheme would generate an additional 5 staff arriving during the AM Peak, with a further two departing. Whilst there would be an increase in vehicles accessing and egressing the site, at the busiest morning peak time, there would be approximately 7 additional vehicular movements which in my view, equates to a small number that is unlikely to generate an excessive amount of noise and disturbance.
26. Given that the average number of existing and proposed vehicular movements in the 'PM Peak' is less than the busier morning period, I take the view that this would similarly not generate an excessive amount of noise or disturbance.
27. Whilst I accept that it is possible for visitors to attend the site to visit relatives and friends during peak times that coincide with staff vehicular movements, I

note that the overall average number of existing visitors is low and the anticipated increase is minimal. Moreover, people visiting relatives and friends are likely to be spread throughout the day therefore avoiding peak times. There would be a modest increase in the number of visiting medical professionals, however as these are not likely to coincide with the peak times of staff arrival, I take the view that there would not be an unacceptable increase in noise and disturbance. Although the property will continue to be attended by paramedics and ambulances and this mainly tends to occur during night time hours, these visits appear to be reasonably infrequent and are not anticipated to increase significantly.

28. At present, deliveries of food, cleaning, nursing supplies and waste removal mainly take place during the early part of the morning. No change is expected to these arrangements. Although they generally occur at a time of the day when the surrounding area is quiet and more susceptible to noise and disturbance, nearby dwellings are set in large to extensive sized plots with their built form being set some distance away from the common boundary. Given these intervening distances and noting that the increase in the number of vehicles attending the site would be marginal, in my view, this would be unlikely to be materially harmful to neighbouring occupiers. In reaching this view, I note that the existing servicing and access strategy would be maintained with no access being taken to the rear of The Coach House, which is capable of being controlled by an appropriately worded planning condition.
29. Furthermore, by reason of the appeal site's location within a 'Service Village' where small scale employment or service development is encouraged and there are a number of local amenities within walking and cycling distance together with public transport opportunities in the form of a bus service to destinations further afield, there are opportunities for some staff and visitors to attend the site by sustainable transport modes rather than by the use of motor vehicles.
30. A new parking area would be created to the front of the existing single storey extension to Brooke House. It would be located within an area of grassland to the rear of dwellings positioned at the southern end of Brooke Gardens. However, given my findings above regarding the comings and goings of staff, visitors, service vehicles and emergency service vehicles and by reason of the large size of neighbouring plots together with intervening distances and mature vegetation between the proposed parking area and those neighbouring dwellings, any additional noise and disturbance from vehicles parking and manoeuvring would not be likely to unduly compromise the living conditions of neighbouring residents.
31. As a result of the appeal scheme, a plant room and a new kitchen would be positioned near to the common boundary with the dwellings of The Coach House. Despite this proximity, the imposition of an appropriately worded planning condition(s) could be used to control noise, odour and external lighting emanating from these locations to a satisfactory extent. Similarly, the use of a planning condition to manage and limit noise from the refuse storage compound would lessen any adverse impact of noise experienced by neighbouring occupiers. In reaching these conclusions I am mindful that the existing bin store is in roughly the same location and it therefore replaces an existing service area.

32. Although there would likely be some disruption during the construction phase of the proposed development, it would be for a relatively short period of time and the working practices would be capable of being controlled by a planning condition.
33. Overall, whilst neighbouring occupiers would be likely to experience some increase in noise and disturbance, I take the view that this would not be at a level that would be excessive or unduly harmful and thus it would not materially compromise the living conditions of neighbouring occupiers. Accordingly, the scheme would accord with LP Policies DM2.1 and DM3.13 insofar as these policies seek to protect the amenities of neighbouring occupiers with particular regard to development that would generate noise which would be significantly detrimental to the amenity of nearby residents or occupants.

Other Matters

34. No adverse impact in terms of flood risk, the privacy of neighbouring occupiers and the overshadowing of their properties has been identified by the Council. Subject to the highway works being undertaken prior to the occupation of the building, there would be no adverse impact on highway safety. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.

Planning balance

35. The Council were able to demonstrate an adequate five year housing land supply at the time the application was determined. However, the impact of NEs advice on nutrient neutrality casts doubt on this and the Council concedes that they are unable to outline the precise extent of their position. As such, in the event of an absence of a five year supply of deliverable sites, paragraph 11 of the Framework is engaged. Whilst the Council suggests that the appeal scheme would not boost the Council's housing land supply by reason of it being a scheme for Class C2 use, even if I were minded to disagree, the application of policies within the Framework at paragraph 11d)i) that protect areas or assets of particular importance would provide a clear reason for refusing the appeal scheme. As such the tilted balance is not engaged.
36. By reason of my findings above that there would be 'less than substantial harm' caused to the significance of the heritage asset, in accordance with paragraph 202 of the Framework, this requires a balancing exercise to be undertaken between the harm and the public benefits of the proposed development.
37. The appeal scheme would provide some 25 net additional beds for residential and nursing care. The evidence before me indicates there is an acute need for residential and nursing care within the county. It is assessed within the JCS that in excess of 1,000 specialist dementia care homes and care homes with nursing places addressing various needs will be required by 2026. Furthermore, by 2028, a need for an additional 288 care and nursing beds will arise. The appeal scheme would therefore contribute to achieving these targets, providing opportunities to expand the business to offer nursing care and increase the number of beds available for residents with nursing and dementia needs. A

number of appeal decisions² have been brought to my attention to justify the weight that should be attached to this benefit of the appeal scheme. Whilst I have determined the appeal before me on its individual planning merits, I consider it is a material consideration to which I attach significant weight and this does not depart from the findings of those appeal decisions.

38. My attention has been drawn to evidence indicating that care homes with fewer than 30 beds are most at risk of closure and that generally for modern, future proof care home schemes, at least 60 beds are required to achieve operational efficiencies. I note that there was a net loss of some 24 care homes within the East of England over a three year period to April 2020, resulting in the loss of approximately 414 beds. Furthermore, that the average care home facility to be lost was comprised of an average of 37 beds, whereas new registrations of care homes is in the region of 56 beds, which supports there being a trend towards the loss of smaller facilities. Whilst I note these concerns, no evidence has been presented to me to demonstrate that the existing care home is not a viable enterprise and at risk of closure which would have a consequent impact on the loss of existing bed spaces and jobs.
39. The appeal scheme would generate economic benefits during the construction phase through the provision of jobs and purchase of materials, however, these benefits would be temporary and therefore attract limited weight. Upon occupation of the building, there would be a need to employ additional full and part time employees at the facility and there would likely be a consequent increase in the use of local shops, facilities and services which would provide support for the local economy. Consequently, I attach moderate weight to these benefits of the appeal scheme.
40. The proposed development would provide modern facilities incorporating a good standard of accommodation for future residents that would satisfy the requirements of the HAPPI principles. In addition to maximising natural light, the scheme would improve resident independence, their wellbeing and provide opportunity for residents to live independently for longer. There would be some improvements to the existing accommodation by reason of the creation of an external terrace and together with the provision of communal facilities such as the sheltered courtyard and easy access points to the external amenity areas, these would provide opportunities for social interaction which would accord with the Framework's aims to promote social interaction and opportunities for different groups to meet. These are matters to which I attribute moderate weight.
41. Reference is made to the freeing up of larger homes into the local housing market. In support of the weight to be applied to this benefit, the appellant has referred to an appeal decision for the provision of an extra care development of some 84 units in Albourne, West Sussex. Whilst I accept that this may be the situation for some of the future residents, not all will be owner occupiers or sole owners of their existing properties. Nevertheless, I accept that the national picture suggests there is a tendency for older householders to under-occupy their properties. By reason of the scale of the proposal and the proposed number of beds, there would be a modest benefit to the local housing market together which in turn would make a positive contribution towards the Government's aims of boosting housing supply.

² APP/D3830/W/19/3241644; APP/H2265/W/18/3202040; and APP/J2210/W/19/3226136

42. As a result of the highway works, there would be an improvement to the level of visibility of oncoming traffic which would enhance the safety of the local highway network. Although I note that the Highway Authority describes the existing situation as hazardous, the appellant's review of local highway safety records indicates there are no reoccurring issues or locations of accidents and whilst I note the record of a serious accident to the west of Brooke Gardens, this is stated to have involved a single motor cyclist. The evidence does not demonstrate that this accident was as a result of vehicular conflict due to inadequate visibility. Other than this incident there are no other accidents noted within the Transport Statement. Therefore, the enhancement of highway safety is a matter to which I attach modest weight.
43. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 sets out the need to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Furthermore, paragraph 202 of the Framework advises that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance. It goes on to state that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It goes on to require that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.
44. In this instance, I take the view that significant weight can be attributed to the public benefits of the appeal scheme. However, the harm to the heritage asset is significant and, in my view, the 'less than substantial harm' to the significance of the CA would not be outweighed by the totality of the public benefits.
45. Turning to the straight forward planning balance, whilst the appeal scheme would accord with the relevant development policies in relation to living conditions of neighbouring occupiers, it would conflict with JCS Policy 2, LP Policies DM2.1, DM3.8 and DM4.10 There would also be conflict with Framework insofar as it seeks to achieve well-designed places and conserve and enhance the historic environment. In this instance, I consider that there are no material considerations, either individually or collectively, which indicate determination of the appeal should be other than in accordance with the development plan.

Conclusion

46. For the reasons given above, I conclude that the appeal should be dismissed.

E Brownless

INSPECTOR