

Appeal Decision

Site visit made on 15 December 2022

by David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4th January 2023

Appeal Ref: APP/L2630/W/22/3292204

Annexe at 62 High Green, Brooke, Norfolk NR15 1JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Hilary Culbertson against the decision of South Norfolk Council.
 - The application Ref 2021/2391, dated 18 October 2021, was refused by notice dated 13 January 2022.
 - The application sought planning permission for a two storey side annexe without complying with a condition attached to planning permission Ref 2016/2188, dated 22 November 2016.
 - The condition in dispute is No. 5 which states that: "The development hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Shoemakers Cottage, 62 Highgreen Brook. At no time shall it be sold, leased or occupied independently from the main dwelling nor shall the common ownership or occupation of the annexe and main dwelling be severed."
 - The reason given for the condition is: "To retain control over the development permitted. In accordance with Policy DM3.7 to meet a specific personal need and where the occupation of the annexe as a separate dwelling would be in conflict with the settlement policy contrary to Policy DM3.5 and result in a sub-standard layout of land detrimental to the amenities of neighbouring uses contrary to Policy 2 of the Joint Core Strategy and Policy DM3.13 of the South Norfolk Local Plan Development Management Policies Document 2015."
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Decision

1. The appeal is allowed and planning permission is granted for a two storey side annexe at 62 High Green, Brooke, Norfolk NR15 1JD in accordance with application Ref 2021/2391 dated 18 October 2021, without compliance with condition number 5 previously imposed on planning permission Ref 2016/2188 dated 22 November 2016 and subject to the following conditions:
 - 1) The development hereby permitted must be begun before the expiration of three years from the date of this permission.
 - 2) The development shall be constructed in accordance with drawings of the site plan, block plan, elevation and floor plans submitted on 12 September 2016.
 - 3) Prior to the first use of the new vehicular access hereby permitted, the verge crossing shall be constructed in accordance with the highway specification (Dwg. No. TRAD 4 attached) for a minimum of 1.5 metres from the road edge. Arrangement shall be made for surface water drainage to be

intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

- 4) No trees or hedges shall be cut down, uprooted or destroyed, lopped or topped, other than in accordance with the approved plans (Trees within the hedge on the south west boundary which are dead, dying or diseased) and particulars, without the previous written approval of the local planning authority. Any trees or hedges removed without consent shall be replaced during the next planting season November/March with trees of such size and species as agreed in writing with the local planning authority.

Procedural Matters

2. The Local Planning Authority's (LPAs) decision notice contains a single reason for refusal which is the main issue for this appeal. The LPA did not submit an appeal statement but provided correspondence relating to recent material changes regarding approaches necessary to ensure that potential significant adverse effects on the qualifying features of proximate protected habitats are avoided in accordance with the Habitats Regulations. My assessment as the competent authority for the purposes of the Habitats Regulations is set out towards the end of this decision.

Main Issue

3. The main issue is the effect of the appeal proposal on the character and appearance of the surrounding area, including that of the host Brooke and Kirstead Conservation Area.

Reasons

4. The two-storey side annexe has been constructed resulting in two individual front doors and the appearance of a particularly wide and bulky building in the street scene of this part of the village at High Green. The wider property at No.62 High Green is served by two separate points of vehicular access onto the highway. In many respects the appeal site because of the scale of built form and arrangement within the plot already has the characteristics and appearance of two semi-detached dwellings.
5. The property sits within a spacious, verdant plot. The subdivision of the amenity space to the rear would result in private gardens not out of character in their scale to adjoining gardens immediately to the east at Nos.56-60 High Green, or more widely in this part of Brooke, including the modern residential development a very short distance to the north-east at Astley Cooper Place.
6. The creation of a separate dwelling would also result in the formal subdivision of the curtilage area to the front. This would result in front garden / driveway areas conspicuously smaller than most of the immediately surrounding pattern of development, notably the large detached modern dwellings opposite. A short distance to the east, however, there is some variety in the density and pattern of housing in this part of High Green, including occasional short terraces of modestly proportioned traditional cottages, notably those immediately adjacent at Nos.56-60, as well as other nearby properties on High Green closer to the junction with 'The Mallows Walk' that have shallower and smaller front gardens. Consequently, the appeal proposal would to some degree echo the sporadic arrangement of pockets of slightly denser development within the prevailing detached housing that has progressed along

High Green. As such I do not find the appeal proposal would result in a discordant or a particularly cramped form of development in this part of Brooke.

7. The appeal site is within the Brooke and Kirstead Conservation Area. This is a widely drawn area that encompasses the established linear pattern of housing development in Brooke focused along High Green and The Street as well as remnants of a parkland landscape to the south of the settlement. For the reasons set out above, the appeal proposal would preserve the character and appearance of the conservation area and its heritage significance and historic interest would not be diminished.
8. I therefore conclude that the appeal proposal would not result in any significant harm to the character and appearance of the surrounding area, including that of the host Brooke and Kirstead Conservation Area. Accordingly, the appeal proposal would secure an appropriate quality of design in terms set out in Policy 2 of the Joint Core Strategy¹ and Policies DM3.5 and DM3.8 of the South Norfolk Local Plan Development Management Policies Document 2015 (*the DMPD*). Collectively these policies seek development to be designed to respect its context and specifically to require additional dwellings on sub-divided plots within settlement boundaries to incorporate good quality design and maintain or enhance the character and appearance of the street scene and surroundings and provide adequate amenity space, access and parking. In relation to the historic environment the appeal proposal would accord with Policy DM4.10 of the DMPD and paragraphs 189, 195 and 199 of the National Planning Policy Framework (NPPF). Overall, the appeal proposal would contribute to achieving well-designed places in accordance with the NPPF including the parameters set out at paragraph 130.

Habitat Regulations Assessment

9. The LPA has advised since making its decision that South Norfolk is currently an area where the impact of nutrients (nitrates and phosphates) on protected Habitats sites in an unfavourable condition and more generally increased demand for recreational usage at or near other protected Habitats sites means that proposals for residential development are required to be subjected to Habitats Regulations Assessment (HRA). The LPA has provided details of its policy approach in relation to nutrient neutrality and the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy (GIRAMS)². I note that the material provided refers specifically to net increase in population³, for example through new dwellings or net additional bedspaces, in the context of generating or creating previously unaccounted for wastewater discharges and demand for recreational access respectively.
10. The residential annexe subject of this appeal has been implemented and occupied. There is no dispute or evidence before me that it has not been constructed in accordance with the approved plans. From the submitted plans the annexe comprises accommodation to enable self-contained residency without any reliance on the host property at No.62, such as through communal facilities, in particular a shared bathroom or kitchen. The approved annexe

¹ Joint Core Strategy for Broadland, Norwich and South Norfolk 2011, with amendments adopted 2014.

² All of Norfolk is within a zone of influence for recreational impacts, Brooke is specifically within the zones for the Broads, East Coast and Valley Fens.

³ Section 4 of Natural England letter dated 16 March 2022 re Adverse Nutrient Impacts

accommodation includes a kitchen, bathroom, living room, separate downstairs WC and bedroom. The consequence of the appeal to remove the occupancy condition would be the creation of a modest one bedroomed dwelling through the simple blocking-up of an existing doorway at first floor level. Whilst the removal of the disputed condition would technically result in a change from a self-contained annexe to a dwelling it would not materially increase the level or intensity of residential occupation at the wider site. Accordingly, there would be no net increase in population served by the receiving wastewater system and consequently no net increase in nutrient loading within the catchments of the affected Habitats sites. Similar would apply in relation to recreational usage and demand at sites assessed through the GIRAMS process.

11. In coming to this view, I am mindful that the disputed occupancy condition prevents the annexe being leased, sold or occupied independently. Nonetheless, the extent of the annexe accommodation and its very limited connection to the host property at No.62 means that future occupation on a basis such as an extended family or other scenarios that comprise two functionally separate but associated households, would not be inhibited by the disputed condition. As such removing the condition would not materially increase residential occupation at the appeal site. I therefore conclude, for the purposes of HRA, that the appeal proposal would not likely have a significant effect on the interest features of the Habitats sites of concern, and as such an appropriate assessment, including consideration of mitigation, would not be required and permission may be granted.

Conclusion and Conditions

12. I therefore conclude that, having regard to the development plan and all other material considerations, that the disputed condition No. 5 no longer serves a justified planning purpose, and so its removal would be acceptable. Consequently, the appeal succeeds.
13. The Planning Practice Guidance (PPG) on the 'Use of Conditions' makes clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission⁴. I have considered the conditions attached to the original permission in this vein and in light of paragraph 56 of the NPPF. Consequently, I have reimposed all other non-disputed conditions attached to the original permission in the interests of ensuring a satisfactory development, protecting the character of the locality and for highway safety.

David Spencer

Inspector.

⁴ Paragraph 21a-040-20190723