



Appeal Decision

Site visit made on 5 December 2022

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2023

Appeal Ref: APP/V2635/W/22/3296255

Little Saltings, Broad Lane, Brancaster, King's Lynn, Norfolk PE31 8AU

- 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 and Mrs Harry DePree against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 21/01457/F, dated 28 June 2021, was refused by notice dated 18 October 2021.
 - The development proposed is demolition of existing bungalow and annexe and construction of a new replacement home.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellants submitted revised plans with the appeal which change the design of the proposed dwelling, including a reduction in window openings, omission of a chimney stack and minor fenestration changes. As the revised plans do not change the substance of the proposal that was considered by the Council, having regard to the "Wheatcroft" principles¹ the Council and interested parties would not be prejudiced by my consideration of them.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area, including the Area of Outstanding Natural Beauty, and whether it would preserve or enhance the character or appearance of the Brancaster Conservation Area; and the effect on protected species.

Reasons

Character and appearance

4. The appeal site comprises a detached bungalow and separate annexe structure located to the north of Broad Lane and is the last property on the west of this lane with grazing land to the west and coastal saltmarsh to the north-east. There are two neighbouring properties to the east of the site, Seven Edges and Saltingsgarth, and a further property to the south, Broad Lane House, which is located on the other side of Broad Lane. A public footpath which runs along Broad Lane turns the corner at the end of the property and heads north in the direction of the coast. The site is seen in the background of views from the north. The site is located within the Brancaster Conservation Area (the CA).

¹ Wheatcroft (Bernard) Ltd v Secretary of State for the Environment (1982) JLP 37

5. I consider that the significance of the CA derives predominantly from the numerous historic buildings many of which follow a linear pattern of development along the A159 and display a vernacular style and the use of traditional walling and roofing materials. This part of Broad Lane is set within leafy surroundings with a small number of properties situated on spacious plots. According to the Brancaster Conservation Area Character Statement, the properties on Broad Lane and Cross Lane are laid out to the principles of 'informal arcadia', a conscious attempt to create the illusion of a rural environment in a residential area. The large areas of open land to the north and west, including the coastal marshes, give a rural feel to the site and its surroundings which contributes to the setting of the CA. The nearby properties, Saltingsgarth and Broad Lane House are identified within the Brancaster Conservation Area Map as Important Unlisted Buildings.
6. The site also lies within the Norfolk Coast Area of Outstanding Natural Beauty (the AONB). The National Planning Policy Framework (the Framework) sets out that such areas have the highest status of protection in relation to landscape and scenic beauty, and that great weight is to be afforded to the conservation of these matters.
7. The proposal is for the replacement of the existing bungalow and annexe with a part one and a half storey and part two storey detached dwelling which would be sited in broadly the same location as the existing bungalow. Although the existing bungalow has a relatively large footprint, due to its modest height and the extent of tree cover on and around the site, it is partially screened from the marsh to the north and from the public footpath to the west and it has a simplistic form and unassuming presence. Whilst it is not of any architectural or historic interest, I consider that the existing property does not detract from its surroundings and has a neutral effect on the area's character and appearance.
8. The footprint of the proposal would be similar to that of the existing property and would not occupy more than 50% of the plot in accordance with Policies 3 and 5 of the Brancaster Parish Neighbourhood Plan for 2015 – 2026 (2015) (the Neighbourhood Plan). There would sufficient separation from Saltingsgarth to ensure that the proposal would not visually compete with this building. Nevertheless, the proposal would represent a significant increase in scale and massing on the existing property due to the change from a single storey to a part two storey building with a substantially greater ridge height. Despite the presence of some garden vegetation and a flood bank which partially screen the site, the proposal would be visually prominent from the public footpaths directly to the west and south of the site. The proposal has been designed with a shorter, north facing elevation but given its increased height would still be a much more conspicuous feature of the landscape in views from the north.
9. Whilst the proposal has sought to pick up on the Arts and Crafts architectural detailing, style and materials used at Dormy House and Dormy Cottage, in the specific location of the appeal site at the very edge of the village, it would introduce an imposing built form which would erode the rural setting of the CA.
10. Notwithstanding the changes detailed on the revised plans, I consider that the proposed design would result in an unduly fussy appearance due to the inclusion of the lead flat roof to the north elevation and the balcony with balustrade and supporting posts on the west elevation which would be uncharacteristic features. The variety of sizes and styles of window openings

and the relatively complicated roof form would add to the cumulative effects of the proposal and exacerbate its adverse visual effects. The over-elaborate design of the proposal would draw the eye, particularly when viewed in the context of Saltingsgarth and Seven Edges, which are of much simpler appearance, and this would be apparent in views from the north.

11. By reason of its discordant design, scale, height and detailing the appeal scheme would fail to reinforce local distinctiveness and integrate well within the wider landscape. Whilst the adverse impact of the appeal scheme would be relatively localised, there would nevertheless be significant harm to the AONB. Moreover, the increased scale of the development together with the greater extent of glazing compared to the existing property would, in my view, increase the amount of lighting experienced over the appeal site and beyond its boundaries. That would diminish the dark skies special quality of the AONB at the edge of the village, albeit to a modest extent.
12. The Council is also concerned that the proposed materials used in the building, including wooden shingles, would be out of keeping with the CA. I consider that a condition could have been imposed to agree a suitable materials palette had I been minded to allow the appeal. However, this would not overcome the overall harm arising from the scale and design of the proposal. Similarly, a condition requiring a scheme of landscaping would not sufficiently mitigate the harm as new planting would take some time to mature.
13. The appellant has referred to other replacement houses in the area. However, I do not have the planning history or precise circumstances which led to the approval of these developments and so I cannot be sure that they represent a direct parallel to the appeal proposal. Each property inevitably has a surrounding context specific to it rather than to the appeal site. I have considered the appeal on its own merits based on the specific site circumstances and I do not find that the other developments referred to outweigh or alter my findings above.
14. For the above reasons, I conclude that the proposal would be harmful to the character and appearance of the area. It would thus fail to preserve the character or appearance of the CA and it would also fail to preserve the integrity of the AONB. The development would be contrary to Policies CS08 and CS12 of the Kings Lynn and West Norfolk Borough Council Local Development Framework – Core Strategy (2011) (the CS) and Policies DM5 and DM15 of the Site Allocations and Development Management Policies Plan (2016). Collectively these policies seek to ensure that new development is of high quality design, protects and enhances the historic environment, and responds to the context and character of the area, amongst other things. It would conflict with Policies 2, 8 and 9 of the Neighbourhood Plan which require developments to preserve or enhance the character, appearance and views of the Brancaster Conservation Area and protect, conserve and where possible enhance the natural environment, local landscape and wildlife and ensure that new development does not adversely affect the statutory purposes of the AONB. The proposal would also be contrary to the aims of the Framework to conserve and enhance the natural and historic environment and achieve well-designed places, as well as advice contained in the National Design Guide which seeks to ensure that development responds to its context.

15. The harm to the significance of the CA would, in the context of paragraph 202 of the Framework, result in less than substantial harm. This harm still however carries great weight and any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. The proposal would have economic benefits through employment opportunities created during the construction phase of the development. However, given the modest scale of the development, the weight attributable to this matter is limited. Whilst I appreciate that the proposal would provide the appellants with their desired accommodation, this would amount to a private benefit that would carry little weight in favour of the proposal. I therefore find that insufficient public benefits have been identified that would justify or outweigh the harm I have identified to the heritage asset.

Protected species

16. The Council's second reason for refusal relates to insufficient information as to whether a derogation licence is required for the works and uncertainty whether such a licence would be granted by Natural England. The Preliminary Ecological Appraisal provided with the original application concluded that the main building has a high suitability for roosting bats and recommended three bat activity surveys be undertaken to confirm the status of bats. One of the bat surveys provided with the appeal confirms a single roosting bat within the bungalow. The report has also identified that the site is used by foraging bats.
17. Developments that would result in a breach of the protection afforded to European Protected Species require a derogation licence, to avoid an offence under the Conservation of Species and Habitats Regulations 2010 (the Regulations). There is no requirement for a derogation licence to be provided prior to grant of planning permission, but the decision-maker must be assured that there would be a reasonable prospect of the licence being granted by Natural England. Given that the development would involve the demolition of the existing building on the site and the loss of a roost, it is necessary for me to assess whether there is a reasonable prospect of a licence being granted, having regard to the tests.
18. The first derogation test states that a licence can be granted for the purposes of "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment". The second test states that the appropriate authority shall not grant a licence unless they are satisfied "that there is no satisfactory alternative". The third test requires the appropriate authority to be satisfied "that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range."
19. I concur with the Council that the replacement dwelling could provide for a more sustainable development when compared to the existing bungalow on account of its age. I consider that the first test would be met. In relation to the second test, the proposal is for a replacement dwelling which could not reasonably be located elsewhere. In terms of the third test, the proposed compensation measures would involve the installation of compensatory roosting habitat in the form of integrated bat boxes on the proposed new building and additional tree mounted boxes. Thus, subject to an appropriate

condition to secure mitigation measures for bats, the evidence before me suggests that the favourable status of the species would be maintained.

20. For these reasons, I consider that there is a reasonable prospect of Natural England granting a licence. I therefore conclude that the proposal would not have an adverse effect on protected species, and would accord with Policy CS12 of the CS which, amongst other matters, seek to ensure that proposals protect and enhance biodiversity. It would also comply with the requirements of the Regulations and the Wildlife and Countryside Act 1981.

Other Matters

21. An interested party has raised concerns in relation to the effect of the proposal on the living conditions of the occupiers of Seven Edges, the neighbouring property immediately to the east of the site. The Council have not raised objections to the proposal on these grounds and I have no reason to disagree with that assessment based on the evidence before me and my observations on site. However, the absence of harm in relation to this matter is neutral rather than weighing positively in favour of the proposal.
22. Notwithstanding their position that the Council's Habitats Monitoring and Mitigation Payments Obligation does not apply to this proposal, the appellants have indicated a willingness to make a such a payment to the Council, should one be required. However, this would not outweigh the harm identified above and accordingly it is not necessary for me to reach a finding on this matter.

Conclusion

23. I have found that the development would not be harmful to protected species subject to the imposition of planning conditions. However, I have also found that the proposal would have a harmful effect on the character and appearance of the area including the AONB and it would fail to preserve or enhance the character or appearance of the Brancaster Conservation Area. I have given only limited weight to the benefits of the scheme and conclude that they do not outweigh the harm resulting from the development.
24. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR