



Appeal Decision

Site visit made on 28 February 2023

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

an Inspector appointed by the Secretary of State

Decision date: 26 April 2023

Appeal Ref: APP/G2625/W/21/3281635

116 Thorpe Road, Norwich, NR1 1RU

- 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 GS Portfolio Ltd against the decision of Norwich City Council.
 - The application Ref: 20/00541/F, dated 10 May 2020, was refused by notice dated 24 February 2021.
 - The development proposed is described as 'Hotel Extensions and Refurbishments (including conference facilities and roof top restaurant)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst the appeal scheme before me concerns a number of different elements, the Council's reason for refusal primarily concerns the proposed three storey extension at the rear of the existing building.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of neighbouring properties at Tibbenham House and 118 Thorpe Road with particular regard to outlook and light.

Reasons

4. The appeal site comprises a substantial sized three storey hotel with a large service yard and parking area to its rear. As a sizeable property, the appeal building currently casts shadow over part of the neighbouring property, Tibbenham House, a substantial building in residential use and ranging from between 3.5 to 5 storeys in height. Of those windows which are overshadowed, the Council states that these serve a number of habitable rooms including bedrooms. Some areas of shared outdoor amenity space in closest proximity to the property and the common boundary also experience some shading by reason of the existing arrangement of built form.
5. 118 Thorpe Road (No. 118) is a modest two storey L-shaped residential property set back from the highway and with a moderate sized garden area to the rear. By reason of its orientation together with a position that is mostly beyond the rear elevation of the appeal building, No. 118 and its rear garden are largely unaffected by any shading caused by the appeal building. Both neighbouring properties, No. 118 and Tibbenham House have a reasonable

outlook from within windows and their rear outdoor amenity areas given the general absence of any significant built form within the rear of the appeal site.

6. The proposed development would introduce a considerable sized extension to the rear of the appeal building which would project beyond the existing rear elevation by a significant distance. In respect of No.118, it would extend by some 10 metres beyond the main rear elevation of that property, taking the Council's measurements, which have not been disputed by the appellant. There is some dispute between the parties regarding the distances of separation between the buildings. Nonetheless, in my view, even taking the appellant's measurements, the appeal scheme would be in close proximity to the common boundaries with the neighbouring properties and by reason of its significant height and resultant unrelenting depth of the building, when viewed from these properties, in particular those windows within the ground and first floor, the proposed development would overwhelm and appear unacceptably dominant and oppressive to the occupiers of these properties. The unduly overbearing impact of the proposed development would be harmful to their outlook and it would materially compromise the living conditions of neighbouring occupiers.
7. Although the top floor of the extension would be set in from the edges, this would not be sufficient to reduce the effect of the proposed extension when viewed from these locations.
8. Furthermore, whilst I have had regard to the appellant's submitted shadow diagrams, there is no detailed daylight or sunlight assessment provided as part of this appeal. Taking account of the position of Tibbenham House, the proposed building will inevitably lead to a greater shading effect being experienced by occupiers from within some windows and parts of the outdoor amenity space that lies in closest proximity to the common boundary. In reaching this view, I have taken into account the submitted shadow diagrams and I note that at the Vernal and Autumnal Equinox there is increased overshadowing caused to Tibbenham House at midday. However, there is no compelling evidence to demonstrate that the increased overshadowing and the consequent reduction of daylight and sunlight would be at a level which would accord with the relevant guidance of the BRE such that it would not adversely harm the living conditions of occupants of Tibbenham House.
9. By reason of the limited information provided by the shadow diagrams, there is little information concerning the effect of the proposed building upon any shadowing which may be caused during the later hours of the afternoon on No. 118. Whilst the outdoor areas of the neighbouring properties are stated to be in shared use, in my view, this does not merit the quality of those areas being harmfully compromised.
10. Similarly, whilst I accept that a city centre location is likely to include taller properties and a more tightly knit arrangement of buildings, in this instance, a poor design which fails to safeguard the living conditions of existing occupants and would result in a substandard quality of accommodation is not justified.
11. Accordingly, the appeal scheme would be contrary to Policy DM2 of the Norwich Local Plan Development Management Policies Plan (2014) insofar as this policy requires a development not to result in an unacceptable impact on the living and working conditions of neighbouring occupiers with particular regard to loss of light and outlook. In addition, the appeal scheme would be contrary to paragraph 130 f) of the National Planning Policy Framework 2019 insofar as

this requires developments to provide a high standard of amenity for existing and future users.

Other Matters

12. In terms of benefits of the appeal scheme, it would provide additional hotel bed spaces and create a number of additional jobs which the appellant suggests would be in the region of some 40 additional employees. Additional jobs would be generated during the construction process, however, as these would be on a temporary basis, this therefore limits the weight to be applied to it as a benefit of the scheme. Other economic benefits would arise through the purchase of materials for construction and, in the longer term, through the purchase of local food and services. Future occupiers would be likely to spend within the local economy during their stay at the hotel.
13. Although it has been put to me that there is a lack of high quality hotels within the vicinity and that the appeal scheme would provide a high quality hotel with a 'celebrity' restaurant, in my view, there is no mechanism that could be applied to secure these matters in perpetuity and I therefore attach only negligible weight to them.
14. It has been put to me that the existing hotel is unlikely to continue to operate and the site will deteriorate in the event that this appeal should not be successful. However, little explanation has been provided nor has any evidence regarding the viability of the business been submitted as part of this appeal. Furthermore, I note that the Council have granted planning permission for a similar scheme at the appeal site¹ (the consented scheme). Whilst this consented scheme has been reduced in size and scale, the Council states that the same number of bedrooms would be delivered. The appellant has not sought to challenge this point and to my mind, this represents a valid fall back scheme that could offer an alternative to the appeal scheme not proceeding. There is little information to suggest that the fall back scheme would not be capable of being constructed and this therefore limits the weight I attach to the business ceasing to operate and the site's condition deteriorating in the future.
15. Notwithstanding the fall back position with respect to the consented scheme, the extension permitted under that planning permission is reduced in scale, albeit modestly, from the appeal scheme. Consequently, the impact of the consented scheme on the relationship with neighbouring occupiers is improved. As the appeal scheme would result in a greater adverse effect on the living conditions of neighbouring occupiers, I find that the consented scheme does not provide adequate justification for the appeal scheme in this instance.
16. Reference has been made to a number of similar schemes within the area including Tibbenham House, Graphic House and St Anne's Wharf. There is limited information regarding these schemes and the circumstances that led to planning permission being granted. I was able to observe Graphic House from public vantage points at the time of my site visit, together with Tibbenham House. However, based upon my observations and the limited evidence before me, I find that the appellant has not demonstrated that the circumstances concerning the living conditions of neighbouring occupiers is directly analogous with the appeal scheme before me. Furthermore, in respect of the scheme at St Anne's, the appellant's submitted measurements are disputed by the Council

¹¹ Planning Reference: 21/00851/F

and I am unable to resolve this issue on the information that is before me. As such, a comparison of these schemes to the proposed development is of limited relevance and I have therefore determined the appeal scheme before me on its individual planning merits.

17. Photographic evidence has been submitted to demonstrate typical street arrangements in Norwich and reference has been made to the manner in which properties overlook one another. However, issues of privacy have not been raised as part of the Council's reason for refusal. The absence of harm in relation to privacy is a matter that weighs neither for nor against the appeal scheme.
18. My attention has been drawn to permitted development rights concerning upward extensions of two storeys. However, in this instance, as the permitted development right would not apply, a consideration of this matter is of little relevance to the appeal scheme before me.
19. I have had regard to the appellant's comments and frustration with the manner in which the Council undertook the planning process. Whilst the appellant made several amendments to the scheme and provided a number of revised drawings in an attempt to reach an acceptable solution, I am satisfied that this does not demonstrate an inconsistent approach by the Council. With regards to those earlier iterations of the scheme, the appellant has requested that consideration also be given to those schemes and their accompanying plans. However, as the earlier schemes proposed an extension of greater height and scale than that which is before me as part of this appeal, the effect upon the living conditions of neighbouring occupiers would be greater in respect of those schemes.
20. Since the application was determined by the Council, Natural England has provided updated advice in relation to nutrient level pollution within a number of existing and new river basin catchments. This identifies that long-term nutrient pollution has led to adverse impacts upon Habitats Sites to the extent that some sites are no longer considered to be in favourable conservation status. This includes the Norfolk Broads Special Area of Conservation and Ramsar site. Development within the catchment of these habitats sites which comprises overnight accommodation has the potential to cause adverse impacts with regard to nutrient pollution. Although the appeal site is located within the catchment of this habitats site, given that the scheme is not going ahead due to the main issue above and no harm will therefore be caused to these habitats sites, it has not been necessary to give further consideration to this matter nor undertake an appropriate assessment in respect of any mitigation proposed.

Conclusion

21. I have concluded that there would be adverse harm caused to the living conditions of neighbouring occupiers and therefore the appeal scheme would conflict with the development plan. The material considerations weighing in favour of the scheme, either individually or cumulatively, do not justify a decision otherwise than in accordance with the development plan. For the reasons given above, I conclude that the appeal is dismissed.

E Brownless

INSPECTOR