



Appeal Decision

Site visit made on 30 May 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2023

Appeal Ref: APP/V2635/W/22/3311478

Little Orchard, 55 Elmside, Emneth, Wisbech, Norfolk PE14 8BQ

- 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 & Mrs Emily Lee against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 22/00256/F, dated 14 February 2022, was refused by notice dated 15 September 2022.
 - The development proposed is a dwelling.
-

Decision

1. The appeal is allowed, and planning permission is granted for a dwelling at Little Orchard, 55 Elmside, Emneth, Wisbech, Norfolk PE14 8BQ in accordance with the terms of the application, Ref 22/00256/F, dated 16 February 2022, and the plans submitted with it, subject to the attached schedule of conditions.

Preliminary Matters

2. The application was subject to amended plans during the application consideration process. This increased the size of the garden and slightly repositioned the footprint of the dwelling. The revised plans were not subject to re-consultation with interested parties. Nonetheless, these changes have not materially altered the substance of the proposal and I have taken the revisions into account without causing prejudice to any party.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the site's surrounding built environment and landscape setting.

Reasons

4. Elmside is a small country lane within a village setting. The lane consists of a variety of house types that include small bungalows and two storey properties. Plots are non-uniform and footprints of dwellings are located within the plots in a relatively haphazard arrangement forming a discordant front building line with Elmside. The Council's table of back-to-back separation distances illustrates that the relationship of built form to boundaries are non-uniform in this area. As such, the area presents no predominant character. The site is enclosed by a close boarded fence and hedging, affording limited views of the site, which therefore conveys a neutral contribution to the character and appearance of the area.

5. The proposed dormer bungalow would be recessed from the highway enabling a small, landscaped frontage to be provided. Although having limited space to its rear due to a wide ditch, the dwelling would include a side garden of reasonable size. Therefore, whilst the plot is relatively narrow, the proposed configuration would repeat the relationship of the host dwelling to its garden and would thus complement nearby development. Also, the two-storey host dwelling and the dwellings of No's 41 and 43 are also close to the highway. This demonstrates that the proposal would accord with the existing variety of built form, with various depths of recess, found in the area.
6. The site is overlooked by the rear elevation of a pair of semi-detached dwellings (No's 44a and 44b). The Council's evidence indicates that the rear elevations would have a separation distance of around 11 metres and would be shorter than noted in the local pattern of development. However, the rear boundary of the proposed dwelling would be approximately half-way through this distance. This distance to the boundary would therefore be similar to that seen for No's 44a and 44b. As such, the proposal would follow established gaps to rear boundaries and would not appear cramped when compared to existing built form.
7. Accordingly, the proposed development would complement the variety of local built form and integrate well with the existing pattern of development. As a result, the proposal would make a positive contribution to the character and appearance of the site's surrounding built environment and its landscape setting. Consequently, the proposal would accord with policy DM15 of the Site Allocations and Development Management Policies [2016], policies CS06 and CS08 of the Core Strategy [2011] and the National Planning Policy Framework (the Framework). These seek, among other matters, for development to respond sensitively and sympathetically to the local setting and to maintain local character.

Other Matters

8. The site is within the development boundary of the village and is a short walk from goods and services available within the centre of the village. As such, the site is well located within this rural setting to provide future occupiers access to local services.
9. Interested parties have identified that the proposal would result in the loss of trees and wildlife. However, the site has limited tree and hedge cover, consists mostly of cut grassland, and therefore offers limited ecological interest. There is also limited evidence to support the assertion of interested parties that important trees or the habitats of protected species would be affected by the proposal. Consequently, I have given the loss of any biodiversity limited weight in my consideration of the proposal.
10. Elmside is a single-track country lane that serves various dwellings. The lane does not benefit from a footpath or streetlighting. Nonetheless, the traffic generated by the proposed dwelling would result in a minimal change to existing traffic levels. Although offering only a snap-shot in time, during my visit I noted that traffic levels using the lane were low, and motorists travelled at low speeds due to its narrow width. As such, pedestrians and cyclists using the lane would not be subject to substantive highway safety risks, and I note that the Highway Authority takes a similar view.

11. The site is within flood zone 1 (least likely to flood) and it is not in evidence that it is subject to localised flooding. The Application form states that surface water will drain onto the gravel driveway and into the existing watercourse to the rear of the site. Interested parties have raised concerns as to the suitability of the ditch to drain surface water. However, I am satisfied that the limited drainage requirements of the site could be addressed by details that could demonstrate the suitable release of surface water off site. The details of this could be secured by the imposition of a planning condition.
12. The moderately constrained location could result in some temporary disturbance from construction vehicles and create noise and dust during construction. However, these impacts would be of limited magnitude and would take place during the daytime over a temporary period. Consequently, this would result in a moderate and temporary effect on the living conditions of neighbouring occupiers resulting in minimal harm.
13. The proposed dwelling would include a rear facing window serving a living room and a rooflight in its rear roof plane serving a bathroom. The ground floor window would look towards the rear elevation of 44a and 44b Hollycroft Road. The outlook from this window would be limited due to intervening landscaping and the boundary fence. Furthermore, the proposed rear rooflight could be obscurely glazed to prevent overlooking. The frontage of the proposed dwelling would be opposite existing housing across the highway. The proposal would largely align with the gap between No's 52 and 54 and offer only oblique views towards neighbouring windows over the public realm. As such, the living conditions of neighbouring occupiers would not be demonstrably harmed through a loss of privacy.
14. Furthermore, due to the separation distance between the proposal and neighbouring properties and the low roof profile of the proposal, neighbouring occupiers would not be subject to an overbearing sense of enclosure or experience a material loss of daylight or sunlight.

Conditions

15. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). I shall take the Council's suggested conditions into consideration and impose most of these with some amendments and adjustments for clarity.
16. It is necessary for details relating to a sustainable drainage strategy to be submitted prior to the commencement of development. I consider this pre-commencement condition to be so fundamental to the development that it would have been otherwise necessary to refuse permission. This is required prior to construction commencing because drainage works may occur within the footprint of the building and construction details relate to the initial setting out of the site. These measures would ensure the development would be suitably drained [4].
17. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty [1 and 2]. Conditions are necessary with respect to the agreement of materials in the interests of the character and appearance of the area [3]. It is also necessary for the access, and on-site hardstanding provision, to be laid out and visibility splay provided in the interests of highway safety [5 and 6]. Furthermore,

conditions are necessary to ensure that the proposed passing point and highway works to widen the roadway in front of the site are completed to ensure the site functions well [7 and 8]. It is also necessary for the rear rooflight to be obscurely glazed in the interests of the living conditions of neighbouring occupiers [9].

18. I have removed some duplication of condition objectives evident within the Council's suggested conditions with respect to the laying out of associated hardstanding. Furthermore, a condition requiring the existing access to be closed would be unnecessary by virtue of the requirement of the Appellants to comply with the approved plans. Also, it would be unnecessary for Permitted Development (PD) rights to be removed with respect to entrance gates. The lane appears to be lightly trafficked, with cars travelling at low speeds causing limited inconvenience to other motorists if gates were required to be opened while a vehicle was stationary within the highway.
19. The Council has suggested that PD rights, conveyed by Schedule 2, Part 1, Classes A, B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015, are removed. The Framework advises that conditions should not be used to restrict PD rights unless there is clear justification to do so. However, the effect of PD works in this case could result in adverse privacy and outlook impacts for neighbouring occupiers due to the proximity and orientation of the proposed dwelling. Consequently, I am satisfied that these rights should be removed in the interests of the protection of living conditions of neighbouring occupiers [10]. However, it would be unnecessary to remove the provisions of class E with respect to outbuildings, due to the ample size of the garden to accommodate such a structure without affecting neighbour's living conditions.

Conclusion

20. For the above reasons, the appeal is allowed, and planning permission is granted subject to the attached conditions.

Ben Plenty

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 6467/01D – existing site and location plan, 6467/02J – proposed site and location plan and 6467/03D – proposed plans and elevations.

- 3) No works above slab level shall take place until the type, colour and texture of all materials, windows and doors to be used for the external surfaces of the dwelling have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) Prior to the commencement of development details of the foul and surface water drainage arrangements for the site shall be submitted to and approved in writing by the Local Planning Authority. The drainage details shall be constructed as approved before any part of the development hereby permitted is brought into use.
- 5) Prior to the first occupation of the development, visibility splays shall be provided in full accordance with the details indicated on the approved plan. The splays shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway.
- 6) Prior to the first occupation of the development, the proposed access and associated hardstanding shall be laid out in accordance with the Highway Authority's specification TRAD 5, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
- 7) Notwithstanding the details indicated on the submitted drawings no works above slab level shall commence on site until detailed drawings for the off-site highway improvement works as indicated on dwg no. 02H (localised carriageway widening) have been submitted to and approved in writing by the Local Planning Authority.
- 8) Prior to the first occupation/use of the development hereby permitted the off-site highway improvement works (including Public Rights of Way works) referred to in condition 7 shall be completed to the written satisfaction of the Local Planning Authority.
- 9) Prior to first occupation of the dwelling hereby permitted, the roof light window at first floor level on the rear elevation as shown on dwg no. 03B shall be fitted with obscured glazing and any part of the window that is less than 1.7m above the floor of the room in which it is installed shall be non-opening. The window shall be permanently retained in that condition thereafter.
- 10) Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions or alterations within Schedule 2, Part 1, Classes A, AA, B, or C to the dwelling hereby permitted shall be erected.

End of conditions