



Appeal Decision

Site visit made on 23 February 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2023

Appeal Ref: APP/G2625/W/22/3295458

The Bungalow, Eaton Chase, Norwich NR4 7QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Gavin Phillips of Eaton Chase Ltd against the decision of Norwich City Council.
 - The application Ref 21/00684/O, dated 06 May 2021, was refused by notice dated 28 September 2021.
 - The development proposed is new residential development comprising 3 no. two storey dwellings and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description in the banner heading above from the application form. Although different to that on the decision notice, confirmation that any change was agreed has not been provided.
3. Outline planning permission is sought, with access, layout and scale to be considered at this stage and all other matters reserved for later consideration. I have determined the appeal on this basis. Whilst not formally part of the scheme, I have treated any details submitted with the appeal application relating to matters of appearance and landscaping as illustrative.

Main Issues

4. The main issues are the effect of the proposed development on:
 - highway safety;
 - living conditions of neighbouring occupiers with particular regard to privacy, overbearing, light, noise and disturbance; and
 - the character and appearance of the area.

Reasons

Highway Safety

5. Access to the proposed dwellings would be provided via Ryrie Court for which the appellant has provided details of a right of access. Ryrie Court is a sheltered retirement housing complex comprising of 36 properties serving residents who live independently but who may require additional support. The road serving Ryrie Court, is accessed from Pettus Road. Ryrie Court is a relatively short section of road that curves and narrows in places along its

route. There are a number of formalised parking spaces sited adjacent to the properties on Ryrie Court. I also observed a number of cars parking informally along the route however, there was adequate space to manoeuvre around these parked vehicles.

6. The access to Ryrie Court is located on a bend off Pettus Road. The bend is marked by double yellow lines, which terminate either side of the bend. Notwithstanding the bend, Pettus Road is linear and allows for good levels of visibility and is of sufficient width to allow for two cars to pass each other when the road is clear. Whilst there are on-street parking spaces available, these spaces are located on relatively small sections of the road as many properties require access for off-street parking.
7. At my site visit, which I appreciate is only a snapshot in time, I observed a steady flow of vehicles using Pettus Road. This included cars, vans and a bus. I saw that the carriageway is reduced to one lane in parts by on street parking and witnessed a bus having to reduce its speed to navigate the road and parked cars. This consistent but reduced speed resulted in the formation of a small tailback of cars on the road as the bus travelled toward the junction of Sumpter Road and Hurd Road. In addition, I also observed a small number of vehicles, including a refuse lorry, and pedestrians accessing and leaving Ryrie Court.
8. The Council and interested parties have raised concerns over construction deliveries taking place from larger vehicles along Pettus Road and the parking of construction worker's vehicles. The Construction Traffic Management Plan¹ (CTMP) identifies a dedicated parking area to be provided within the development site that would then be removed as the development nears completion. Given the limited scale of the scheme, details on the parking of contractor's vehicles as the development nears completion could be included as part of a construction management plan to be agreed by condition.
9. The details within the CTMP are not wholly consistent with the appellant's Access Review report² (AR), which identifies vehicles that cannot enter and exit the appeal site in a forward gear, will park on Pettus Road. Smaller site vehicles will then transport deliveries along Ryrie Court aided by a traffic marshal.
10. No details have been provided to demonstrate the frequency or duration of deliveries on Pettus Road or how these would be undertaken. From my observations, the parking of large construction delivery vehicles being unloaded would stop all traffic movement on the road until the delivery is completed. This would increase the opportunity for conflict between users/vehicles on the road. This would in turn likely lead to vehicles waiting in the highway or reversing to avoid having to wait, particularly as some waiting drivers would not have visibility of what is causing the obstruction. These waiting and reversing vehicles would cause an obstruction, restricting the movement of vehicles on Pettus Road therefore causing a conflict between vehicles which would be harmful to highway safety. This would also result in a severe impact on the free flow of traffic, including emergency service vehicles requiring access to Ryrie Court.

¹ Construction Traffic Management Plan; dated May 2021 Rev 3

² Access Review of Ryrie Court, Norwich; prepared by Canham Consulting dated March 2021 ref: 214514

11. In reaching this conclusion, I have had regard to the temporary nature of the construction activities. Nevertheless, I find that the potential obstruction of Pettus Road would give rise to detrimental highway safety issues.
12. A traffic survey, swept path analysis and visibility splay plans have been submitted by the appellant as part of the AR. The Council and interested parties have raised concerns that the traffic survey was undertaken at a time when Covid-19 pandemic restrictions are likely to have resulted in a reduced number of visitors to Ryrie Court. I have no compelling evidence to suggest that the traffic survey data is inaccurate or otherwise misleading. However, given government guidance in place at the time of the survey, there is no substantive evidence before me to conclude the number of vehicles registered by the survey data is an accurate representation now pandemic restrictions are no longer in place.
13. The proposed scheme would allow for increased vehicle movements, including the duration of construction. This would include larger rigid construction vehicles. However, the scheme is of a relatively small scale such that the traffic flow during construction would be increased by only a small amount. The width and length of Ryrie Court allows for good visibility for vehicles so that road users who are likely to be travelling at slow speeds can see and anticipate oncoming vehicles. Whilst this could result in road users waiting on Ryrie Court this would only be for a limited period given the short distance to the appeal site access. Furthermore, conditions could be imposed for a traffic marshal and construction phasing details to ensure manoeuvring of construction traffic is suitably managed and the free flow of traffic on this section of the road is not harmfully disrupted.
14. Consequently, and notwithstanding my findings on construction traffic using Ryrie Court, the proposal would have an unacceptably harmful effect on highway safety contrary to Policies DM1, DM12 and DM30 of the Norwich development management policies local plan (NLP). These seek, amongst other things, to provide for the safe use of the highway. It would also be contrary to the National Planning Policy Framework (the Framework) in so far as it seeks new development to be safe and accessible by service and emergency vehicles.

Living conditions

15. To the north of plot 1 are a linear line of properties on Pettus Road. These properties benefit from long rear gardens. To the east, the proposed dwellings would be separated from properties on Ryrie Court by a section of road, parking spaces and a small boundary grassed area.
16. Based on my observations and the extent of the Council's concerns, there is no substantive evidence to indicate that the scale of the dwellings in the proposed locations would result in a harmful loss of daylight or sunlight reaching the rear gardens or windows of properties on Pettus Road. For the same reasons, the proposed development would not result in a harmful loss of daylight or sunlight reaching the windows or front gardens of properties on Ryrie Court. Furthermore, and taking into consideration the increased floor print area and even if the properties had gable roofs, the distances between the proposed dwellings and existing nearby properties would be sufficiently far enough away from windows and garden areas to prevent the appeal dwellings from being overbearing.

17. Notwithstanding that appearance is a reserved matter, the scale and layout of the development proposed would likely see some level of over-looking from the first-floor habitable room windows of plot 1 to the gardens of some properties on Pettus Road, this would be towards the rear most part of the gardens which would also be open to views from first floor windows of neighbouring properties. I do not consider therefore that the occupiers' privacy would be significantly harmed. Additionally, having considered the relationship between plots 1 and 3 and the windows of the nearest dwellings facing Ryrie Court, I find that the distance between these properties would be sufficient to prevent a loss of privacy for existing occupiers of these dwellings.
18. The noise and disturbance arising from the proposed three dwellings and associated likely activity, including traffic movements and use of amenity space, would be modest, such that it would not cause harm to the living conditions of occupants of the neighbouring dwellings in this existing residential area.
19. In terms of noise and disturbance arising from construction traffic, notwithstanding my findings above on highway matters, the scheme would be of a small scale. I accept that there would be some temporary noise and disturbance from deliveries and construction vehicles using Ryrie Court. However, this would only be for a temporary period, and the separation of the access and the dwellings at Ryrie Court by parking, the footpath and grassed areas would serve to reduce noise and disturbance experienced by existing occupiers. Furthermore, a condition could be inserted to control hours of deliveries to avoid noise or disturbance at anti-social times of the day. Additionally, matters related to other noise and nuisance during construction could be controlled through a suitably worded condition as part of a construction management plan.
20. In reaching this conclusion, I have had regard to the findings of the previous Inspector³, however there is a clear and material difference in scale between the proposal for 5 dwellings that was subject to that appeal, and the proposed development before me now. Particularly as the previous appeal would likely have generated more frequent deliveries over a longer period of time whilst the development was constructed.
21. I conclude that the proposed development would not have a significantly harmful effect on the living conditions of neighbouring occupiers with regard to privacy, overbearing effect, light, noise and disturbance. The proposal would therefore comply with Policies DM2 and DM11 of the NLP, which seeks to ensure, amongst other things, that new development does not unacceptably impact upon the living conditions of neighbouring occupants. It would also accord with the provisions of the Framework in so far as it seeks development to provide a high standard of amenity for existing users.

Character and appearance

22. The appeal site is presently occupied by a well-sized bungalow within a large, grassed plot containing a number of mature trees, some of which are protected. It is located within a suburban area comprising a variety of single-storey and two-storey dwellings of different designs and sizes.

³ Appeal ref: APP/G2625/W/19/3241227

23. Properties found nearby are set back from the footway with mature planting, hedges and low boundary fences, and this results in the area having a generally open feel, which makes a positive contribution to the overall character of the area.
24. Appearance and landscaping are reserved matters at this stage. However, on the basis of the submitted plans, the site would be able to accommodate three detached dwellings of the scale proposed without appearing cramped or overdeveloped, respecting the nature of the immediate surroundings and the location of protected trees. By maintaining an element of spaciousness and visually relating to the dwellings seen on Pettus Road and Blakeney Close, subject to the precise appearance of the dwellings and landscaping, I find that the proposal would respond to the character of the site and its context, including surrounding residential uses.
25. For the above reasons, I find that the proposed development would not have a significant adverse effect on the character and appearance of the surrounding area. As such, it would not conflict with Policy DM1 of the NLP, which seeks to safeguard the special visual qualities of Norwich. It would also accord with the Framework, in so far as it seeks new development to be sympathetic to local character.

Other Matters

26. The Council has referred to the impact upon the Norfolk Broads SAC and Ramsar site and River Wensum SAC. However, as I am dismissing the appeal, there is no need for me to consider the implications upon them because the scheme is unacceptable for other reasons.
27. The appeal site is located outside, but close to, the Unthank and Christchurch Conservation Area (CA). For the purposes of the Framework, the CA is a designated heritage asset. The CA closest to the appeal site derives its significance from the layout, form and appearance of well-sized properties with mature landscaped gardens. Given, the layout and scale of the proposed dwellings and subject to acceptable landscaping within the overall context, I consider that the proposal would preserve the setting of the CA and how it is viewed and experienced.
28. In reaching my decision, I have had regard to the fact that the appeal site is an accessible location with access to transport links and shops. Additionally, there would be some social and economic benefits associated with two additional dwellings to the Council's housing stock, employment during construction and future occupants would buoy up the local economy. There would also be the potential for environmental benefits through additional tree planting and habitat creation. However, given the scale of the scheme, these benefits would be small and the adverse effects of the proposal would significantly outweigh the benefits.

Conclusion

29. The proposal would not harm the character and appearance of the area or result in significant harm to the living conditions of neighbouring occupiers. Notwithstanding this and for the above reasons the development would be harmful to highway safety. As a result, the proposal conflicts with the development plan when taken as a whole and there are no material

considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.

30. Therefore, I conclude the appeal should be dismissed.

A Hickey

INSPECTOR