



Appeal Decision

Site visit made on 12 March 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th March 2024

Appeal Ref: APP/V2635/W/23/3324424

Old Rectory, Hall Lane, South Wootton, Norfolk PE30 3LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Azam Gabbair against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 22/00536/F.
 - The development proposed is a dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a dwelling at Old Rectory, Hall Lane, South Wootton, Norfolk PE30 3LG in accordance with the terms of the application, Ref 22/00536/F, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for cost was made by Mr Azam Gabbair against King's Lynn and West Norfolk Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Subsequent to the submission of the appeal, a revised National Planning Policy Framework (the Framework) was published in December 2023. Both parties have been given opportunity to comment on the revised Framework. I have had regard to the comments received and the revised Framework in determining the appeal.
4. For conciseness, in my banner heading above I have removed wording that is not an act of development.
5. The appeal site was the subject of a recent appeal decision¹, which was dismissed. The primary difference between the proposal and the previous scheme is that the existing access would be utilised to serve the proposed development and the number of trees to be removed to facilitate the proposed development has reduced. It is clear that the Council has determined the application on this basis and so shall I for the purpose of this appeal.

¹ APP/V2635/W/21/3268017 dismissed 19 November 2021

Main Issues

6. The main issues are the effect of the proposed development on:
- i) character and appearance, with particular regard to trees; and
 - ii) biodiversity.

Reasons

Character and appearance

7. The appeal site is located on Hall Lane which lies within a predominantly residential area. Properties vary in their size and architectural design, however, they are predominantly two-storey detached dwellings set within generous sized plots and set back from the highway. Vegetation is present to the frontage of many dwellings, including mature trees, giving the local area a verdant character.
8. The appeal site forms part of the large garden to the side of The Old Rectory. A boundary wall and fence form the frontage boundary. The appeal site contains a significant number of trees, the majority of which are protected by a group Tree Preservation Order. The trees can be seen from the roadside to the front of the appeal site and make a positive contribution to the character and appearance of the area.
9. The appellants Arboricultural Report (AR) sets out that the proposed development would involve the removal of a number of trees within the appeal site, identified as either Category 'U' or 'C' trees. The AR suggests that these trees are unsuitable for retention, either by reason of their condition such that they cannot realistically be retained for longer than 10 years, or they are trees of low quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 150mms. In addition, 1 no tree proposed for removal has been identified as a Category 'B' tree. However, the Tree Decay Detection Report (TDDR) has identified notable decay conforming it has a very limited long-term prospect such that its removal is recommended.
10. Although the loss of tree cover is regretful in the interests of good landscape management and maintenance, I find no harm to be caused by the removal of the Category U and C trees and, similarly, the Category B Eucalyptus, given the findings of the TDDR.
11. The removal of trees would reduce the level of canopy cover on the appeal site. Its appearance would therefore change. However, the trees to be removed are not those of highest value and are largely contained within the site rather than to the prominent site frontage. By utilising the existing access, the tree loss to the appeal site frontage would be minimised and the remaining mature and semi-mature trees would still provide near continuous canopy cover around the roadside frontage of the site. Whilst there would be little room for replacement tree planting, significant trees would remain to the rear of the site and the proposed house would be largely surrounded by soft landscaping, maintaining the sylvan character and appearance of the area.
12. Taking all this together, I conclude that the proposal would not have a harmful effect on character and appearance, with particular regard to trees. Accordingly, I find no conflict with Policies CS08 and CS12 of the King's Lynn

and West Norfolk Borough Council Core Strategy (CS), Policy DM15 of the King's Lynn and West Norfolk Site Allocations and Development Management Policies Plan 2016 (SADMPP) and Policies E.1 and H2 of the South Wootton Neighbourhood Plan 2015-2026 (NP). Collectively, these policies require high quality development that is sensitively designed to take account of village character and local distinctiveness, including the quality of existing residential areas amongst mature trees. Nor do I find conflict with the Framework which recognises the contribution trees can make to the character and quality of urban environments.

Biodiversity

13. The appeal site is not designated under any statutory or local ecological designation. This is not disputed by the main parties. Furthermore, based on the information before me there is no substantive evidence that the trees to be removed would result in significant harm to biodiversity.
14. Many of the wildlife benefits associated with trees on the appeal site would continue to be provided by the remaining trees and the new planting. Whilst the number of trees would reduce, there would be opportunity to increase diversity and resilience with other new planting, enhancing local biodiversity over time. Mitigation measures, secured by condition, would be sufficient to offset loss and enhance biodiversity in the area. Accordingly, having regard to development plan policies and the Framework, given the scale of the proposed development, the limited tree loss and the mitigation and enhancement to be provided I am satisfied that there would be no significant harm to ecology.
15. For the reasons stated, the proposal would not result in significant harm to biodiversity. I find no conflict with Policies CS08 and CS12 of the CS and Policy DM15 of the SADMPP. Nor do I find conflict with Policies E.1 and H2 of the NP or the Framework in this regard. Collectively these policies seek development to maintain biodiversity and protect and enhance the natural environment.

Other Matters

16. I concur with my colleague Inspector who was satisfied that the introduction of a dwelling and the resultant garden for the existing dwelling would be comparable with other dwellings and gardens in the area. Furthermore, the proposed development would be in-keeping with the pattern of development of properties along Hall Lane. Its siting and design would be in-keeping with surrounding development and would not appear cramped within the plot and streetscene. Nor would the proposal have an adverse impact on the living conditions of the existing dwelling or neighbouring properties due to the separation distances maintained. Accordingly, I find no conflict with Policy H3 of the NP which requires, amongst other things, the development of residential garden areas to have due regard to the character of the surrounding area.
17. Whilst the Council can demonstrate a deliverable 5-year housing land supply the proposal would add to the choice of homes and, on small sites such as this, would make effective use of land and be likely to be built out relatively quickly, supporting the Government's objective to boost the supply of housing. Furthermore, the development would give rise to some economic benefits during the construction phase and provide limited support to local services following occupation of the dwelling. In the absence of environmental harm,

the proposal would represent sustainable development when considering the social, environmental and economic limbs, as set out in the Framework.

Conditions

18. The Council has provided a list of conditions, which I have assessed regarding the advice provided in the Framework and the Planning Practice Guidance. I have undertaken some minor editing of the conditions proposed in the interests of precision and clarity.
19. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.
20. A condition is included for compliance with the submitted arboricultural reports. There could be risks to the well-being of some retained trees arising from construction activity and partial encroachment of foundations and hard surfaces into some root protection areas. Accordingly, the appellant is agreeable to a pre-commencement condition requiring the submission of temporary ground protection measures, and the no-dig surface for the driveway.
21. Conditions would secure an appropriate access and parking arrangements in order to ensure the development could be accessed safely from the highway. A condition requiring approval of details of the external surfaces is necessary to integrate the development into its surroundings. Conditions regarding a scheme for biodiversity enhancements, and its implementation and its subsequent maintenance, is necessary to accord with the policies of the development plan and the objective of the Framework to conserve and enhance biodiversity.

Conclusion

22. For the above reasons, having had regard to the development plan as a whole, the Framework and all other matters raised, I conclude that the appeal should be allowed.

R Gee

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 1259-06e, 1259-07b.
3. The development hereby permitted shall be implemented in accordance with the Arboricultural Implications and Tree Protection Plan (Revision December 2022) and Tree Report written by Heritage Tree Specialists Ltd.
4. Notwithstanding the submitted details, prior to the commencement of development full details of all temporary ground protection measures, and

the no-dig surface for the driveway including proposed materials, in line with Section 6.2 of the approved Tree Report shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed details.

5. Visibility splays measuring 2.4m x 43m metres (north) and 2.4m x 25m (south) shall be provided to each side of the access where it meets the nearside carriageway edge. The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 1.05 metres above the level of the adjacent highway carriageway.
6. Prior to the first occupation of the development hereby permitted the proposed access /on-site car parking / turning area shall be laid out, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
7. No development shall take place on any external surface of the development hereby permitted until details of the type, colour and texture of all materials to be used for the external surfaces of the building(s) 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.
8. No works above ground floor slab level shall take place until a scheme to provide for biodiversity mitigation and enhancement measures has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for measures to mitigate or compensate for any biodiversity loss as a result of trees to be felled for the development, including details of replacement planting.
9. The development shall be implemented in accordance with the agreed details prior to the occupation of the dwelling, save where details require the planting of trees and shrubs. These shall be planted in the first planting season following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

*****End of Schedule*****