



Appeal Decision

Hearing held on 8 May 2024

Site visit made on 8 May 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2024

Appeal Ref: APP/K2610/W/24/3338463

Land at Mill Bungalow, Wood Green, Salhouse NR13 6NS

- 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 S Robinson and Mr P Adams against the decision of Broadland District Council.
 - The application Ref is 2023/2020.
 - The development proposed is erection of one dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr S Robinson and Mr P Adams against the decision of Broadland District Council. This application is the subject of a separate decision.

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposed development on highway safety; and
 - Whether the proposal would provide suitable living conditions for future occupants, with particular regard to accessibility.

Reasons

Highway safety

4. The appeal site is an area of garden land associated with existing dwelling, Mill Bungalow. The site is set back from the public highway beyond an established industrial estate, known as the Wood Green commercial area. Whilst a dwelling and kennels lies beyond Mill Bungalow, the surrounding area principally comprises a mix of commercial uses including vehicle repairs, construction, fabrication, joinery, plumbing, flooring, a gym, and a brewery.
5. The proposed dwelling would access the public highway via an unadopted service road which provides the main route through the commercial area. Due to the prevalence of commercial uses, the types of vehicles using the access road would generally be atypical of a residential area, with a greater prevalence of larger commercial vehicles.

6. The commercial area's access road joins the public highway at Wood Green. The junction has an oblique angle which would require drivers emerging from the access road to look behind to check for approaching traffic. This action would be inconvenient and uncomfortable for drivers and may be impossible for those with limited mobility. In some vehicles, visibility would be obstructed by the vehicle's structure, such as door pillars, and visibility may be particularly constrained in delivery vehicles.
7. Whilst the ADC Infrastructure Highways Report (ADC Report) suggests the driver's position would not result in an extreme oblique angle, the position of a car at the junction as annotated on drawing ADC3040-DR-001-P1 indicates the driver would need to turn beyond 90 degrees to check for approaching vehicles. Whilst government's Manual for Streets guidance does not specify acceptable angles, the severe junction angle would impair visibility of approaching traffic for drivers emerging from the access road into the highway.
8. A mature conifer tree with a large trunk is situated near the junction. The tree is close to the carriageway edge and within the boundary of the public highway. The ADC Report indicates the conifer tree blocks visibility of the highway for drivers looking right from the junction.
9. The local highway authority (LHA) observed vehicle speeds of around 25mph at Wood Green and recommends a stopping sight distance of 33m. Drawing ADC3040-DR-001-P1 identifies a visibility splay to the kerb line of 2.4m x 10m. Therefore, visibility from the junction falls significantly short of the recommended distance.
10. The tree is not in the ownership of the appellant or LHA and is thus outside either parties' direct control. The tree is the subject of a Tree Preservation Order and therefore works without the local planning authority's written consent are prohibited. Even if works to remove lower branches were authorised, the large trunk would still obstruct visibility of the highway.
11. The Tree Hazard Risk Assessment (THRA) suggests the tree's life expectancy, is somewhat diminished due to the presence of fungal disease within the crown and its impact on the highway structure through root damage. However, the THRA estimates the tree has a remaining useful life expectancy of around ten years. The obstruction to visibility from the tree is therefore expected to remain in the short and medium term.
12. There would not be intervisibility between vehicles approaching the junction from the private access road and Wood Green. Manual for Streets suggests a reduction in visibility below recommended levels will not necessarily lead to significant problems and advises that where visibility cannot be achieved, the impact of a car edging out into the carriageway should be considered.
13. The junction is on the outside of a bend and the ADC Report suggests vehicles travelling northwards along Wood Green would have good visibility of the junction. However, since the visibility distance is significantly limited, there is a risk that vehicles may edge out into the path of vehicles travelling along Wood Green requiring drivers to take evasive action, with the potential for collision. Through requiring vehicles to edge out into the carriageway, the junction arrangement promotes behaviours which are inherently unsafe and would not adequately mitigate the limited visibility.

14. An additional road provides internal circulation through the commercial area adjoining the main access road near the junction with the public highway. The submitted evidence does not demonstrate that approaching the junction from this route would result in improved visibility at the junction.
15. Beyond the junction, Wood Green comprises a residential cul-de-sac of 24 dwellings. Since Wood Green is not a through route and serves a modest number of dwellings, the volume of traffic is generally low. Accident data for the area shows no record of accidents having occurred in 23 years. The proposed development of one two-bedroom dwelling would generate a small increase in traffic, but nonetheless would represent intensification of the use of the junction and does not provide certainty that accidents would not occur.
16. Road users are likely to be familiar with the junction layout. However, road users would not be able to adapt their behaviours to the hazard posed by vehicles emerging from the junction, as there would be insufficient time to react due to the severely constrained visibility. Therefore, local circumstances do not justify a departure from the visibility standards.
17. Whilst the LHA is concerned by the existing junction arrangement, its duty is only to maintain the highway as it currently exists without obligation to undertake improvements. Land at the junction is outside the control of the appellant and therefore, there is little prospect that works to provide a suitable junction arrangement would be achieved.
18. Within the commercial area, there is pedestrian activity associated with the existing dwellings and commercial uses. Traffic speeds are likely to be low due to the speed humps along the access road. However, there is no segregated footway provision between the site and public highway. Verges and hard surfaced areas serve as refuge space for pedestrians from passing vehicles but are not demarcated from the roadway by kerbs and are frequently used for vehicle parking, and therefore provide limited separation from moving vehicles.
19. The pedestrian footway along Wood Green terminates at the junction with the access road. Views between the junction and pedestrian footway are obstructed by a tall hedge. Pedestrians attempting to access the site would step off the pedestrian footway onto the access road. This creates a risk of conflict between pedestrians and vehicles at the junction.
20. The absence of street lighting along the access road and junction means pedestrians would be less visible to drivers after dark. Whilst the public highway along Wood Green also does not have street lighting, it is served by footways providing physical separation between pedestrians and vehicles.
21. Manual for Streets supports shared surface streets within a residential context. However, the absence of segregated provision would force pedestrians to mix with commercial traffic. The proposed development would result in the increase pedestrian use of the road, and therefore would increase opportunities for conflict between pedestrians and vehicles.
22. The appeal site is within Salhouse's settlement limit and Policy EMP1 of the Salhouse Neighbourhood Plan promotes the expansion of existing business or development of employment starter units at the commercial area. Since the proposed development does not relate to employment uses, the policy is not directly relevant. However, whilst the Neighbourhood Plan supports further

development, the policy is clear that proposals which would generate traffic that would be harmful to road safety should be prevented.

23. The Council provided pre-application advice which suggested it would consider the proposal favourably. However, it is my understanding that the advice was provided without consultation with technical stakeholders, notably the LHA.
24. As set out above, the appeal site is an existing access, and the volume of existing traffic in the area and generated by the development would be low. However, the proposal would fail to provide adequate visibility at the junction between the access road and Wood Green creating opportunities for collision between road users, and a departure from the recommended visibility standards is not justified. The absence of pedestrian facilities would result in conflict between pedestrians and vehicles at the junction and along the private access road. The proposed development would therefore harm highway safety.
25. Paragraph 115 of the National Planning Policy Framework indicates development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Whilst the intensification of the junction associated with the proposal would be small, the inadequate standard of the junction and access road would create a significant risk of collision between road users including pedestrians. Consequently, the impact on highway safety would be unacceptable.
26. The proposal would conflict with Policy TS3 of the Development Management DPD 2015, which indicates development will not be permitted where it would result in significant adverse impact upon the safety of the highway network. In addition, the proposal would be contrary to Policy OE6 of the Salhouse Neighbourhood Plan which promotes development which reduces conflict between pedestrians, cyclists, and motorised traffic.

Living conditions

27. The appellant has provided a noise assessment report which concludes that, subject to mitigation measures, future occupants would not be exposed to unacceptable noise levels.
28. However, with the exception of the two dwellings beyond the commercial area, residential development in the locality is generally served by the public highway. Conversely, the proposed dwelling would have indirect access to the highway through the commercial area via an unadopted road. As discussed above, the absence of segregated pedestrian facilities would create potential for conflict between future occupants and vehicles.
29. Since the proposed development would not be served by segregated pedestrian facilities, the proposed development would not provide a suitable standard of accessibility for all users. Through its poor accessibility, the proposal would therefore fail to provide adequate living conditions for future occupants.
30. The proposed development would therefore conflict with Policy GC4 of the Development Management DPD which requires development meet the reasonable amenity needs of all potential future occupiers, be accessible to all via sustainable means and create safe environments.

Other Matters

31. The appeal site is within the Broads zone of influence (ZOI) which includes the Broadland Special Protection Area (SPA), Broadland Ramsar, Breydon Water SPA, and The Broads Special Area of Conservation (SAC). Those European Sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Where a proposal is likely to have significant effects on European Sites, Regulation 63 of the Habitats Regulations requires the competent authority carry out an Appropriate Assessment (AA). However, AA is only necessary where the competent authority is minded to grant consent for the proposal. Since I am dismissing the appeal due to identified harms in respect of highway safety and living conditions, it is not necessary to subject the proposal to AA.
32. The site is located within the River Bure catchment which has a functional relationship with The Broads SAC and Ramsar through its water environment. Natural England advises that all types of overnight accommodation within the Council's area, including new dwellings, can cause excessive levels of nutrients resulting in eutrophication, and the submitted nutrient budget calculator indicates the proposal would generate additional phosphate and nitrates. The appellant has provided a unilateral undertaking (UU) which secures payment toward Norfolk Environmental Credits (NEC). However, the proposal provides no details of any credit scheme operational within the catchment to offset nutrients generated by the development. Therefore, it is uncertain if the development would be made acceptable by the planning obligation.
33. The Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy (GIRAMS) advises that increased housing growth within the Broads ZOI places additional recreational pressure on its constituent European Sites. The development would provide an uplift in population within the ZOI. The appellant has provided a UU to secure a financial contribution toward mitigation measures identified by the GIRAMS. Since, the GIRAMS represents a strategic approach to mitigation by several councils across the wider area and is endorsed by Natural England, I am satisfied that such mitigation would be necessary to make the development acceptable. The proposal represents the re-submission of a previous refused application which did not include a reason for refusal relating to recreational pressure. As indicated above, consideration of effects on European Sites is required only where minded to grant consent.

Conclusion

34. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

E Dade

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Michael Braithwaite BA(hons) Town Planning, Certificate in Urban Environmental Design, MRTPI	Planning Consultant
David Cummins BEng(Hons) MSc CEng MCIHT MCILT	Director, ADC Infrastructure Limited
Stuart Robinson	Appellant/Landowner

FOR THE LOCAL PLANNING AUTHORITY:

Julie Fox	Senior Planning Officer, Broadland District Council
Kieran Yates	Highways Development Management Officer, Norfolk County Council