



Appeal Decision

Site visit made on 13 May 2024

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2024

Appeal Ref: APP/Y2620/W/23/3328689

Wishing Well, The Street, Happisburgh, Norfolk NR12 0AB

- 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 David Pugh against the decision of North Norfolk District Council.
 - The application Ref is PF/23/0640.
 - The development proposed is described as full planning application to make a material change of use for the detached building to the frontage of the wishing well dwelling house as required under part 3 of the town & country planning act 1990 amended.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development and site address above from the application form, albeit slightly reordering the address. Although different to that given on the decision notice, no confirmation has been provided that a change was agreed.
3. Since the application was determined a revised National Planning Policy Framework (the Framework) has been published. However, the relevant parts have not materially changed therefore I have not sought further comments from the parties. I am satisfied that no party's interests have been prejudiced by my taking this approach.
4. The appellant submitted amended drawings to show vehicle tracking details as part of their appeal evidence. The Procedural Guide for Planning Appeals¹ is clear that the appeal process should not be used to evolve a scheme and it is important that what is considered is essentially what was considered by the Council, and on which interested people's views were sought. Having regard to the principles established in Holborn Studios Ltd², to consider such a modification would be a substantive difference and procedurally could prejudice interested parties by depriving those who should have been consulted on the change the opportunity of such consultation. For this reason, I have determined the appeal using the plans that were considered by the Council and upon which the views of interested parties have been sought.

Main Issues

5. The main issues are:

¹ Procedural Guide: Planning Appeals – England 2024

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWCH 2823 (Admin)

- whether the proposed development would provide acceptable living conditions for future occupiers, and the effect that it would have upon the living conditions of the occupiers of the existing property, and;
- the effect of the proposed development upon highway safety.

Reasons

Living conditions

6. The proposed residential dwelling would be accommodated within an existing detached building (appeal building) within the grounds of the Wishing Well, a residential property. The appeal building is sited to the front elevation of the wishing well at a short distance.
7. The appeal building would contain two windows facing the wishing Well. A ground floor window serving a utility room and an upper floor serving a shower. As such, based on my observations and the evidence before me there would be no bedroom-to-bedroom relationship. Additionally, obscure glazing between the properties prevents direct intervisibility between the two buildings. However, given the limited separation distances between the buildings a high perception of visual intrusion would be present within both the Wishing Well and its front garden but also for occupiers of the appeal building. Given the proximity of the front garden and windows of buildings, the use of obscure glazing would not overcome the perception of being overlooked.
8. The appellant states that a 1.8m in high fence will be incorporated to further reduce potential overlooking. However, there is a difference in height level between the two buildings. Without appropriate level details I cannot be sure this would be an effective solution. Moreover, this also has the potential to have an overbearing effect on the front garden area of the Wishing Well and on downstairs windows such that it would not be appropriate to condition further details to be submitted nor would this be overcome by non-opening windows.
9. The Wishing Well and appeal building are already in place. However, no detailed daylight or sunlight assessment was provided as part of the application. Given its close spatial relationship a shading effect is likely to be experienced by occupiers of the Wishing Well and from within some windows and parts of the front outdoor amenity space that lies in closest proximity to the common boundary with the appeal building. Without such details there is no substantive evidence before me that existing occupiers living conditions would not be detrimentally harmed.
10. For the above reasons and taken as a whole, the proposed development would have an unacceptable impact on the living conditions of occupiers of the appeal building and the occupiers of the Wishing Well. It would therefore be contrary to North Norfolk Core Strategy (Core Strategy) Policy EN4 which requires new development to provide acceptable levels of residential amenity. There is also conflict with the Framework which seeks to ensure developments maintain a high standard of amenity for existing and future users.

Highway Safety

11. The appeal building and the Wishing Well would be accessed via the same area onto the road. At the time of my visit, the well sited in front of the driveway

entrance, as shown on the submitted plans, had been removed. Demarcation zones for some parking bays close to the Wishing Well were also in place.

12. At my site visit, which I appreciate is only a snapshot in time, I observed a steady number of motor vehicles passing the site from both directions along The Street. I also observed that on-street parking is prevalent on the road outside of the site, reducing the usable width of the road as a result.
13. The appellant has sought to overcome concerns raised in a previous iteration that was dismissed on appeal³ (previous appeal). The plans provided with the application⁴ show three parking spaces are to be provided for the Wishing Well and one for occupiers of the appeal building. There is a dispute between the main parties on the parking requirements for the appeal building. While it is noted the previous appeal was for a two-bedroom property, the appeal scheme is for a one bedroomed property. Accordingly, in line with the Council's Parking Standards, one parking space is required.
14. The appeal site has previously been used as a 24-hour live-in care facility and has also provided Airbnb accommodation. However, unlike the arrangement of the existing accommodation future occupiers would have their own vehicles which would not be under the control of the occupiers of the Wishing Well. Even if vehicle tracking details had been provided, the arrangement of the parking to the front of the site is likely to lead to convoluted vehicle manoeuvres that enable the vehicles to enter and leave the site. This would increase the opportunity for conflict between users/vehicles on the driveway close to the entrance as there may be times when different occupiers are entering or exiting the driveway. This would in turn likely lead to vehicles waiting in the highway or reversing onto the highway.
15. These waiting and reversing vehicles would cause an obstruction, restricting the movement of vehicles within the site and on The Street and, therefore cause a conflict between vehicles, which would be harmful to highway safety. Furthermore, due to the awkward parking arrangement, vehicles would be displaced onto the highway, resulting in a harmful impact on the free flow of traffic on the road. As such, and notwithstanding the inspector's findings under the previous appeal the required manoeuvres have not demonstrated adequate visibility splays would be achievable.
16. The appellant has drawn my attention to the neighbouring property, Wayside Stores. I do not have full details of this scheme. Nonetheless, each application is considered on its own merits, and I have found the proposed development harmful to highway safety for the reasons set out above.
17. Accordingly, the proposed development would have an unacceptable harmful effect on highway safety. Therefore, the proposal would fail to comply with Core Strategy Policies CT5 and CT6, which together, and amongst other matters, require development to provide safe access for private transport, be served by a safe access to the highway network, and provide adequate vehicle parking in accordance with the Council's parking standards.

³ Ref: APP/Y2620/W/22/3303744

⁴ Drawings: 2023/4 & 2023/6

Other Matters

18. The Conservation of Species and Habitat Regulations 2017 (the regulations) require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected sites, either alone, or in combination with other plans and projects. This responsibility falls to me in the context of this appeal. However, as the appeal is being dismissed on grounds related to living conditions and highway safety, an Appropriate Assessment under the regulations is not necessary. Even if the appeal scheme was acceptable in these regards this would have mitigated harm and would not have amounted to a benefit. For these reasons, I have not considered this matter further.
19. The appellant states no objections from neighbours have been received. However, the absence of harm in this respect is a neutral matter which weighs neither for nor against the proposal.
20. I have also noted the change to the future occupier of the appeal building; however, this does not lead me to reach a different conclusion about the harms identified above.

Planning Balance

21. The appellant states the Council cannot demonstrate a five year supply of deliverable housing sites, although the precise extent of this shortfall has not been quantified. The Council have not provided any substantive evidence to the contrary. As such, Paragraph 11d) ii. of the Framework is therefore engaged. Paragraph 11(d)(ii) of the Framework confirms that in circumstances such as these, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
22. Core Strategy Policy EN 4 requires development to provide an acceptable standard of residential amenity. Core Strategy Policies CT5 and CT6 require development to provide safe access for private transport, be served by a safe access to the highway network. These policies are all consistent with the Framework in how it addresses each of these considerations. I therefore attach significant weight to the proposal's conflict with the development plan when read as a whole.
23. There would be social benefits from the delivery of an additional dwelling through the reuse of a building, which could be delivered quickly in an area close to a number of services and facilities. The appeal scheme would also provide an additional dwelling in an area subject to coastal erosion. There would be economic benefits through expenditure by future occupiers of the dwelling. However, these benefits, even when taken together would be limited given the scale of the proposal.
24. Consequently, the harm I have identified significantly and demonstrably outweighs the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

25. For the reasons given above, I conclude that the proposal would not accord with the development plan for the area when read as a whole. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan.
26. Therefore, for the reasons given and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A Hickey

INSPECTOR