

Appeal Decision

Site visit made on 10 September 2024

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2024

Appeal Ref: APP/K2610/D/23/3334699

8 White Hart Street, Aylsham, Norfolk NR11 6HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Robert Mott against the decision of Broadland District Council.
 - The application reference 2023/2897/RVC is dated 24 September 2023.
 - The application sought planning permission for the erection of a 1 and ½ storey dwelling without complying with conditions attached to planning permission reference 20210288, dated 12 April 2021.
 - The conditions in dispute are Nos. 2 and 8 which state that:
 - 2) *The development hereby permitted shall be carried out in accordance with the application form, plans and drawings and other documents and details received as listed below.*
 - 8) *There shall be no vehicular access or on-site vehicular parking provision provided to this site.*
 - The reasons given for the conditions are:
 - 2) *For the avoidance of doubt and to ensure the satisfactory development of the site in accordance with the specified approved plans, as required by the Spatial Vision and Spatial Planning Objectives of the Joint Core Strategy and the Broadland Development Management DPD 2015.*
 - 8) *In the interests of highway safety and traffic movement and in accordance with Policy TS3 of the Development Management DPD 2015.*
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Decision

1. The appeal is allowed and planning application reference 2023/2897 for the variation of conditions 2 (plans) and 8 (no vehicular access or on-site parking provision) of planning permission 20210288 for the erection of a 1 and ½ storey dwelling at 8 White Hart Street, Aylsham, Norfolk, NR11 6HG is granted without compliance with conditions 2 and 8 previously imposed on planning permission 20210288 dated 12 April 2021 subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The address stated on the application form¹ for the erection of the dwellinghouse differs to that on the application form² for the variation of conditions which is the subject of this appeal. I am satisfied that the applications relate to the same site, and I have determined the appeal accordingly. For clarity I have referred to the appeal site as 8 White Hart Street in the banner and my formal decision above as this accurately reflects its address.
3. I observed during my visit that the development has already taken place. I have therefore dealt with the appeal on the basis that the development has already occurred and with regard to the plans submitted with the application.

Main Issue

4. Planning permission was previously granted for the construction of a dwelling on the site. The appeal scheme proposes to make changes to the design of the dwelling including changes to windows and removal of a covered pergola to the side of the property to facilitate off-street parking. There is no dispute between the parties as to the acceptability of the proposal to alter the windows and remove the pergola feature from the side elevation. Therefore, my detailed considerations are confined to the creation of a vehicular access to the side of the property.
5. In the light of the above, the main issue is the effect of the development on highway safety.

Reasons

6. The planning permission granted for the erection of a dwellinghouse was subject to a number of conditions, including conditions 2 (approved plans) and 8 (no vehicular access or on-site vehicular parking provision to be provided). The dwelling has since been constructed and from my observations on site appears to be occupied. A vehicular access has been created onto White Hart Street close to its junction with Red Lion Street.
7. Although close to the town centre, White Hart Street is predominantly residential in character with numerous vehicular accesses similar to that which is the subject of this appeal, and which are typical of this part of the town's tight grain. From my observations on site on a weekday afternoon, the street was relatively quiet. Speeds are restricted to 30mph with many vehicles travelling slower due to the nature of the street. I have not been provided with evidence of any accidents occurring on the street as a result of vehicles emerging from any of the accesses along its length.
8. The space at the side of the dwelling provides parking for one vehicle. It is limited in size and does not allow for any manoeuvring or turning. Furthermore, visibility when exiting the space onto the highway is limited due to existing structures either side of the space. Although the proposal would increase the number of access points onto the highway, the increase is nominal, and is close to another similar existing vehicular access. White Hart Street has many similar

¹ LPA Reference: 20210288 dated 12 April 2021

² LPA Reference: 2023/2897/RVC dated 24 September 2023

points of access and does not strike me as a particular busy street. An additional entrance for vehicles would not be unexpected in the context of the site and its surroundings. That the occupier would have to reverse either into or out of the access point would not be unusual in this situation and the movements associated with one dwelling would not be significant. I see no reason why there would be an increase in the likelihood of a collision as a result. Therefore, I am not persuaded that the creation of the access would have a significant effect on the functioning or safety of the highway network.

9. Therefore, I conclude that the creation of a vehicular access in this location would not unduly compromise the safe use of the highway by pedestrians and vehicles. Accordingly, I find no conflict with Policy TS3 of Broadland District Council's Development Management DPD, which seeks to ensure that development would not result in a significant adverse impact on highway safety.

Other Matters

10. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) places a duty upon the decision-maker, in the exercise of planning functions, to have special regard to the desirability of preserving or enhancing the character or appearance of conservation areas. I also have a statutory duty, under Section 66 of the Act to consider the impact of the proposal on the special architectural and historic interest of a listed building and its setting. The appeal property is adjacent to a grade II listed building and is located within the Aylsham Conservation Area.
11. As the development is minor, I am satisfied that it would not adversely affect the setting of the listed building or the character and appearance of the Conservation Area, as concluded by the Council. Therefore, the proposal would preserve the significance of both heritage assets.

Conditions

12. Guidance in the Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under Section 73 should also reinstate the conditions imposed on earlier permissions that continue to have effect. However, as the development has commenced it is not necessary to impose a time limit condition. I have updated the plans condition to incorporate the plans and elevations which are the subject of this appeal. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant.

Conclusion

13. For the reasons given above, I shall vary the planning permission by deleting condition 8 and reimposing condition 2, substituting it with the plans submitted with the appeal. The effect of my decision leads me conclude that the appeal is allowed.

K L Robbie

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby granted permission shall be carried out in full accordance with the following approved plans:
Drawing No /P01 Location Plan
5714 Drawing No PA_02 Proposed Elevations
5714 Drawing No PA_01 External Works Plans and Floor Plans
- 2) Development shall not progress above slab level until details, including colours where required, of the materials (including rainwater goods) to be used in the construction of the external surfaces of the development as well as the joinery details and boundary treatments have been submitted to and approved in writing by the local planning authority. The development shall then be constructed in accordance with the approved details.
- 3) A) No development shall take place until an archaeological written scheme of investigation has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and : 1) The programme and methodology of site investigation and recording, 2) The programme for post investigation assessment, 3) Provision to be made for analysis of the site investigation and recording, 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation, 5) Provision to be made for archive deposition of the analysis and records of the site investigation and 6) Nomination of a competent person or persons/organization to undertake the works set out within the written scheme of investigation.

and,

B) No development shall take place other than in accordance with the written scheme of investigation approved under condition (A).

and,

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological written scheme of investigation approved under condition (A) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

In this instance the programme of archaeological mitigatory work will comprise the monitoring of groundworks for the development under archaeological supervision and control for which a brief is attached.

- 4) No enlargement, improvement or other alterations of the dwelling/s [Class A]; no additions or alterations to the roof/s [Class B & C]; no provision of porches [Class D]; nor the provision within the curtilage of the dwellings of

any building or enclosure, swimming or other pool [Class E]; or chimneys, flues or soil and vent pipes [Class G] or any other works as defined by Classes A, B C, D, E and G of Part1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification), shall be erected or brought onto the land unless an appropriate planning application is first submitted to and approved by the Local Planning Authority.

- 5) The first floor window in the east elevation hereby approved shall be installed as a fixed window and obscured to a specification of not less than the equivalent of classification 3 of Pilkington Glass and shall remain so in perpetuity.
- 6) No part of the proposed structure (to include fascia board/rainwater guttering) shall overhang or encroach upon highway land and no gate/door/ground floor window shall open outwards over the highway.
- 7) In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. All development shall cease and shall not recommence until: 1) a report has been submitted and agreed in writing by the Local Planning Authority which includes results of an investigation and risk assessment together with proposed remediation scheme to deal with the risk identified and 2) the agreed remediation scheme has been carried out and a validation report demonstrating its effectiveness has been approved in writing by the Local Planning Authority.

****End of Schedule****