



Appeal Decision

Site visit made on 18 November 2024

by D R McCreery MA BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th November 2024

Appeal Ref: APP/K2610/W/24/3348001

15 Highfield Avenue, Brundall, Norwich NR13 5NT

- 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 Vello Ltd against the decision of Broadland District Council.
 - The application Ref is 2023/3696.
 - The development proposed is erection of a single storey dwelling and construction of a vehicular access (existing dwelling to be demolished).
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Decision

1. The appeal is allowed and planning permission is granted for erection of a single storey dwelling and construction of a vehicular access (existing dwelling to be demolished) at 15 Highfield Avenue, Brundall, Norwich, NR13 5NT in accordance with the terms of the application Ref -2023/3696 and subject to the conditions in the attached schedule.

Preliminary Matters

2. Applications for planning permission must be determined in accordance with the development plan for the area unless material considerations indicate otherwise. I have considered the development plan as a whole, including the policies of relevance to the main issues in the Greater Norwich Local Plan (Local Plan) and the Broadland Local Plan Development Management Policies Document (DMPD). The National Planning Policy Framework (the Framework) is a material consideration.
3. I have noted that planning permission was granted in June 2024 for five dwellings beyond the site to the rear. The proposal would share an access with that development, which also included demolition of the existing dwelling on the site. Notwithstanding the association with the June 2024 development, I have considered the appeal proposal on its own merits.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area.
 - Whether it would create acceptable living conditions when regard is paid to future occupants of the development and neighbours.

Reasons

Character and appearance

5. The site is within a residential area of suburban character. Properties vary in both size and appearance, with some consistency of pattern in respect of houses addressing Highfield Avenue being set back from the road behind front gardens and parking areas.
6. The Council accept that the principle of a replacement dwelling in this location is acceptable and I do not disagree.
7. In relation to the front building line, the proposal would not be in strict conformity with existing dwellings to the west. These houses are a short terrace of two storey properties of similar appearance that have a gently stepped front building line. The proposal would be clearly distinguishable from these buildings in both scale and appearance. There is also variety in the position of front building lines in the wider street scene, including on the property immediately to the east of the site.
8. There is also no obvious consistency in plot widths in the wider area. While back gardens may be spacious, many of the properties are built close to their side boundaries to varying degrees. Although the proposed dwelling would be close to the western boundary, to the east it would sit next to the access road serving the new dwellings to the rear. As seen in close views from Highfield Avenue and longer views from Nurseries Avenue this would create a townscape gap. The result would be an appearance of spaciousness between buildings addressing Highfield Avenue.
9. For the reasons set out, the Council's concerns about the lack of conformity to a non-existent consistency in front building line and an appearance of a cramped development are poorly founded. The Council's use of words such as 'contrived' and 'incongruous' are unexplained and unnecessarily alarmist in this context.
10. In reaching my view on this issue, I have paid regard to the comments of the Inspector from 2023¹. That appeal was considering a larger development with different details. However, it appears to illustrate the variety in built form and plots within the area. I have noted the reference to allowing adequate space for access, which would be maintained as part of this proposal. The reasoning on outdoor spaces is not indicated at referring directly to the site and there is no evidence that maintaining the site as open was critical to the Inspectors overall conclusion of no significant adverse effects on the character and appearance of the area.
11. For these reasons, the proposal would have an acceptable effect on the character and appearance of the area. There is no conflict with the development plan, including Policy GC4 of the DMPD and Policy 2 of the Local Plan which collectively aims to secure development of a good standard of design, including paying adequate regard to/respecting the character and appearance of the area and reinforcing local distinctiveness.

¹ APP/K2610/W/22/3309996

Living conditions

12. The Council have raised concerns about whether acceptable living conditions would be created for future occupants of the dwelling when regard is paid to overlooking and standards of sunlight.
13. In relation to overlooking, the proposal would share a boundary with the property to the west that includes a high boundary wall/fence and the side of a garage. The neighbouring house itself is separated from the boundary by the garage. As views from the east facing side windows in the neighbouring dwelling towards the site would be obstructed or filtered by the garage and other boundary features, the opportunities for overlooking would be very limited. A condition can be used to ensure bathroom windows within the side elevation of the dwelling are obscured. The 'perception of overlooking' is a woolly term that is not adequately explained by the Council in this context.
14. More widely, there would be some views created from the front driveway of the neighbour into the front garden and towards the front windows of the new dwelling. There would also be some new views from the upper floor rear windows of the neighbouring house towards the rear garden of the proposal, albeit at an angle.
15. Paying regard to the nature and potential severity of the views, the general prevailing privacy conditions in the area, and the overall standard of privacy and living conditions that would be created for future occupants, the Council's concerns about privacy impacts lack credible substantiation.
16. Turning to standards of sunlight, the neighbouring dwelling lies approximately to the west. While no technical assessment has been submitted, in sunlight terms I am satisfied on the evidence available to reach a judgement that the openness in all other directions would ensure adequate standards of sunlight for the front, rear, and east side room and the gardens, paying regard to the nature of the surroundings and the intended use of the spaces.
17. Windows in the western wall of the dwelling would receive more limited direct sunlight, and light more broadly, due primarily to the proximity to the boundary. The affected windows would serve a bathroom/ensuite and a kitchen, which would be a secondary light source to the main patio doors in the rear. Considering the intended use of the spaces, availability of other light sources, and the wider standards of light available across the development, a refusal of permission based on these windows alone would not be justified.
18. Taking a holistic view of the standard of accommodation that would be created for future occupants of the proposal, acceptable living conditions would result.
19. Further, whilst not substantively addressed in the Council's evidence, I have considered potential effects on neighbouring properties and find the proposal to be acceptable when regard is paid to separation distances and the general prevailing standard of living conditions in the area. While I note concerns from neighbours about the impact of building work, this is temporary in duration and the site presents no obvious complexity in terms of being capable of development. As such, there is inadequate justification for using the planning system to exert additional controls during the construction phase.

20. For these reasons, the proposal would create acceptable living conditions when regard is paid to future occupants of the development and neighbours. There is no conflict with the development plan for the area, including Policy GC4 of the DMPD which aims to, amongst other things, pay adequate regard to meeting the reasonable amenity needs of future occupants and consider the impact upon the amenity of existing properties.

Other Matters

21. I have considered public and other comments received in response to both the application and the appeal. Comments relating to the main issues have been considered as part of my reasoning on those issues. Other comments do not materially change the overall assessment and outcome of the appeal.
22. In relation to highways matters, the existing access is satisfactory to provide safe and convenient access to and from Highfield Avenue. While I have noted comments about the road conditions in the area, there is no substantiated evidence that this single dwelling proposal would make matters materially worse. This is the case also when the proposal is viewed in the context of the development to the rear of the site.
23. The pre-existing building on the site has been demolished. Although referred to as a historic building by some parties, the evidence does not lead me to conclude that it was a heritage asset in the sense set out in the Framework. The principle of a replacement dwelling in this location is acceptable.
24. I agree with the Council's approach to the issues of nutrient neutrality and payments under the Green Infrastructure Avoidance Mitigation Strategy. I also note the comments of the Council's specialists in relation to the trees that are the subject of a TPO. Adopting the reasoning in the Council's officer report, the proposal is acceptable in relation to these matters.

Conditions

25. I will consider conditions by reference to the numbering in the attached schedule. Where used, I have amended the wording of the conditions suggested by the Council, as appropriate, in the interests of clarity and effectiveness. I have also paid regard to the Appellant's comments/ suggested conditions.
26. [2] is necessary in the interests of certainty. [3] and [6] are needed to ensure a satisfactory standard of appearance and landscaping. I have include details of site levels as part of the landscaping condition in the interests of certainty and in response to public comment on the issue. [4] is required to secure acceptable parking provision. [7] is necessary to ensure adequate privacy to the proposed bathroom spaces.
27. No clear justification has been provided for the Council's suggested wholesale removal of Part 1, Class A, Schedule 2 Permitted Development Rights. However a condition is necessary to remove rights relating to gates, fences, walls and means of enclosure. This is to assist with preserving the openness of the townscape gap between the new dwelling and surrounding land [5] and is clearly justified.

28. I have no evidence that land contamination risks is a specific issue in this location. As such, a condition relating to this issue over and above what is required under other legislative regimes is not demonstrated to be necessary.

Conclusion

29. The proposal would accord with the development plan for the area. There are no material considerations indicating a decision should be taken other than in accordance with the plan. Detailed consideration of the presumption at Paragraph 11 (Framework) is not required, other than to note that 11 (c) indicates that development should be approved without delay.

30. For the reasons set out, and paying regard to all other matters, the appeal is allowed.

D R McCreery

INSPECTOR

Schedule of conditions.

1. The development hereby permitted shall begin not later than [three] years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with drawing nos 2020172-13 (Rev B), 2020172-19, 2020172-22 (REV C), 2020172-20(REV B), 2020172-21 (REV B).
3. Prior to the first use of the relevant materials on site, samples of the facing materials to be used for the external walls and roofs shall be submitted to and approved by the Local Planning Authority in writing. The development shall then be constructed in accordance with the approved details.
4. Prior to the first occupation, the car parking and other spaces on the approved plans shall be provided within the site to enable two cars to park, turn and re-enter the highway in forward gear. This areas shall be laid out and be retained thereafter available for that specific use.
5. Notwithstanding the provisions 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), no development permitted by virtue of Class A of Part 2 of Schedule 2 to the Order shall be undertaken.
6. No development above slab level shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - a) Details of existing and proposed site levels by reference to a recognised datum.
 - b) the species, number, size and position of new trees and shrubs at the time of their planting
 - c) all existing trees and hedgerows on the land, with details of any to be retained (which shall include details of species and canopy spread, root protection areas).
 - d) specification of materials for fences, walls and hard surfaces
 - e) details of any proposed alterations in existing ground levels and of the position of any proposed excavation or deposited materials
 - f) details of the location of all service trenches

The scheme as approved shall be carried out not later than the next available planting season following the commencement of development or such further period as the Local Planning Authority may allow in writing. If within a period of five years from the date of planting any tree or plant or any tree or plant planted in replacement for it, is removed, uprooted or is

destroyed or dies, or becomes in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

7. Before the first occupation of the building, the windows on the west elevation serving the bathroom and the ensuite as labelled on "Dwg No 2020172-20 REV B Proposed Floor Plans and Sections" shall be obscured to a specification of not less than the equivalent of classification 3 of Pilkington Glass and shall remain so in perpetuity.