



Appeal Decision

Site visit made on 21 January 2025

by John Felgate BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2025

Appeal Ref: APP/F2605/W/24/3351979

Land at 35 Ketts Hill, Necton, Swaffham, Norfolk PE37 8HX

- 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 Terry Smith against the decision of Breckland Council.
 - The application Ref is 3PL/2024/0529/F.
 - The development proposed is a 2-bedroom single storey dwelling.
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Decision

1. The appeal is dismissed.

Planning background

2. The appeal site has an existing planning permission for a development described as “single-storey annex for a family member” (3PL/2022/0759/F). That existing permission is subject to a condition which requires that the annex is to be used only as incidental accommodation to the existing property at No 35 Ketts Hill. The present appeal scheme is proposed as an alternative to that approved development, and seeks permission for a dwelling that could be occupied separately from the main house.

Main issues

3. Having regard to the submissions before me, I find that the main issues in the appeal appear to be:
 - the effects of the proposed development on the character and appearance of the area;
 - and whether the development would provide adequate outdoor amenity space for future occupiers.

Reasons for decision

Character and appearance

4. I saw on my visit that Ketts Hill is a pleasant residential street within the village of Necton, containing a mixture of different types and styles of properties. No 35 is a semi-detached house, with parking to the front, and a reasonable-sized rear garden containing various sheds and outbuildings. To the side of the existing house there is a shared, private track, which provides rear access to the appeal property, and to the rear gardens and garages of neighbouring properties in Ketts Hill and St Andrews Lane.

5. The new single-storey dwelling which is now proposed would be sited on the rearmost part of No 35's garden, replacing some of the existing outbuildings. It would front onto the existing rear access track, and would have two parking spaces of its own, accessed from that track. Internally the dwelling would have one double and one single bedroom, and a combined kitchen/dining and living room.
6. In the Breckland Local Plan (the BLP), adopted in September 2023, Policy GEN02 requires all developments to respect the character of the surroundings, to contribute positively to the public realm of the area, and to create high-quality and safe places and streets. Policy COM01 also requires schemes to be well integrated with their surroundings, with a high degree of compatibility, to reinforce local characteristics.
7. In the present case, the existing development pattern in the area comprises predominantly frontage development, with the houses arranged to address the public realm, in Ketts Hill and other surrounding streets. The track onto which the new dwelling would face runs through a backland area, where the only existing buildings are garages and the like. For the most part, it runs between high fences, with a surface of rough gravel, giving way to grass. These characteristics give the track an informal character, and together with the lack of any public realm, this makes it quite different from any of the nearby residential streets.
8. The proposed new bungalow would be the only dwelling, and indeed the only building of a permanent nature, within this backland area. The development would therefore not relate to any existing features or characteristics, nor would it be integrated with any existing public realm. It would also fail to create a high-quality or safe environment. As such, the new dwelling would appear as an incongruous and intrusive feature, out of place and out of keeping with the surrounding environment.
9. In addition, with few if any exceptions, the properties in Ketts Hill and St Andrews Lane have long rear gardens, and also in many cases reasonably generous front gardens, giving the area a feeling of spaciousness. In contrast, the proposed new dwelling would fill most of its plot, with only the depth of the two parking spaces to the front, and an equally shallow garden to the rear, and narrow gaps to both side boundaries. The existing property would also be left with a rear garden that would be noticeably shorter than most others nearby. As a result, the development would appear cramped in comparison with its surroundings. This reinforces the view that I have come to above, that the scheme would have an adverse visual impact on the area.
10. I appreciate that, visually, the development now proposed would appear little different from the annex which has been approved previously. However, this does not alter my view as to the impact of the present proposal. Judged on its own merits, it seems to me that the proposed scheme would be harmful to the area's character and appearance, for the reasons that I have identified. As such, it would conflict with the aims of the most relevant BLP policies, including Policies GEN02 and COM01.

Amenity space

11. BLP Policy COM03 requires, amongst other things, that developments should provide adequate levels of amenity for future occupiers, including sufficient usable and secluded private amenity space.
12. In the present case, the new dwelling is said to be designed for occupation by up to three persons. The only private and usable amenity space would be the rear garden, which would comprise a narrow strip measuring only a little over 5m from front to back. This space would necessarily require fencing to a height of 1.8m for privacy.
13. I am aware that the rear garden would be south-facing and on level ground. But to my mind a garden of such limited size and proportions, with a heavily restricted outlook, would appear as an uncomfortably confined space, with an excessive sense of enclosure. Consequently, although it might be physically capable of accommodating three occupants, it would do so by providing no more than the bare minimum. As such, it seems to me that the rear amenity space would offer at best a somewhat unappealing prospect, and would fall far short of providing good living conditions.
14. I appreciate that the need for access to amenity space would also apply in the previous proposal for an annex, which has now been approved. But in that case the occupation of the annex was tied by condition to being incidental to the main dwelling; and as far as I can tell, no dividing fence was proposed. In that scheme therefore, the whole of the existing garden would become a shared space, which would be available to the occupants of both. That is not what is now proposed, and such a solution would clearly be inappropriate in this case, because the proposal is now for a dwelling that could be occupied independently, and would thus need its own separate amenity space. I also note the appellant's suggestion that the position of the dividing fence could be adjusted, but that would require a change to the 'red line' boundary of the present application site. I must judge the appeal proposal on the submitted plans that are before me, and those plans do not appear to allow for any increase in the new dwelling's garden space.
15. As the appellant points out, other than Policy COM03, the Council has not identified any other policies or guidance containing specific quantitative requirements as to the amount of garden space that should be considered acceptable. But the intention of the policy is clear, in that it seeks to ensure that the occupiers of new development are able to enjoy reasonable standards of residential amenity. In the absence of more detailed guidance, it is not unusual for individual proposals to be assessed on a case-by-case basis. Nothing in the policy in question seems to me to suggest that poor standards should be accepted.
16. In this case, for the reasons stated, I find that the proposed development would fail to provide an adequate level of amenity, or acceptable living conditions, for future occupiers, due to the poor size and quality of the rear garden space. In this regard the scheme would conflict with the aims of BLP Policy COM03.

Other matters

Highway safety

17. The officer's report shows that the highway authority has expressed concerns regarding access, and considers that various improvements would be needed for reasons of safety. These include the widening of a 10m section of the existing shared track, the provision of impermeable surfacing to part of this, and the installation of drainage.
18. I note that a condition to secure these improvements has been suggested. However, any such improvements would have to take place on land which is outside the application site, and also outside the blue line which is intended to show the extent of other land within the applicant's ownership or control. It is therefore unclear as to whether the agreement or co-operation of other persons would be needed, and whether there would be any reasonable prospect that the necessary works could be carried out. In these circumstances, it seems to me that there is significant doubt as to whether a condition would be enforceable.
19. I note that in the case of the previously approved annex, no such improvements were considered necessary, and in any event that scheme included only a drop-off area rather than the two full parking spaces now proposed. For the present proposal, I see no reason to doubt that the recommended access improvements are necessary, and therefore in the absence of any clear means of securing them, the potential danger to highway safety weighs against the development.

Residential environment

20. As already described, the backland area within which the new dwelling would sit, and which it would look out onto, comprises mainly garages, parking areas and fences. This environment is stark and unattractive, and there is a total lack of natural surveillance, which to my mind would be likely to be perceived by many as somewhat intimidating. The appeal scheme would provide the opportunity for some small areas of new planting, and some passive surveillance from the new property itself, but nevertheless, this would not change the poor quality of the environment around the site.
21. In the previous proposal, the annex would have remained an integral part of the main property. Consequently, although the occupants would have had the ability to take access via the rear track, they would not have been solely dependant on it, and therefore they would have been less affected by the shortcomings of the environment of this backland area. The present scheme would be significantly different in this regard.
22. I accept that if the appeal scheme were to be followed by a similar pattern of development at the rear of other surrounding properties, the backland area could potentially be enhanced, over the course of time. But there is no evidence that this would be likely to occur in the foreseeable future, or indeed at all. Having regard to the nature of the surroundings as they are now, it seems to me that the appeal site would fail to provide a satisfactory quality of residential environment for an independent dwelling such as that now proposed. This again counts against the scheme.

Impact on protected habitats

23. The Council draws attention to the Norfolk Green Infrastructure and Recreational Avoidance Mitigation Strategy, an inter-authority scheme to mitigate the impacts of new development on protected habitats, through financial contributions. The habitats in question include the Norfolk Broads, The Brecks, and the North Norfolk Coast. The appellant appears to accept that the proposed development would fall within the scope of this policy, but no contribution has been made, nor has any legal undertaking been entered into.
24. The Planning Inspectorate's guidance makes it clear that such obligations should normally be dealt with and brought into effect prior to the submission of an appeal. This because neither financial payments nor legal obligations can be imposed by condition, and therefore such arrangements need to be in place before a decision is issued.
25. In this case, given that the need for the contribution has not been disputed, I have no reason to doubt that the development now proposed, in combination with others in the area, would have the potential for a significant adverse effect on the protected habitats identified above. Consequently, in the absence of any provision to secure the necessary mitigation, this potential harm adds yet further weight against the appeal.

Personal circumstances

26. The stated desire of the appellant Mr Terry Smith's is to downsize into the new bungalow, whilst allowing other family members to occupy the existing dwelling at No 35. I appreciate that this would potentially have benefits for Mr Smith and his family, including the provision of mutual care and support when required. However, this arrangement seems to be already permissible under the existing permission for an annex.
27. The present proposal would provide a second bedroom which could potentially be used by a live-in carer, if needed in the future. However, it is not suggested that such a need exists now, or is anticipated in the near future. In any event, there seems no reason why a second bedroom could not be incorporated as part of an annex, without it being necessary for the new building to become a separate property.
28. In the previous application, the proposed annex was stated to be required for an elderly family member of Mr Smith. The personal need argument presented now, albeit briefly, is evidently based on different circumstances and needs from those that were involved in the previous application. I fully appreciate that circumstances can change, but in this case no further explanation appears to have been offered.
29. Based on the information before me, there appears to be no evidence that the appeal proposal is required to meet any actual personal need of the appellant's, or anyone else's, either now or in the future. In these circumstances, the appellant's wish for a separate property carries little weight.

Self-build

30. I have no reason to doubt the appellant's stated intention to carry out the building work as a self-built development. If that happened, the scheme would contribute to meeting the Council's duty to provide for the local demand for self-build and

custom-build housing plots. But intentions may change, and any planning permission would run with the land. In the absence of any legal obligation, the appellant's stated intention, to carry out the development as a self-build, is not a matter to which I can give any significant weight.

Conclusion

31. For the reasons set out above, I have found that the proposed development would cause significant harm to the area's character and appearance, conflicting with BLP Policies GEN02 and COM01. It would also fail to provide acceptable living conditions due to a lack of good quality outdoor amenity space, contrary to BLP Policy COM03. No support for the development has been identified in any other development plan. The scheme would therefore fail to accord with the development plan as a whole.
32. In addition, I have found that the development would raise concerns over highway safety, which have not been answered. It would also fail to provide a satisfactory residential environment due to the nature of the surroundings. And it would have potential adverse impacts on protected habitats, due to the lack of any formal commitment to mitigation measures. These additional considerations add further weight against the scheme. No material considerations weighing in favour of the appeal have been substantiated.
33. It follows that permission should be refused. The appeal is therefore dismissed.

John Felgate

INSPECTOR