



Appeal Decision

Site visit made on 18 November 2024

by **S Pearce BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Appeal Ref: APP/V2635/W/24/3341467

27 Little Carr Road, North Wootton, Norfolk PE30 3RQ

- 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 Tower Street KL Ltd against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 23/01485/F.
 - The development proposed is described as the “re-modelling of existing dwelling together with new porch and erection of 1 no. dwelling”.
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Decision

1. The appeal is allowed, and planning permission is granted for the re-modelling of existing dwelling together with new porch and erection of 1 no. dwelling at 27 Little Carr Road, North Wootton, Norfolk PE30 3RQ in accordance with the terms of the application, Ref 23/01485/F, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Tower Street KL Ltd against King's Lynn and West Norfolk Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the determination of the application, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and amended on 7 February 2025. Those parts of the Framework most relevant to the appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no parties' interests would be prejudiced by my taking this approach.
4. The evidence indicates that the proposed development was amended during the consideration of the planning application, with the number of dwellings proposed reduced from two to one. A revised description was agreed between the main parties, to reflect this amendment. Accordingly, I have used the revised description in the banner heading above and in the decision.
5. Both parties state that some elements of the proposed remodelling of the existing dwelling is permitted development. Nevertheless, the proposed works have been included within the description of development. In addition, works have been carried out at the appeal site. While there is dispute between the parties as to whether such works constitute a commencement of the appeal scheme or fall within permitted development rights, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. For clarity, I have considered the appeal based on the development applied for and the plans submitted with it.
6. The appeal site falls within the 'Zone of Influence' (Zol) of several European sites. While not a disputed issue, I have a legal duty under The Conservation of Habitats and Species

Regulations 2017 (the Regulations) to carry out a Habitats Regulations Assessment. It is therefore necessary to consider this matter as a main issue.

Main Issues

7. The main issues are:

- whether the proposed development would enhance or protect the public right of way, and
- the effect of the proposed development on the integrity of European sites.

Reasons

Public Right of Way

8. The proposed development would be served by an existing driveway that provides access to 27 Little Carr Road (the existing dwelling). While noting work has been undertaken within the appeal site, including in respect of the driveway, the evidence indicates that the driveway was comprised of an unmade grass track. In addition to remodelling works to the existing dwelling, the appeal scheme seeks to erect a single dwelling, which would also utilise the driveway serving No 27.
9. The driveway includes part of a public right of way known as North Wootton FP10 (PROW). The Framework states that planning decisions should protect and enhance public rights of way. No works are proposed in the application to the PROW.
10. Both the Highway Authority and the Public Rights of Way Team raised no objections to the proposed development, subject to certain conditions. With specific regard to the PROW, a condition was recommended which required, prior to any works that would affect the PROW, full details to be submitted to and agreed in writing with the local planning authority. It also advises the appellant that they will need to apply for a Temporary Traffic Regulation Order (TTRO) which must be confirmed before any works commence which would impact upon the PROW, including the surfacing and the laying of services.
11. Having regard to the guidance in respect of conditions within the Framework and the Planning Practice Guidance (PPG), the wording of the condition is not precise, clearly related to the appeal scheme or enforceable. The works which would affect the PROW are not clearly defined, nor is it clear that any such works would directly relate to the appeal scheme, given that no such works are proposed. Moreover, there is no implementation mechanism for any agreed works and reference to other legislation, namely the TTRO, simply provides information for the appellant.
12. The PROW Officer advises that any proposed changes to the surface of the PROW will require Highway Authority consent to ensure that they are compatible with the public use. While noting the Council's concerns that the works undertaken at the appeal site had damaged the PROW, any grant of planning permission does not authorise any interference with a PROW. Moreover, the Council's Committee report highlights that the PROW team have powers to take action in respect of any works which may have taken place. Consequently, given that the appeal scheme proposes no works to the PROW, I am satisfied that the PROW is suitably protected through other legislation.
13. For the above reasons, I conclude that the proposed development would protect the PROW, in accordance with the requirements of the Framework.

Integrity of European Sites

14. The appeal site falls within the ZOI for several European sites, including The Wash Special Protection Area (SPA), The Wash Ramsar, The Wash and North Norfolk Coast Special

Area of Conservation (SAC), the Norfolk Valley Fens SAC, Breckland SAC, Breckland SPA, and the Roydon Common and Dersingham Bog SAC.

15. With regard to the qualifying features for each of the sites, The Wash SPA is the largest embayment in the UK and qualifies as an internationally important wetland. The Wash and North Norfolk Coast SAC form one of the most important marine areas in the UK and European North Sea coast and include extensive areas of varying, but predominantly sandy, sediments subject to a range of conditions. These habitats support various species, including breeding and non-breeding birds, otter and the common seal.
16. The Norfolk Valley Fens SAC comprises a series of valley-head spring-fed fens, some of which support the narrow-mouthed whorl snail and Desmoulin's whorl snail. The Breckland SAC and SPA are characterised by dry heath and grassland communities, arable fields and coniferous forest. This habitat supports birds, including internationally important populations of Stone-curlew, European nightjar and Woodlark. The Roydon Common and Dersingham Bog SAC represents the largest and best examples of cross-leaved heath, bog-moss, wet heath in East Anglia.
17. The affected sites are scoped into the Norfolk Green Infrastructure and Recreational disturbance Avoidance and Mitigation Strategy (GIRAMS), which identifies that there is potential for recreational activities to disrupt the protection objectives of European Sites, specifically as a result of an increase in population resulting from residential growth and an increase in tourism accommodation, resulting in more people visiting.
18. The appeal scheme involves the provision of a new dwelling. While the effect of the appeal scheme on its own is likely to be limited, in combination with other developments there are likely significant effects on the identified European sites. As such, in accordance with the Regulations, it is necessary for me, as the competent authority, to conduct an appropriate assessment of the project's implications in view of the relevant sites' conservation objectives.
19. The European sites identified are covered by the GIRAMS which has been adopted by the Council in partnership with other affected local planning authorities. The GIRAMS comprises a range of mitigation measures, including the provision of open space as part of developments, monitoring, education and visitor engagement, collating information about habitats and working with landowners and partners.
20. The GIRAMS identifies a financial contribution to be sought in connection with proposals that are likely to adversely affect the integrity of the European Sites, to fund avoidance and mitigation measures on a wider strategic basis. Such measures have been endorsed by Natural England and I am satisfied that these would adequately overcome any adverse effects of the proposal on the European sites.
21. The appellants have indicated that they have made a per dwelling contribution to fund the strategic mitigation. The Council have confirmed receipt of the payment and that it accords with the tariff outlined in the GIRAMS. The evidence before me indicates that as a responsible public body the Council will transfer the funds to the organisation responsible for administering the mitigation strategy. I am therefore satisfied that the mitigation measures have been secured and would be used for their intended purposes.
22. For these reasons, I conclude that the integrity of the identified European sites would not be harmed by the development. As such, the proposal accords with Policy DM19 of the Site Allocations and Development Management Policies Plan 2016, which states that all new development must ensure there is no adverse effect on a European Protected Site through the provision of appropriate measures. Consequently, there is no clear reason for refusing the development proposed in respect of such matters.

Other Matters

23. The appeal site lies adjacent to Wootton woods. The Council raised no objection in respect of biodiversity, and the Council's Senior Ecologist raised no objections subject to several conditions. Given the relationship of the appeal site to this area and the recommended conditions, I see no reason to disagree with the Council in this regard.
24. Concerns have been raised in relation to the removal of several mature trees prior to the submission of the planning application. While noting the trees were not subject to a tree preservation order or within a conservation area, additional tree planting is proposed and can be secured by condition. To ensure the additional tree planting does not overshadow neighbouring gardens, any such condition would require agreement from the local planning authority in respect of the number, location and species.
25. With regard to concerns raised in respect of drainage and flooding, the site lies within flood zone 1 and the appellant has submitted a drainage strategy. The Council did not raise any concerns in respect of these matters, with no objections raised from relevant consultees. Therefore, based on the evidence before me, and given that the strategy can be secured by condition, I see no reason to disagree with the Council in respect of these matters.
26. Having regard to the orientation and layout of the proposed development, together with the distance from the northerly boundary and the proposed high level window in the northerly facing elevation of the appeal scheme, I am satisfied that the proposed development would not result in a material harm to the living conditions of neighbouring occupiers, through loss of privacy, outlook or overshadowing.
27. While the concerns raised in respect of highway safety are noted, the Highway Authority have not raised any objections in relation to the appeal scheme. The proposed development seeks to utilise an existing driveway serving No 27 and would result in the net increase of one dwelling, thereby resulting in limited additional vehicular movements, with parking provided for both dwellings. As such, I see no reason to disagree with this view.
28. Concerns raised in relation with the construction works, including noise and fires. The appeal proposal is of limited scale and thus any associated disruption with the construction phase would be limited and temporary. In any case, a condition controlling the hours and days of construction can be attached.
29. While the concerns raised in relation to works carried out within the appeal site are noted, I need to consider the development proposed in the application.

Conditions

30. The Council has suggested several conditions. I have considered them against the statutory tests outlined in the Framework and the advice in the PPG, rewording and removing any unnecessary elements where necessary for clarity and conciseness. For the avoidance of doubt, development needs to be carried out in accordance with the statutory time limit and approved plans. As set out in my main issues, a condition is not required in respect of the PROW.
31. In order to ensure a satisfactory appearance, conditions are required to secure details in respect of materials, tree protection measures, parking of construction vehicles, storage of materials during the construction period and hard and soft landscaping, including additional tree and hedge planting. In the interests of highway safety, a condition is required to secure appropriate parking and manoeuvring areas.
32. In the interests of biodiversity, conditions requiring hedge planting, bat and nest boxes and a wildlife sensitive outdoor lighting scheme, if outdoor lighting is to be installed, are

necessary. To ensure appropriate drainage, a condition to secure the submitted drainage strategy is required.

33. In order to ensure the living conditions of occupiers of neighbouring houses are protected, it is necessary to attach a condition relating to the hours of construction. A condition is also necessary to ensure there is satisfactory provision for the storage of recycling, refuse and waste material bins to protect the character and appearance of the area and living conditions of occupiers of neighbouring houses.

Conclusion

34. For the reasons given above, and having regard to all other matters, I conclude that the appeal should be allowed.

S Pearce

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans, drawing numbers:

NA-227 LCR-NW-N-SL02 Rev W
NA-227 LCR-NW-N-SL04
NA-227 LCR-NW-N-05 Rev A
NA-227 LCR-NW-N03 Rev D
MS-D-N-02 Rev F
23205-001 P4
23205-002 P3
3. Within two months of the date of this permission or prior to the commencement of any works in relation to Plot 2 a scheme detailing provision for on-site parking for construction workers and storage of materials for the duration of the construction period shall be submitted to and approved in writing by the Local Planning Authority. Construction shall take place in accordance with the approved scheme.
4. Within two months of the date of this permission or prior to the commencement of any works in relation to Plot 2 all tree protection measures including tree protective fencing, ground protection, arboricultural monitoring and site supervision shall be implemented in strict accordance with the Arboricultural Impact Assessment by A.T. Coombes Ltd dated 19th December 2023.
5. Construction or development work on site, along with collections and deliveries of waste products, material and equipment, shall only be carried out between the hours of 0800 and 1800 weekdays, and 0900-1300 on Saturdays, with no work allowed on Sundays and Bank/Public Holidays.
6. Prior to the first occupation of Plot 2 facilities shall be provided within its curtilage for the storage of recycling, refuse and waste materials bins. Additionally, an impervious 4 x 240 litre wheeled bin presentation point immediately adjacent to Little Carr Road shall be provided prior to the first occupation of Plot 2, in accordance with details to be submitted to and approved by the Local Planning Authority.

7. Prior to the first occupation of Plot 2, full details of both hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall include at least 25 new garden trees, planted in accordance with Section 6 of the Arboricultural Impact Assessment by A.T Coombes Ltd dated 19th December 2023 and a hedge planted along the southern boundary of the site, as shown on approved plan NA-227 LCR-NW-N-SL02 Rev W. The tree planting locations shall avoid future conflicts with and provide for a harmonious long-term relationship with neighbouring properties to the north of the development site. The works shall be carried out prior to the occupation of Plot 2 or in accordance with a programme to be agreed in writing with the Local Planning Authority. Any trees or plants that within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species as those originally planted, unless the Local Planning Authority gives written approval to any variation.
8. No development shall take place on any external surface of Plot 2 until details of the type, colour and texture of all materials to be used for the external surfaces of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
9. Prior to the first occupation of Plot 2, 1no. Schwegler wall-mounted bat shelter 2FE and 1no. Schwegler Nest Box 1B, or products of a similar specification, shall be erected / installed onto each dwelling and shall thereafter be maintained and retained for the lifetime of the development.
10. Prior to the installation of any external lighting associated with Plot 2, a scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with approved details and thereafter maintained and retained as agreed.
11. The proposed access, car parking and turning areas shall be laid out, surfaced and drained in accordance with the approved plan prior to the first occupation of each respective dwelling and retained thereafter available for that specific use.

End of Schedule