



Appeal Decision

Site visit made on 25 February 2025

by **M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 March 2025

Appeal Ref: APP/V2635/W/24/3352375

The Louvre, Priory Terrace, Downham Market, Norfolk PE38 9JY

- 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 The Executors of the late Mr. J. Reed against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 23/01896/F.
 - The development proposed is the erection of one detached bungalow with pedestrian access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Planning permission was originally sought for the construction of 2 residential dwellings with vehicular access in the west facing boundary wall. However, the scheme was revised during the application process to include the erection of one 3-bedroomed bungalow with pedestrian only access. Although the description of development on the Council's decision notice was not altered, it is clear that the Council determined the proposal in relation to the amended plans. For clarity, I have amended the description in the banner heading above to reflect the development proposed.
3. In December 2024, the Government published a revised National Planning Policy Framework (the Framework). Although some paragraph numbers have changed, the revisions do not relate to anything that is fundamental to the main issues in this appeal. Consequently, the main parties would not be prejudiced by reference to the revised Framework.

Main Issues

4. The main issues in relation to this appeal are i) the effect on the significance of a non-designated heritage asset (NDHA), including whether the proposal would preserve or enhance the character or appearance of the Downham Market Conservation Area (CA) and ii) the effect of the proposal on the living conditions of the future occupiers of the proposed dwelling, with particular regard to privacy.

Reasons

Character or Appearance of the Conservation Area

5. The appeal site is located within the CA and therefore forms part of a designated heritage asset. In accordance with the duty imposed by Section 72(1) of the Planning (Listed Building and Conservation Areas Act 1990, I am required to pay

special attention to the desirability of preserving or enhancing the character or appearance of the CA.

6. The significance of the CA derives from its historic layout of streets and strong aesthetic of simple vernacular buildings juxtaposed with more prominent landmark structures, such as the finely detailed 18th century Town Hall. Streets have a strong sense of enclosure from boundary walls and continuous building frontages of 2 and 3 storey's sited at the back edge of the pavement. Networks of narrow passageways in public or private use run between buildings and their yards. It is this spatial composition and historical and architectural quality of the built environment that shapes the significance of the CA.
7. The map contained in the CA Draft Character Assessment (CADCA) shows the form of the town's medieval origins, depicted by buildings fronting onto the commercial Bridge Street. According to the Council's Conservation Officer these buildings formed the southern edge to the town with long burgage plots and a back lane beyond. A number of the burgage plots have been lost from large scale developments but there are exceptions where the historic plots remain relatively undeveloped, including the appeal site. There are 2 outbuildings to the north of the plot which, with no evidence to the contrary, appear to have been associated functionally with the frontage buildings. Despite being set behind a tall boundary wall, the open character of the appeal site is evident from the lack of built form and the presence of a significant mature tree. Thus, the appeal site contributes positively to the character and appearance of the CA in helping to inform our understanding of the historic development of the town over time.
8. The proposal would involve the development of the appeal site through the creation of a detached bungalow with front and rear gardens and pedestrian access from Priory Terrace. Priory Terrace is considered by the Council to be a non-designated heritage asset (NDHA) being a 2-storey range of dwellings dating from 1903 with strong unity and fine architectural detailing. Based on the evidence before me including the identification of Priory Terrace as a range of important unlisted buildings within the CADCS, I agree it merits consideration as a NDHA. In weighing applications that directly or indirectly affect a NDHA, a balanced judgement will be required, having regard to the scale of any harm or loss and the significance of the heritage asset.
9. The significance of the NDHA derives from its historical and aesthetic value as a terrace of modest proportions and decorative detailing, fronting onto the narrow road/passageway. It is experienced from close quarters in connection with the adjacent yards and passage and contributes positively to the evolved townscape and the character of the CA.
10. The appellant suggests that there is dual urban linearity within the CA given the streets align in east/west and north/south directions. However, Priory Terrace is somewhat of an anomaly to the historic alignment of buildings which typically follow the east/west routes of Bridge Street and Priory Road. Moreover, the proposal would not provide frontage development that addresses a street or the Priory Terrace passageway. Whether or not the appeal site constitutes previously developed land, the proposal would appear as a form of backland development, with the front elevation of the proposed dwelling facing towards the rear of other dwellings. In my view, this would not reflect the established grain of development

as described above, and would make it less easy to interpret the historic origins of the plot.

11. I note the efforts to produce a building with a low form that the appellant considers would be subservient in scale to surrounding buildings. However, even if finished with contrasting brickwork and corbelling, the proposal would result in a suburban bungalow of mediocre appearance. In particular, the squat form would not reflect the scale and proportions of outbuildings within the historic burgage plot or the buildings surrounding it, including the NDHA.
12. The proposed dwelling would not be prominent from Priory Road, given its siting and the screening provided by the existing tall boundary wall. Nonetheless, the proposed dwelling would be visible from the passageway that connects the more residential areas of the town to Bridge Street, and in private views from Priory Terrace. Here, the low, gabled roof would be visible over the wall and the presence of a relatively large structure would be apparent, particularly through the gap for the pedestrian access.
13. Although I note the comments of the CA Advisory Panel, this proposal would introduce a noticeably conflicting form of development, harming the traditional layout and character of the CA. This would adversely affect the appreciation and interpretation of the historic settlement and thus, the significance of the CA. Although the harm would be localised, such negative impacts can cumulatively erode the quality of the CA as a whole. I find that the proposal would therefore fail to preserve the character and appearance of the CA. It would further harm the setting of the NDHA through the introduction of an unsympathetic form, albeit the harm would be limited, given the separation provided by the passageway and boundary wall.

Heritage Balance

14. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. With reference to paragraph 215 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Given the localised nature of the proposal, I find that the harm to the significance of the CA would be 'less than substantial' but nevertheless, of considerable importance and weight. The Framework directs me to weigh this harm against the public benefits of the proposal. The harm to the NDHA would be limited given the scale of the development.
15. The proposal would provide a new dwelling suitable for family occupation in a location where services and facilities could be reasonably accessed on foot or by public transport. Social and economic benefits would be associated with the construction and occupation of the proposed dwelling. Higher design standards with enhanced thermal efficiency and use of renewable energy technology would provide positive environmental benefits but these are to be expected of new development. Overall the benefits of the proposal would be limited given the provision of one new dwelling.
16. Clear and convincing justification for the harm to the assets' significance has not been provided. Overall, the limited weight that I ascribe to the public benefits which

would accrue from the proposal is insufficient to outweigh the considerable importance and weight that I attach to the harm I have found to the CA.

17. Consequently, the proposal would not preserve or enhance the character and appearance of the CA. This would conflict with the statutory presumption set out in the Act. Limited harm is also identified to the significance of the NDHA. It would also be contrary to Policies CS01, CS04, CS08, CS12 of the King's Lynn & West Norfolk Borough Council Local Development Framework - Core Strategy (CS) 2011 and Policy DM15 of the Site Allocations and Development Management Policies Plan (SADMPP) 2016, in so far as they seek to protect and enhance the historic environment, objectives shared with the Framework.

Privacy of Future Occupiers

18. The private rear garden to the proposed dwelling would be sited to the north of the appeal site, which is surrounded on all sides by existing development, as well as the tall boundary walls which would remain.
19. The windows on the rear elevation of the 3-storey commercial building to the north, are some distance away from the rear boundary of the appeal site. 2 intervening outbuildings provide a buffer and a degree of screening, such that the proposed rear garden would not be unduly overlooked from this vantage point.
20. First-floor windows within the northernmost section of the Priory Terrace dwellings to the west would look over the rear garden. However, the patio area would be afforded privacy by the height and proximity to the boundary wall, particularly when the future occupants would be seated within the garden.
21. This area would also be screened by the rear gable projection in views from the first-floor windows within the eastern elevation of the adjacent commercial premises. In any event, these windows appear to have display screens in front of them which would prevent staff and customers from directly overlooking the appeal site. This is supplemented by the presence of a mature tree which even in winter and if crown lifted, would filter views. Whilst some sections of the rear garden may be visible to adjacent occupiers, a degree of mutual overlooking is to be expected in built up areas. Given that part of the rear garden would be private, the presence of existing development surrounding the appeal site would not be injurious to the privacy of future occupants.
22. Front gardens are not typically private spaces such that even if it was possible, I am not concerned regarding the potential for overlooking of this space.
23. I find that the proposal would not have an adverse effect on the privacy of the future occupants of the proposed dwelling. It would therefore comply with Policy CS08 of the CS and DM15 of the SADMPP. Together these policies seek to ensure high quality development that protects the amenity of future occupiers of the proposed development, objectives shared with paragraph 135 of the Framework.

Other Matters

24. The appellant suggests that the policies within the CS and SADMPP (the development plan) are out of date because they were adopted in 2011 and 2016 respectively. The passage of time alone does not render the policies out of date. No evidence has been presented to indicate that the development plan policies are

inconsistent with the Framework, insofar as they relate to the approach to the conservation of designated heritage assets. There is no evidence before me to suggest that the Council cannot meet its 5-year housing land supply requirement, or that the proposal would meet an identified need for a particular type of housing.

25. Even if I could consider the policies within the development plan which are most important for determining the proposal to be out of date, the application of policies within the Framework which protect areas of assets of particular importance including designated heritage assets, provides a clear reason for refusing the development proposed¹.
26. I acknowledge that the proposal was amended but that does not automatically render the revised scheme acceptable and I have found harm for the reasons given.
27. During my visit I observed that a tree significantly overhangs the appeal site which is visible from the Priory Terrace passageway. This is identified as T2 in the appellant's Tree Survey and is considered to be of moderate quality with a life expectancy of more than 20 years. The arboricultural site plan is clear that the RPA of T2 extends into the appeal site. However, the proposed plan relates to an earlier version of the proposal and not the scheme that is before me. Had the proposal been acceptable in all other regards I would have needed to be certain that any incursion of the footprint of the dwelling into the RPA would not be detrimental to the lifespan of the tree, given its contribution to the character of the CA. As it is not determinative, I have not considered this matter further.

Planning Balance and Conclusion

28. I have found that the proposal would not have a significantly adverse effect on the living conditions of the future occupants with regard to privacy. The absence of harm in this regard is neutral in the planning balance and it, along with the limited weight to the benefits arising from the proposal, do not outweigh the considerable importance and weight I afford to the harm identified to the CA and NDHA. Material considerations do not therefore indicate that the decision should be taken other than in accordance with the development plan. Accordingly, the appeal is dismissed.

M Clowes

INSPECTOR

¹ Paragraph 11(d)(i) and footnote 7 of the Framework.