



Forest Heath
District Council

DEV/FH/18/001

Development Control Committee

3 January 2018

Planning Application DC/16/2726/FUL – 2 Park Avenue, Newmarket

Date: 12/01/2017 **Expiry Date:** 09/03/2017

Registered:

Case Officer: Aaron Sands **Recommendation:** Grant

Officer:

Parish: Newmarket **Ward:** All Saints

Proposal: Planning Application - 1no. dwelling as amended by plans received 21st June and 4th July revising design and 27th October revising parking layout

Site: 2 Park Avenue, Newmarket

Applicant: Mr Edward Babbington

Agent: Construction Housing Renovations Ltd - Mr Steven Hall

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and Associated matters.

Recommendation:

It is recommended that the Committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

Aaron Sands

Email: aaron.sands@westsuffolk.gov.uk

Telephone: 01284 757355

Background:

This application is referred to the Development Control Committee from Delegation Panel following call-in from Councillor Robin Millar and due to an objection from the Town Council that has not been withdrawn despite amendments to the scheme. The Officer recommendation is for APPROVAL.

Proposal:

1. Planning permission is sought for the erection of a single dwelling and associated works. The proposal has been amended since submission, revising the red line to omit an area of land that was later identified as not belonging to the applicant, and revising the design of the proposed dwelling.
2. The proposed dwelling measures 4.6 metres in overall height, with a height of 2.5 metres to the eaves, measured from ground level. It measures approximately 8 metres in overall depth and 12 metres in overall width. The proposal is partially cut into the ground.

Site Details:

3. The site comprises an area of previously developed brownfield land that does not currently appear attached to any particular property. It is situated within the centre of a block of built development, adjacent to converted properties. The site is within the settlement boundary of Newmarket.

Planning History:

4. F/2008/0339/FUL – Erection of chalet bungalow. Refused. 27/06/2008.
5. Adjacent Site – F/2007/0561/FUL - Resubmission of F/2006/0578/FUL: Conversion of existing garage/storage building, including the erection of a one and a half storey extension and single storey rear extension to create 2 dwellings. Approved. 24/08/2007.

Consultations:

6. Town Council: Objection on the grounds of layout and density, highways safety, traffic and parking (*Officer note: these comments were received prior to amendments and have not been either updated or withdrawn since, Officers therefore consider they remain extant*)
7. Contamination Officer: No objection subject to informative
8. Public Health and Housing: No objection subject to conditions. Recommend that further consideration is given to adequate lighting and ventilation within the proposed lower ground floor bedroom and the installation of an opening casement window. (*Officer note: burning of*

waste material on site is covered by other legislation, and is not considered to be a necessary condition)

9. Highway Authority: No objection subject to conditions
10. Jockey Club: Recommend contacting James Eustace with regard to the timing of noisy work to avoid impacts on passing racehorses from Park Lodge Stables
11. Ward Member (Councillor Millar): The site is amenity land, so this would be back yard development. Trees on the site are not referred to in the application. It will be overlooked and overlook others. It is over/inappropriate development. The owner could offer it as structured parking to residents.

Representations:

12.8 no. representations received incorporating the following summarised points;

- The plans are poor quality, cannot be read and there are errors in the application
- Parking and highway safety in the area is already an issue
- The amenity of the proposed dwelling will be adversely affected by the surrounding properties
- The proposed dwelling would adversely impact the surrounding dwellings
- A previous application was refused on the site (*Officer note: ref F/2008/0339/FUL*)
- The site is constrained and the access limited by vehicles parking in association with previously approved units (*Officer note: ref F/2007/0561/FUL*)
- The proposal will result in an increase in traffic using this driveway
- Request construction times set by the council in the event of an approval
- Bats have been observed feeding in the development site
- There are mature trees and bushes on the site
- The proposal may adversely impact the horses
- The red line has included land not within the applicants ownership (*Officer note: this has since been amended to revise the red line only to the site*)
- There is no topographical report or tree survey
- Would request working hours not to include Saturdays, Sundays or Bank Holidays.
- PD rights should be removed
- A fence should be erected along the boundary with neighbouring parking areas
- The proximity of the bin store to 2C Park Avenue is not satisfactory
- The proposal is too close to 2C

The following comments were received prior to the amendments;

- The dwelling is very close to the boundary and higher than would be acceptable

- The proposal would block light due to the height
- There is no topographical report or tree survey
- The red line is incomplete and does not show access to the highway
- The red line has included land not within the applicants ownership

The following matters have been raised that are not material planning considerations and cannot be factored in determining this application;

- The proposal would result in an occupant (no. 44) needing to relocate during the building works for medical reasons
- The Party Wall Act may apply
- Contractors should not park in a manner that blocks access to properties in this area

Policy: The following policies of the Joint Development Management Policies Document and the Forest Heath Core Strategy 2010 have been taken into account in the consideration of this application:

13. Joint Development Management Policies Document:

- Policy DM1 (Presumption in Favour of Sustainable Development)
- Policy DM2 (Creating Places – Development Principles and Local Distinctiveness)
- Policy DM7 (Sustainable Design and Construction)
- Policy DM11 (Protected Species)
- Policy DM12 (Mitigation, Enhancement, Management and Monitoring of Biodiversity)
- Policy DM13 (Landscape Features)
- Policy DM14 (Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards)
- Policy DM22 (Residential Design)
- Policy DM46 (Parking Standards)

14. Forest Heath Core Strategy 2010

- Policy CS1 (Spatial Strategy)
- Policy CS3 (Landscape Character and the Historic Environment)
- Policy CS5 (Design Quality and Local Distinctiveness)

15. Emerging Policy CS7 (Overall Housing Provision and Distribution)

Other Planning Policy:

16. National Planning Policy Framework (2012)

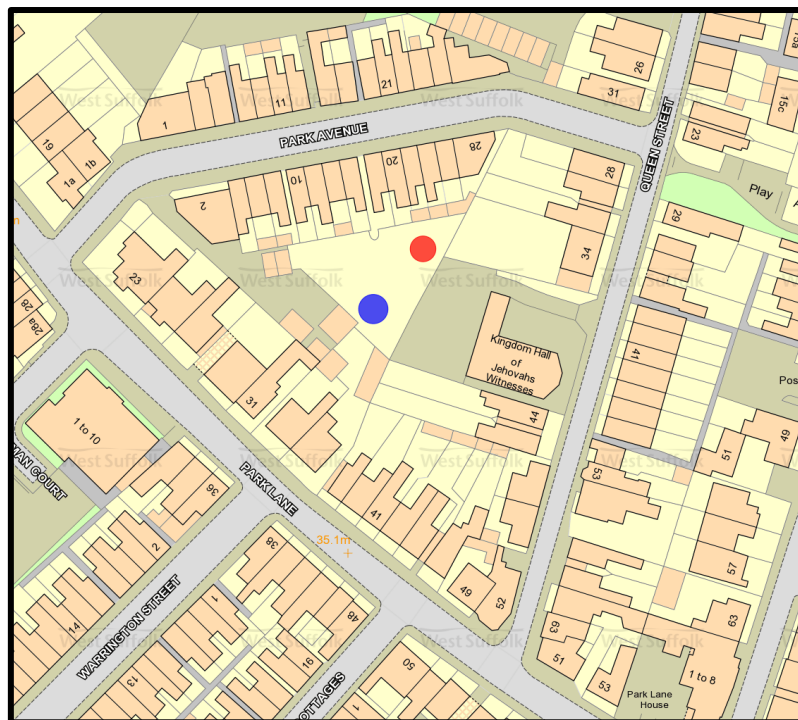
Officer Comment:

17. The issues to be considered in the determination of the application are:

- Principle of Development
- Design and Character
- Contamination
- Impacts on Trees and Ecology
- Highway Impacts
- Residential Amenity
- Other Matters

Principle of Development

18. The proposal is located within the existing and emerging settlement boundary of Newmarket, defined within the Core Strategy as a Market town where, in accordance with policy CS1 and the emerging policy CS7, development should first be located. It is one of the most sustainable locations in the district.
19. The proposal represents a single dwelling, located in what appears to be an area of unused land located in the centre of a small triangle of housing fronting Park Avenue, Queen Street and Park Lane. The dwelling is located approximately in the location indicated by the red circle in the image below. The blue circle approximately indicates the position of previously approved and now built dwellings (ref F/2007/0561/FUL).



20. It is accepted that the site is located to the rear of a number of properties and does therefore constitute something of a back land position. However, back land development in itself is not necessarily inappropriate. There is previous development in this location, and those dwellings are in situ. Given the built development that already exists, additional development in this location is not considered to be inappropriate back land development, as it reflects the existing built development that already permeates this block of dwellings.
21. While a previous proposal on the site was refused (ref F/2008/0339/FUL) due to impact on amenity, this is a matter of detail, as opposed to a matter of principle. Amenity consideration is discussed later in this report. The previous refusal is not considered to be determinative of the principle of development in this instance.

22. Given the site is within the settlement boundary and the existing built development in this location and its surroundings it is considered that the principle of residential development on this site is acceptable.

Design and Character

23. The proposal is a single storey dwelling, partially cut into the ground to provide a lower ground floor. The position of the dwelling means it is unlikely to be readily visible from a public place, and whether or not it is visible from private views is not a material consideration. There may be some glimpsed views, particularly from Kingdom Hall to the east, but these would still be limited by the existing fence and single storey scale of the building. Suitable conditions could be imposed to ensure either existing fencing is retained or new fencing or planting is provided that would provide additional screening.

24. The site is distinctly constrained by the surrounding development, and the design has responded to those constraints in order to accommodate itself without appearing unduly cramped. There is a clear balance between the dwelling, the amenity space and the parking and manoeuvring area in the site, and the shape of the site is a limiting factor in how the various areas of the site would interact. While the garden is small, not everyone would want a large garden, and prospective purchasers would know of the layout before purchase. The surrounding residential properties predominantly have small rear gardens, such that this proposal would not appear out of character in terms of the site layout and the relationship of amenity space to residence.

25. The existing converted buildings to the south are reflective in their material and design of outbuildings, using black boarding and slate roofs. The proposed dwellings would utilise black boarding and anthracite concrete tiles, reflective of the grey used in slate. The boarding would reflect the form of the building as a smaller scale, more subservient development, and reflects the buildings to the south of the site. There is a mix of roof materials, such that these would not be out of character, and the distance that they would potentially be seen at would reduce any noticeable differences from other materials in the surroundings. A condition requiring material samples to be submitted would be recommended in order to ensure that materials are of a high quality and appropriately reflect the character of the locality.

26. On the whole, the design and scale is responsive to the constraints on the site and reflects the surrounding materials and designs in situ. It respects the coherence of built form in this location, and would not result in an illegible urban pattern. The development represents a reasonably high density, but it does not appear to be more so than the surrounding properties. It would therefore accord with policy DM2.

Contamination

27. As the site is brownfield land, the proposal has been accompanied by a phase 1 land contamination assessment that has identified no potential

contaminants on the site. The Environment Officer has confirmed that they are satisfied the risk of contamination is low and has recommended an informative to ensure the developer is aware of their legal duties under the Environmental Protection Act 1990. As the potential for the land to be affected by contamination is very low and has been accompanied by an appropriate assessment, it is considered that the proposal would accord with policy DM14.

Impacts on Trees and Ecology

28. The site currently contains planting along its boundaries, as well as a number of trees spaced around the edges of the site. The application has not been accompanied by an assessment of those trees or the hedges, and it is likely they would need to be removed in order to facilitate the development. The site is not within a conservation area, and there are no tree preservation orders in situ in this site, as such the site could be cleared at any time without planning permission. As noted above, the site is surrounded by development, and there are limited views into this location. While some of the trees are noticeable in glimpse views, particularly when in leaf, they are not particularly prominent trees in the street scene. Officers therefore consider that they are not of sufficient prominence or quality to retain in this location. The proposal is considered to accord with policy DM13, and would not have an unacceptable adverse impact on landscape features.

29. A comment has been made that bats use the site for foraging. There is no evidence of bats, or other protected species on the site, and the nearest record is of a swift along Queens Street, made in 2016 and only being a single record. The site is not connected to surrounding green infrastructure, is brownfield land and could be cleared without planning permission, noting that harm to protected species would also be protected by other legislation that the developer would need to comply with. The proposal would therefore accord with policies DM11 and DM12, also noting that other legislation would offer protection here, and an informative would be recommended to ensure the developer is aware of their responsibilities.

Highway Impacts

30. It is acknowledged that parking in the area is difficult and is predominantly on the street, which was somewhat crowded at the time of the Officer's visits. As such, it is necessary to ensure that parking for this site does not materially worsen the situation. To accord with the adopted standards of the highway authority and policy DM46, the proposal would be required to provide a single parking space and that has been incorporated adjacent to the dwelling, with a swept paths analysis of the turning area that indicates there is a suitable turning area to exit in a forward gear. The parking is sited to the side of the dwelling, and would not, therefore, result in a parking dominated property, or parking that would otherwise harm the street scene, as required by policy DM22. Additional parking, such as for visitors or deliveries, could be accommodated within the turning area for the property without

significantly impacting the potential for cars to exit the highway in a forward gear.

31. The site would be served from an existing access into the site that also serves the other dwellings to the south of the application site. That access is in situ and not included within the revised red line, so is outside the control of the applicant. That said, the highway authority has not objected to the proposal and has recommended conditions to ensure that parking and manoeuvring areas are retained. The level of additional use that is likely to be generated from the property is minimal, and it is located in close proximity to the town centre, being perhaps 10 minutes walk at most from the High Street, which would reduce reliance on car travel. The proposal would therefore accord with policies DM2, DM22 and DM46.

Residential Amenity

32. A historic application has been refused on this site (ref F/2008/0339/FUL), for the following reason;

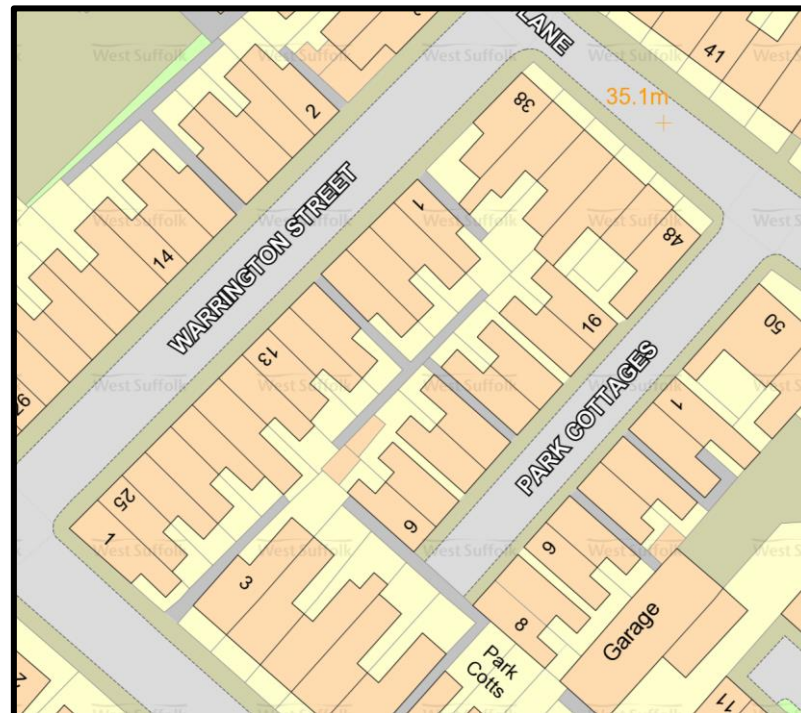
“The scale and position of the proposed plot, added to the overall intensification of the residential use of the site in close proximity to the site boundaries, is considered prejudicial to the reasonably amenities presently enjoyed by those existing off site properties, and is also considered prejudicial to the reasonable amenities that would be expected of any future residents of the proposed property. The proposal is therefore considered contrary to the provisions of Saved Local Plan Policy 4.14.”

33. The previous application was for a one and a half storey dwelling measuring approximately 6 metres in height, sited in a different location alongside the boundaries of residential dwellings and of a larger footprint and scale than that proposed here. There were rooms in the roof space and windows that would have overlooked neighbouring property, in addition to impacts by way of overbearing and overshadowing. That said, the refusal of that application was based on the details of the submission at that time. Officers do not consider that this refusal sets any precedent in relation to the principle of future development in the event that matters of detail are adequately addressed. It is considered that the site should be assessed on its own merits.

Amenity of the proposed dwelling

34. The proposed dwelling is sited in the midst of a number of properties. It is a small dwelling, with a constrained garden area, though it does not have an obvious outside amenity space. That garden area would be bordered by the garden areas of dwellings fronting Park Avenue and Queen Street. In particular, the dwellings along Park Avenue have reasonably short gardens, and are two storey with windows in the rear elevations. They would be afforded some level of overlooking of this property. With that said, all these properties are closely knit, and many of them already afford some level of overlooking to other properties in the area. The distance between the garden area here and the garden areas of, for instance,

properties along Warrington Street and Park Cottages to the south of the site (see image below), are not so significantly different. Prospective purchasers would be aware of the circumstances of the site, and would be able to make an informed decision.



35. Assessing the dwelling with regard to the nationally described space standards¹ the proposal would accord with and exceed those standards, such that the internal layout is considered to be acceptable. The property is sited away from the majority of the built development around the site, towards Kingdom Hall and the garden land of the dwellings to the south. It is not, therefore, considered that the surrounding development would so unduly impact light or create an inappropriate overbearing impact on residential amenity of the occupants.

Amenity of existing properties

36. The proposed dwelling is single storey at approximately 4.6 metres in overall height at the ridge. To provide some context, permitted development rights allow extensions to be built up to four metres in height along a boundary with neighbouring properties. The proposal is predominantly located along the boundary with the Kingdom Hall to the east. There is a separation from the most sensitive boundaries to the north, where the garden areas are of the smallest depth, though there are some outbuildings along that boundary that would provide screening and additional separation in any event. There is a distance of approximately 1.2 metres from the corner of the proposed dwelling to the garden area of 2c, at a height of approximately 2.5 metres at the eaves. Again, to provide context, a fence of 2 metres could be erected here without planning permission.

¹ Released under the Written Ministerial Statement dated 27th March 2015

37. The single storey scale of the proposed dwelling, coupled with the existing boundary treatment would vastly limit overlooking concerns from the proposal. The modest heights and the position in relation to neighbouring properties would mitigate impacts of overbearing or overshadowing such that these aspects of neighbouring amenity would not be materially harmed. It is therefore considered that the proposal would not result in an adverse impact on residential amenity.
38. On balance, both the impacts on the amenity of neighbouring properties and the potential amenity of the proposed dwelling is considered to be acceptable, and would accord with policies DM2 and DM22.

Other Matters

39. A comment has been received regarding a preference that the site is used to provide parking. While possible alternative uses may be a material consideration, each application should be assessed on its own merits, and if otherwise acceptable, determined in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The site is not a proposed allocation, so the council is not reliant on it to meet a specific need, such as for employment purposes, and does not prejudice any other allocations coming forward. In assessing alternative uses, there must be some indication that the use has some prospect of coming forward. While there is obviously some desire to develop the site, there is no guarantee that it would be put forward for any purpose other than residential. There is no indication that a car park would be able to be accommodated in this location, as the scale of vehicle movements may then require other works that might not be accommodated within the constraints of the site. Alternative uses are not, therefore, considered to be an appropriate reason for refusal.
40. Comments have been received regarding the red line on the location plan. This has now been amended to remove the small area of land that covered the area outside the ownership of the applicant. It has also been stated that the red line does not go to the highway. There is no requirement for this. The legislation only requires a plan of the land to which the application relates. The use of a red line was only brought about as a staple of planning because it was least ambiguous. The highway and access remains as existing, and the proposal is served from that access. The red line is therefore only up to where it would join that access, as that is the land to which the application relates. Matters of land ownership are not material considerations except where they might otherwise prejudice necessary works to make a development acceptable. That is not considered to be the case here.

Conclusion:

41. In conclusion, and on balance, the principle and detail of the development is considered to be in compliance with relevant development plan policies and the National Planning Policy Framework. The proposal is therefore recommended for approval.

Recommendation:

42. It is recommended that planning permission be **APPROVED** subject to the following conditions:

1. 01A – 3 year time limit
2. 14FP – Accordance with approved plans
3. Material samples to be submitted
4. Finished floor levels to be submitted
5. Details of boundary treatments to be submitted and retained
6. Permitted development rights removed
7. Construction hours between 08:00 and 18:00 Mon-Fri and 08:00 and 13:30 Sat only
8. Acoustic insulation to appropriate levels
9. Parking and Manoeuvring areas to be retained

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online.

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=OHXHJOPDLE000>