
Appeal Decision

Site visit made on 26 September 2016

by J Flack BA Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 05 October 2016

Appeal Ref: APP/V2635/W/16/3154131

11 Bennett Street, Downham Market, Norfolk PE38 9EE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Andrew Archibald against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 16/00530/F, dated 14 March 2016, was refused by notice dated 8 June 2016.
 - The development proposed is construction of dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of adjacent residents; and
 - The effect of the proposal on the functioning of the adjacent highway.

Reasons

Character and appearance

3. Nos 9 and 11 Bennett Street are a pair of attractive and modestly sized semi-detached houses on the west side of the street. No 11 has a much wider plot than No 9 and the northern half of this forms the appeal site. This currently consists of garden land, together with a single storey outbuilding which would be demolished.
4. Policies CS01, CS02 and CS04 of the Core Strategy¹ identify Downham Market as a key town where substantial new housing will be sought, and the appeal site's location is one where development is generally encouraged by saved Policy 4/21 of the Local Plan². However, that policy accepts development only where it has regard for and is in harmony with the building characteristics of the locality and does not damage the appearance of its built surroundings. Moreover, Policy CS08 of the Core Strategy requires development to be of high quality design which, amongst other things, responds to its context and

¹ King's Lynn and West Norfolk Borough Council Local Development Framework – Core Strategy July 2011

² King's Lynn & West Norfolk Local Plan, November 1998

character, and Policy DM15 of the emerging Site Allocations and Development Management Policies (SADMP) requires that development respond sympathetically and sensitively to the local setting and pattern of adjacent streets including spaces between buildings. I accord substantive weight to this policy given its advanced stage of preparation.

5. Development in the vicinity of the site consists mainly of modestly sized dwellings, the great majority being houses. Some of these dwellings have small plots, but No 11 marks a transition to a less intensive pattern of development on this side of the street, with the bungalow at 11A and the house at No 15 having more generous plots, and there is substantial undeveloped land to north of this. Nor is the opposite side of Bennett Street a continuously built up frontage, with various breaks in development, notably the garden lands to the rear of houses in Windsor Street. The result is an attractively and distinctively varied streetscape, with the appeal site and other gaps between dwellings affording generally verdant views into surrounding land and providing a valuable feeling of spaciousness.
6. The design and materials of the proposed dwelling would respond positively to those of adjoining development, in particular through its use of carstone facing and 1½ storey height. However, although the proposed dwelling would be set back from the street, aligned with No 11A, it would occupy almost the whole width of the appeal site, and the area between the dwelling and the street would be dominated by parking and turning areas. The proposal would thus very substantially diminish the positive contribution which the appeal site makes to the qualities of the streetscape I have identified above, and it would have an excessively cramped and overly intensive appearance.
7. I therefore conclude that the proposal would cause unacceptable harm to the character and appearance of the area. It would therefore be contrary to Policy CS08 of the Core Strategy, Policy 4/21 of the Local Plan and Policy DM15 of the emerging SADMP. There would also be conflict with section 7 of the National Planning Policy Framework (the Framework) which places considerable emphasis on the importance of good design, and at paragraph 58 states that planning decisions should aim to ensure, amongst other things, that development should establish a strong sense of place, respond to local character and reflect the identity of local surroundings.

Living conditions

8. I saw that No 11A has two windows in its flank elevation facing the boundary with appeal site. I understand that one of these serves a kitchen and the other is one of two windows serving the dwelling's living room. No technical daylight or sunlight studies are before me. However, I saw on my visit that although the flank wall is positioned very close to the shared boundary, that boundary is marked by a fence which rises only part way up the height of the two windows. The flank wall of the proposed dwelling, which would extend along most of the depth of the flank wall of No 11A, would be considerably higher than the fence, and it would be positioned very close to the boundary, resulting in a very narrow separation between the two dwellings.
9. Given these circumstances, and noting also that proposed dwelling would be positioned directly to the south of No 11A, I consider that the proposed dwelling would have an unacceptable effect on habitable rooms of No 11A by reason of loss of daylight and overshadowing. I thus conclude that the

proposal would be unacceptably detrimental to the living conditions of the adjacent residents of No 11A. The proposal would in this respect not represent high quality design for the purposes of Policy CS08. It would therefore be contrary to this Policy, and also contrary to emerging Policy DM15 which rejects development that has a significant adverse impact on the amenity of others. There would also be conflict with the Framework: the objectives of paragraph 58 include that development should function well and add to the overall quality of the area, and the core planning principles at paragraph 17 include that planning should always seek to ensure a good standard of amenity for all existing occupiers.

Functioning of adjacent highway

10. No 11 is at present provided with a small surfaced parking area within the appeal site. The outbuilding behind it has the appearance of a wooden garage, but it appears somewhat dilapidated and I have no information as to whether it is capable of practical use for vehicle parking. The plans show that the existing vehicle access, which offers reasonable visibility, would be used. Four parking spaces would be provided, which would be shared by No 11 and the new dwelling. However, the appellant has not sought to dispute the Council's concerns that the layout shown is not practical and that only three spaces could be provided. Moreover, although the appellant states that the No 11 has been let out as a single residential dwelling for some years, this remains a matter of assertion, and there is no evidence demonstrating that this is now the lawful use of No 11 or to counter the Council's statement that the lawful use is as a bed and breakfast facility, this being supported by the summary of the planning history in the officers' report.
11. However, whilst the Council draws attention to a condition requiring parking and turning for six vehicles which was attached to a permission for a 2 bedroom unit at No 11, I accord little weight to this given that I have no information on the circumstances or the planning policy requirements which were in force at the time. Furthermore, the permission was not implemented: No 11 as it stands is a modest property, and the proposed 2 bedroom dwelling would also give rise to limited parking demand. I saw on my visit that Bennett Street is narrow, such that inconsiderate parking could hinder the passage of vehicles along it. However, this is a street where vehicle speeds are low, as most of it is subject to a 20mph speed limit, and at the time of my visit some opportunities, albeit limited, were available for on street parking. I also note that the site is quite well-located in terms of access to public transport, and occupiers of the proposed dwelling and No 11 might therefore not use private vehicles.
12. The Council does not seek to argue that the proposal would have unacceptable consequences for road safety, but it considers that it would result in an unreasonable degree of nuisance for adjacent residents. Taking all the above matters into account, my view is that whilst the proposal might result in some increases in vehicular movements and on street parking, the degree of increase would be very modest. I conclude that the proposal would not have an unacceptably detrimental effect on the functioning of the adjacent highway, either by way of detriment to road safety or the living conditions of adjacent residents. In relation to this main issue, therefore, the proposal would not conflict with Policy CS08 or emerging Policy DM15.

Planning balance and conclusions

13. The Planning Statement provided by the appellant states that the Council has only a 1.99 years supply of deliverable housing sites. No evidence is provided to substantiate this, but nor has the Council provided any evidence to contradict it. The balance of the very limited evidence before me is that paragraphs 49 and 14 of the Framework are engaged. The former places the burden of demonstrating a five year supply on the Council, and whilst the proposal does not conflict with the objectives of the Council's policies relating to the strategic distribution and location of new dwellings, these policy provisions are nevertheless relevant to the proposal and are rendered out of date in the absence of a 5 year supply.
14. It follows that paragraph 14 requires that planning permission should normally be granted. However, that is subject to stated exceptions. In this case the single dwelling proposed would make only a very minor contribution to the shortfall of housing, nor is there any evidence that the proposal would confer any other significant benefit. Given that I have identified substantial conflict with development plan and national planning policies in relation to the first two main issues, I conclude for the purposes of paragraph 14 that the adverse impact of granting permission would in this case significantly and demonstrably outweigh the benefits. The proposal would therefore not amount to sustainable development for the purposes of the Framework, nor would it be in overall conformity with the development plan.
15. I have taken into account all other matters raised by the evidence before me, including the support of the Town Council, but nothing arises which disturbs the conclusions I have reached above. The appeal is therefore dismissed.

J Flack

INSPECTOR