
Appeal Decision

Site visit made on 23 January 2017

by Zoe Raygen Dip URP MRTPI

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

Decision date: 21 February 2017

Appeal Ref: APP/J3530/W/16/3160997

Land at the Thatched House, Main Road/School Lane, Martlesham IP12 4RJ

- 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 De Burgh Developments against the decision of Suffolk Coastal District Council.
 - The application Ref DC/16/1466/FUL, dated 6 April 2016, was refused by notice dated 19 August 2016.
 - The development proposed is erection of two-storey dwelling and construction of pedestrian and vehicular access and parking area.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are firstly whether the appeal site represents an appropriate location for residential development, with particular reference to flood risk and secondly the effect of the proposal on the character and appearance of the area and the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty.

Reasons

Flood risk

3. Both parties refer to the site being within Flood Zones 1, 2 and 3 as determined by the Environment Agency (EA). The EA Flood Risk Map 2015 shows the majority of the site as located within Flood Zone 3 with only a small area to the southwest of the site being within Flood Zone 1. Furthermore the EA only refer to the site being within Flood Zone 3 within their consultation response to the planning application.
 4. Paragraph 101 of the National Planning Policy Framework (the Framework) requires decision makers to steer new development to areas at the lowest probability of flooding by applying a Sequential Test to those developments on sites in areas at risk of flooding and not already allocated within the development plan. Planning Practice Guidance (the PPG) indicates that the aim is to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible. Only
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- where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered (taking into account the flood risk vulnerability of land uses and applying the Exception Test if required).
5. Applying the Flood Risk Vulnerability Classification in Table 2 of the Technical Guidance to the National Planning Policy Framework (2012) (the Technical Guide), the proposed development is classed as more vulnerable. Table 1 of the Technical Guide states that such uses should only be permitted in Flood Zone 3 if the Exception Test (and Sequential Test) is passed.
 6. The appellant has not supplied a sequential test on the basis that the development can be made safe by increasing land levels to effectively ensure that the new dwelling and a safe pedestrian route of escape would be built at the level of Flood Zone 1 in accordance with the recommendations of the submitted Flood Risk Assessment (FRA).
 7. I note that the EA has no objection to the conclusions of the FRA that suitable mitigation measures can be incorporated and could be the subject of appropriate conditions. I therefore have no reason to dispute the findings of the FRA. However, the EA also advise in their letter of 6 May 2016 that the sequential and exception test must be passed for the application in accordance with the Framework. Moreover, Paragraph 103 of the Framework makes it clear that the FRA is only considered after the application of the Sequential Test and if required the Exception Test.
 8. The risk at the appeal site is from tidal flooding. The appellant indicates that as a result the flooding would be gradual in nature and predictable so that preparations could be undertaken. Furthermore it would only take 2 hours for the flood event to recede to a point where it no longer impacts. Nonetheless, due the location of the majority of the appeal site in Flood Zone 3 it would still be at high risk of flooding and consequent potential harm to property and people which the Framework seeks to avoid. I note the comments of the appellant regarding the exception test but this would only be undertaken following the application of the sequential test which has not occurred in this instance.
 9. The Council confirm that its Strategic Housing Land Availability Assessment 2014(SHLAA) and the Site Allocations and Area Specific Policies Development Plan Document 2017 (DPD) both identify alternative sites within the housing market area within which the appeal site is located which could provide a dwelling in an area of lower flood risk. The appellant disputes the usefulness of these documents in this respect give the age of the SHLAA and the limitations of the size of the sites considered within it.
 10. Notwithstanding the absence of an objection from the Environment Agency or the Council on this matter I am, nevertheless, required to ensure that the proposal meets the requirements of national guidance. On the basis of the evidence before me, irrespective of the information available in the SHLAA and the DPD, in the absence of a sequential test, I am unable to conclude that there are no reasonably available alternative sites for a new housing development in lower flood risk areas within the area.
 11. The appellant refers to other developments approved by the Council on flood plains. However, I do not have specific details of the circumstances that led to these proposals being accepted and so cannot be sure that they represent a

direct parallel to the appeal proposal. In any case I have determined the appeal on its own merits.

12. I therefore conclude that in the absence of any evidence to demonstrate that the dwelling could not be located in an area with a lower risk of flooding, the proposal would not provide a suitable site for housing with regard to flood risk. It would therefore be contrary to Policy DM28 of the Suffolk Coastal District Local Plan Core Strategy and Development Management Policies 2013 (CS) and paragraph 101 of the Framework which seeks to avoid inappropriate development in areas at risk of flooding by directing development away from those at highest risk.

Character and appearance

13. The appeal site is on the corner of Main Road and School Lane and forms an undeveloped piece of land which has trees and scrub on it. To the north is a large building housing an antique shop and workshop. To the south are residential properties and opposite is the Red Lion public house. Both Main Road and School Lane have residential development fronting the road to the south of the site. Houses are of a variety of sizes and designs creating a very mixed character and appearance. A unifying characteristic is the extent of trees and shrubs creating a verdant character, particularly to Main Road which is facilitated by the set back from the road of the majority of the properties. The extent of tree cover on the site contributes positively to this character and appearance.
14. The proposed house would be located back from Main Road and centrally within an area of the site which is fairly clear of mature trees. The submitted Arboricultural Impact Assessment concludes that the site would be able to accommodate the proposed dwelling while retaining the majority of trees, particularly around the periphery of the site. This would be subject to various conditions relating to digging in root protection areas and the protection of trees during construction. From my observations I saw nothing to disagree with the findings of the AIA. Even though trees at the rear of the site would be close to the private garden space their reduction, if required, would not be significant given the total amount of tree cover on the other boundaries of the site. Moreover, I am aware that the trees are not protected.
15. The proposed house would be one and a half storey facing Main Road. As a result the scale of the development at the front of the site together with the size and location of the dormer windows would be similar to that at 1-4 Main Road a small group of terraced houses to the south of the appeal site. Consequently it would not be unique or look out of place.
16. To the rear and side, although only having two levels of accommodation it would have the appearance of being two and a half storey facing School Lane. However this difference would be due to the change of land levels across the site. As a result the side view of the property would be graded as the land falls from Main Road.
17. The full extent of the two and a half storey aspect of the house would only be appreciated from views from the south east along School Lane. As the house is set well back from the road behind a substantial tree screen such a view would neither be prominent or obtrusive within the street scene. Furthermore fenestration detail would be restricted to two storeys and the rear off shoot

would be subordinate to the asymmetric roof of the dwelling emphasising the two storey nature of the living accommodation.

18. The three buildings in the immediate vicinity of the appeal site are each of a traditional design and form, all being Listed Buildings. All are set forward in the plot close to the highway with the majority of their land to the rear. As a result they form a prominent group of buildings. Nonetheless the design of each is different and their scale is varied. The proposed dwelling would be a modern alternative but due to its set back within the site and modest size and scale would not significantly dominate or have an unacceptable adverse visual impact on the surrounding buildings. Furthermore, the use of clay roof tiles, red brick and painted render would match materials in the surrounding area and on the Listed Buildings. Moreover, the retention of the majority of the trees on the site would ensure that the verdant character of the area would be maintained.
19. The site is adjacent to the village of Martlesham and has very limited views from outside the village and the wider Suffolk Coasts and Heaths Area of Outstanding Natural Beauty (SCHAONB). As the proposed house would be provided within a landscape setting of existing trees and would not be visually prominent then I consider that the character of the SCHAONB would not be harmed as a result of these proposals.
20. For the reasons above I conclude that the proposal would not be harmful to the character and appearance of the area or the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty. It would therefore be in accordance with Policies SP15 and DM21 of the CS. These require that development protects and enhances the various landscape character areas including AONBs and relates well to the scale and character of its surroundings.

Other matters

21. To the south and southwest of the appeal site are three listed buildings. 1-4 Main Road forms a group of four terraced properties each sited within their own small linear plot. The Red Lion is a large building but with a two storey frontage and a large area to the rear forming a car park. Finally, The Red House is a two storey residential property constructed from red brick with a slate roof. The group of Listed Buildings are appreciated in the street scene within a verdant setting. The tree cover on the appeal site contributes to that setting.
22. I have already found that the proposed house could be provided while maintaining the verdant character and appearance of the site and the surrounding area. I conclude therefore that the setting and therefore significance of the buildings would not be harmed through the proposal. I note that the Council's Senior Design and Conservation Officer shares this view.

Planning Balance and Conclusion

23. There is dispute between the parties as to whether the Council has a five year housing land supply. The Council have published its updated Housing Land Supply Assessment (HLSA) as at 3rd October 2016 and demonstrates that with a 5% buffer applied the supply would be 5.8 years and with a 20% buffer it would be 5 years. The Council maintain that a 5% buffer should be applied.

24. The appellant refers to appeal Ref APP/J3530/W/15/3011466 where the Inspector found that due to persistent under delivery a 20% buffer should be applied and that the Council could not demonstrate a five year housing land supply at that time and cast doubt on the ability of some sites to deliver the required housing. However this decision pre dates the HLSA.
25. The HLSA includes limited information regarding the sites included and having reviewed the information supplied, I consider that I do not have sufficient information in front of me to interrogate and make an accurate assessment as to the state of the current housing supply figure.
26. In considering the potential benefits of the proposal, I note that the new dwelling would contribute to the supply of housing in an accessible location, irrespective of the housing land supply position. However, a net increase of one dwelling would be a small contribution so I afford this benefit only moderate weight.
27. In addition, the construction of the dwelling would derive some economic benefits but this would be for a limited time. Furthermore, given the small scale of the development, the contribution to the local economy from the spending power of future occupants is unlikely to be significant.
28. The lack of harm to existing trees and hedges, and the character and appearance of the area including the AONB, are not benefits justifying the development, but are a pre requisite of good design and therefore make a neutral contribution.
29. The proposed development would be located in an area at high risk of flooding with its consequent potential for risk to buildings and people. It has not been adequately demonstrated that the development could not be located in an area of lower flood risk. This is contrary to both local and national policy and I give it considerable weight.
30. Therefore, even if I were to conclude there is a shortfall in the supply of housing land and that relevant policies for the supply of housing should not be considered up-to-date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal. The proposal would conflict with the Framework and Development Plan when taken as a whole and consequently the proposal would not be sustainable development for which the Framework carries a presumption in favour. For this reason, and having regard to all other matters raised I conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR