
Appeal Decision

Site visit made on 18 June 2019

by Rajeevan Satheesan BSc PGCert MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th July 2019

Appeal Ref: APP/L2630/W/18/3215124

Land East of 4 Fair Green, Diss IP22 4BQ

- 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 & Mrs Nigel Owen against the decision of South Norfolk District Council.
 - The application Ref 2018/1548, dated 5 July 2018, was refused by notice dated 19 September 2018.
 - The development proposed is erection of 1 no. dwelling with associated parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address is described as "4 Fair Green, Diss IP22 4BQ" in the planning application form. However, the address listed in the decision notice issued by the Council appears to be the correct address since "4 Fair Green" relates to an adjoining site. I have therefore applied the address from the decision notice to the banner heading of this decision.
3. The site visit procedure was altered from an access required site visit to an unaccompanied site visit as the appellant was not present when I arrived at the site during the pre-arranged period and it was possible to see all that was required from the site and Fair Green.
4. Prior to the determination of the planning application, amended drawings were received by the Council, which showed a reduction in the palette of materials proposed, removal of the large glazed porch proposed, a reduction in the number of car parking spaces reduced to one adjacent to the dwelling, and one space and a garage within the parking court. A turning area is also proposed within the site. I have considered the appeal on the basis of these proposed drawings.

Main Issues

5. The main issues are the effect of the proposed development on:
 - 1) the heritage assets, including the setting of the nearby listed buildings and the character and appearance of the Diss Conservation Area (CA);
 - 2) the living conditions of future occupiers of the development in terms of private amenity space;

- 3) the living conditions of existing occupiers of No 7 Stanley Road and No 2 Fair Green in terms of overshadowing and outlook; and
- 4) flood risk with specific regard to surface water flooding.

Reasons

Heritage assets

6. The appeal site relates to a vacant plot of land fronting Fair Green which is currently laid to grass, as well as a lock up garage located towards the rear of the site. The site lies within the CA and is immediately adjacent to Nos 2 and 4 Fair Green which are both Grade II listed buildings. To the rear of the site is a two storey residential property and garden of No 7 Stanley Road. The boundary between the appeal site and this neighbouring property consists of a red brick wall and a red brick gable wall of this neighbouring property. Although the plot of land has been vacant for many years, historical maps submitted demonstrate that the land has been built on in the past.
7. With regards to the effect on designated heritage assets, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
8. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 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 (and the more important the asset, the greater the weight should be). Paragraph 194 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. The Framework defines the setting of a heritage asset in terms of the surroundings in which it is experienced.
9. The Diss Conservation Area Character Appraisal and Management Plan, 2012 (CAA) explains that the CA has an attractive mix of historic buildings¹, and that Fair Green, which is a large village green is an integral part of Diss, where the historic yearly fair occurs. The CAA further explains that Fair Green consists of modest, small scale, properties on all sides, with many timber framed buildings dating from the 16th and 17th centuries. Whilst there is some variation in roof forms, the predominant architectural features and materials include steeply pitched roofs clad in red or black clay pantiles, or slate, prominent chimneys, rendered and colour washed buildings with traditional windows and doors. The CAA particularly highlights how the gables have been used to add interest and that the roof scape is particularly important in Diss where some streets are seen from various viewpoints.

¹ Taken from the CAA which states that Diss has 244 buildings on the statutory list and a number of others noted as being of "townscape" significance

10. During my site visit I observed that the rich mix of historic buildings and traditional materials make a positive contribution to the significance of the CA. No 2 Fair Green comprises a two storey plus attic timber framed C17 Grade II listed building with two prominent front gables with ornamental barge boards, red tiles roof, two prominent chimney stacks and timber framed windows. The listing description also explains that the exterior now has the appearance of an early C19 villa. No 4 Fair Green has a vernacular character comprising a two storey timber framed C17 cottage with a render walls, pantiles roof with a prominent central chimney stack, and two timber framed windows at ground and first floor level either side of the front door. The significance of these adjacent listed buildings stems from its architectural and historic interest, and collectively, these buildings as well as other historic buildings facing the village green make a positive contribution to the character and appearance of this part of the CA.
11. However, the current proposals consist of a relatively large single dwelling, with a comparatively wide frontage, which would be at odds with the predominantly smaller, more modest sized cottages on this side of Fair Green which have a finer grain. Attempts have been made to break up the mass and scale of the development, which includes the variation of roof form, the inclusion of a front gable, and a front dormer window which cuts through the eaves line of the house and variation in the size and position of the fenestration. However, this has resulted in a more varied roof form and design which contrasts unfavourably with the modest form and character of the neighbouring cottages which consist of more simple plainer facades.
12. Whilst I acknowledge that the existing houses on this side of Fair Green have varying eaves heights, roof pitches and ridge heights, and that the amended drawings submitted simplify the proposed design, the proposed hipped roof with its side dormer window would fail to satisfactorily assimilate the development alongside No 4 and the remainder of the cottages in the terrace which have side gables rather than hipped roofs. Whilst a limited number of properties in the area contain relatively small front dormer windows, side dormer windows are not a characteristic feature of the area.
13. In these respects, the proposal would result in an incongruous addition in the streetscene, that would harm the character and appearance of the CA and the setting of the adjacent listed buildings, at Nos 2 and 4. Harm to these heritage assets would be exacerbated by the open nature of the village green where there would be long range views of the new development from across the green. It would not respond to local character and history or reflect the identity of the surroundings as advocated by the Framework.
14. In the terms of the Framework and paragraph 196, the harm that the proposal would cause to the significance of the designated heritage asset, that is the CA and Nos 2 and 4 (Grade II listed building), would amount to less than substantial harm. Accordingly, this should be weighed against the public benefits of the proposal.
15. The proposal would deliver an additional house in an accessible location, within the development boundary of Diss which has a range of everyday shops and services, thereby making a small but positive contribution towards boosting the supply of housing in the area. The development would provide economic benefits in the short term through the construction period in addition to longer

term benefits in terms of increased local spending levels once occupied increased Tax revenue and New Homes Bonus payments. The appellants also contend that the development is a self-build project and would make more effective use of under-utilised land and would remove the adverse impact of vehicles parked at the site. However, the harms identified above to the character and appearance of the CA and setting of the listed buildings would be such that each would not be outweighed by the benefits.

16. Concluding on this main issue, the proposed development would not preserve the settings of Grade II listed buildings at Nos 2 and 4 Fair Green and would fail to preserve or enhance the character or appearance of the CA. The development would also result in harm to the significance of these adjoining listed buildings and the CA. Therefore, it would not accord Policy 2 of the Greater Norwich Development Partnership Joint Core Strategy adopted in 2011, and amendments adopted in 2014 (JCS), and policies DM 3.8 and DM 4.10 of South Norfolk Local Plan Development Management Policies, 2015 (DMP). Amongst other things, these require new development to have a high quality design, respect local distinctiveness, and preserve the setting of listed buildings and the character and appearance of conservation areas.
17. It would also conflict with the relevant requirement of the Framework which seeks to conserve and enhance the historic environment. Finally, it would not preserve the setting of the nearby listed buildings as required by Section 66(1) of the Act or preserve or enhance the character or appearance of the conservation area as required by Section 72(1) of the Act. Instead the proposals would be harmful to these designated heritage assets. This carries considerable weight and importance to my decision.

Living conditions of future occupiers of the development - private amenity space

18. The proposed new house is a four-bedroom family sized dwelling and needs to be assessed accordingly. The proposed private amenity spaces for the new dwelling includes a relatively wide rear garden in addition to the areas to the side of the new dwelling. Overall, I find sufficient private amenity space would be provided and therefore the proposal would provide acceptable living conditions of future occupiers of the development in this respect. The proposal would comply with DMP Policy DM 3.8. The justification for this policy (paragraph 3.55) states that good quality housing should provide for internal and external accommodation that is fit for purpose and suitable for its intended occupants. This aspect of the proposal would also comply with the Framework which requires a high standard of amenity for future users.

Living condition of existing occupiers of No 7 Stanley Road and No 2 Fair Green - outlook and overshadowing

19. Both main parties as well as third parties have submitted their views, on the effects of the proposal on outlook and overshadowing. From my examination of the detailed material submitted, and from my observations during the site visit, I agree with the appellant that the proposal would not have a harmful effect in relation to outlook and overshadowing of occupiers No 7 Stanley Road and No 2 Fair Green. This is due to the proposed position of the building, which would be set back away from these neighbouring sites in addition to the proposed sloping roofs which reduces the impact of the development from these neighbouring properties. As such I find no conflict against DMP Policy DM 3.13 and the Framework which amongst other things, states that planning

permission will be refused where proposed development would lead to an excessive or unreasonable impact on existing neighbouring occupants and the amenity of the area. However, the effect on living conditions of existing and future occupiers is just one matter in the overall assessment of the proposal and does not alter my judgement set out earlier.

Flood risk with regards to surface water flooding

20. Paragraph 163 of the Framework states that “when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment”.
21. There is no dispute between the parties that the site lies within Environment Agency’s (EA) Flood Risk Zone 1, and therefore has a ‘Low Probability’ of river flooding. However, the Council’s Water Management Officer (WMO) advises that site is identified as having a range of surface risk flooding, including high, and that the site is in a surface water flooding path. Given that the proposal includes the partial removal of the northern boundary wall, this could have an adverse impact in terms of flood risk to the new dwelling. The WMO therefore advises that the Developer should have consideration of the surface water flood map and take measures to manage any risk to the property. Consideration should also be given as to how flood flows may enter the site and how they can be managed to ensure that the building and its users can remain safe and that flood risk is not increased elsewhere.
22. However, from the evidence submitted it appears that a suitable Flood Risk Assessment (FRA) which identifies the risk of surface water flooding has not been submitted. Instead the submitted information² refers to the location of the dwelling in EA’s flood zone 1 with regards to river flooding and mitigation measures to manage flooding which includes the use of water butts, an underground holding tank, and certain flood resistance techniques. Despite these proposed SUDS / flood mitigation measures, insufficient information has been submitted in the first place to demonstrate that the proposed development and future occupiers would remain safe and that flood risk would not be increased elsewhere. This needs to be considered prior to any consent being granted and therefore, it would not be reasonable to impose conditions in this respect.
23. Therefore, in the absence of a suitable FRA, I find that the proposed development poses a risk from surface water flooding, contrary to the Framework and DMP Policy DM 4.2, which among other things, seek to ensure that sustainable drainage measures must be fully integrated within design to manage any surface water arising from development proposals, and to minimise the risk of flooding on the development site and in the surrounding area.

Other Matters

24. I have had regard to the Governments support to significantly boost the supply of housing including self-build projects. However, the harms identified above are not outweighed by the benefits of providing one additional self-build house.

² Within the appellants appeal statement

25. Whilst I acknowledge that there have been past approvals for the erection of two semi-detached dwellings³, I note that these permissions have since expired. As such, they do not constitute a fallback position and therefore have not weighed in favour of the current proposal before me. The appellants' appeal statement shows that the previous approvals were for a pair of two smaller semi-detached cottages with a finer grain, which are more akin to the smaller dwellings found along this section of Fair Green. Furthermore, my attention has been drawn to a number of other approvals nearby. However, I do not have the full details of these application and therefore cannot be certain that the circumstances in those cases are the same as the current proposal before me. In any case, I am required to consider the proposal on its own merits.

Planning balance and conclusion

26. Applications for planning permission must be determined in accordance with the development plan, unless material considerations, which include the Framework, indicate otherwise. I recognise that there are policies in the development plan that are supportive of the provision of additional housing. However, I have identified that the proposed development would be in conflict with JCS Policy 2, DMP Policies DM 3.8, DM 4.2 and DM 4.10. It would therefore be contrary to the relevant policies, and the development plan as a whole.
27. There is no 5 year Housing Land Supply. However, the 'tilted' test within Framework paragraph 11 d ii would not apply because the application of policies within the Framework that protect heritage assets and areas at risk of flooding provide clear reasons for refusing the development proposed. A presumption in favour of sustainable development does not apply. There are no material considerations of sufficient weight or importance that determine that the decision should be taken otherwise than in accordance with the development plan and therefore planning permission should be refused.
28. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

R Satheesan

INSPECTOR

³ Council References: 2003/1460, 1998/1360, 1993/1607 and 1988/1789.