



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: 25th July 2019

Appeal Ref: APP/L2630/W/19/3222784

Land to south of Riverside, Diss IP22 4BE

- 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 Robinson on behalf of Conclomeg Construction Ltd against the decision of South Norfolk Council.
 - The application Ref 2018/2072, dated 18 September 2018, was refused by notice dated 14 November 2018.
 - The development proposed is for a raised single storey dwelling on stilts with car parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. 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); and
 - 2) whether or not, the Exception Test is required to be applied, to ascertain whether the wider community sustainability benefits to the community outweigh flood risk.

Reasons

Heritage Assets

3. The appeal site comprises an area of open grassland adjacent to the River Waveney in a prominent location on the junction of Riverside and Denmark Street. The site lies within the Diss Conservation Area (CA). The opposite side of the River Waveney is also undeveloped and forms part of the flood plain with a public footpath with clear views of the appeal site.
4. 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.

5. 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.
6. The Diss Conservation Area Character Appraisal and Management Plan, 2012 (CAA) explains that the CA has many buildings surviving from the 16th and 17th centuries, in addition to Georgian and Victorian buildings. Most of the buildings are two storeys in height. The architectural features and materials include prominent front and side gables, steeply pitched roofs clad in red or black clay pantiles, slate roofs, prominent chimneys, rendered and colour washed buildings with traditional windows, doors and shopfronts. The rich mix of historic buildings and the palette of materials add visual interest and make a positive contribution to the significance of the CA.
7. Immediately opposite the site is No 82 Denmark Street, which is a C18 Grade II listed end of terrace property, which forms part of a terrace of C17 Grade II listed buildings which includes Nos 82-86 Denmark Street and Nos 30, 31, 33, 35 and 36 Fair Green. No 82 nearest the appeal site comprises a C18 two storey timber framed building with a part weather board, part render finish with pantiles roof, a central chimney and timber framed casement windows.
8. In addition, the Grade II listed buildings at Bridge Farm House and Bridge Farm Cottage are also visible from the site and surrounding area. The significance of these listed buildings stems from their architectural and historic interest. Bridge Farm House is a C15 two storey timber frame building with an attic space within two prominent front gables, finished in a roughcast and colour washed brick casing, pantiled roofs and timber casement windows. Bridge Farm Cottage is a C16 two storey timber framed building finished in a roughcast and brick faced with a steeply pitched machine tiled and pantiled roof with a gable end. In addition to these nearby listed buildings, given their vernacular style, Nos 76 and 78 Denmark Street are identified in the CAA as being buildings of "Townscape Significance". Collectively, these historic buildings all make a positive contribution to the character and appearance of the area, and the CA.
9. Immediately north of the appeal site is Fair Green, an area of open space enclosed by buildings. Similarly, when approaching the site from Fair Green, the appeal site also displays similar characteristics of open space framed by buildings around the river. The existing openness of the site, which mirrors the open space on the opposite side of the river bank contributes to the feeling of openness and provides relief in the built form in this part of the conservation area. The importance that open spaces make to the character and appearance of the CA is also highlighted within the CAA.
10. Indeed, during my site visit I observed that there are clear views of the upper floors, roofs, and chimneys of the listed C15 and C16 Bridge Farm House and Bridge Farm Cottage visible in the background of the appeal site. In particular,

the roofs and upper floors of Bridge Farm House are clearly visible from longer range views from Fair Green and helps to reinforce the sense of buildings enclosing areas of open space. Therefore, although Bridge Farm House and Bridge Farm Cottage lie outside of the conservation area, they form important views from within the conservation area, which contributes to the significance of the CA and these listed buildings.

11. It is important therefore that any new development, on this prominent corner location would not detract from this ambience. Unfortunately, the proposal would substantially erode the openness of the site around the river which contributes positively to the openness of this part of the CA, and the sense of the townscape break would be diminished.
12. In contrast to these historical buildings, the proposed dwelling has an unashamedly modern appearance, finished vertical timber boarding, laminated panels and grey aluminium framed windows and door. Although the overall height and width of the new dwelling would not be dissimilar, the proposed design, materials and fenestration would all be in marked contrast to the historic surroundings. The front elevation facing Riverside and the side elevation facing Denmark Bridge contains a limited number of relatively small openings. This together with the laminated panels, the stepped roof profile, and the proposed bi-folding doors dominating the rear elevation, which would be highly visible from Denmark Street and the public footpath, on the opposite side of the river, would look incongruous and jarring on the eye. It would not respond to local character and history or reflect the identity of the surroundings as advocated by the Framework
13. Overall the proposal would be wholly unrelated to the rich historical mix properties within the area. Whilst I note that there are other modern buildings in the vicinity along Riverside, the appeal site is in a far more prominent and sensitive corner location next to Denmark Bridge and in close proximity to a number of listed buildings mentioned above.
14. Therefore, because of its prominent location, the proposed dwelling would be intrusive and would detract from the qualities of the CA and the setting of the Grade II listed building at No 82. I note that the proposed building has been set back from Denmark Street. However, given the highly visible location of the Grade II listed Bridge Farm House and Bridge Farm Cottage in the background of the appeal site, I find that the proposals would also harm the setting of these listed buildings.
15. I have considered the effect of the development on the settings of other nearby Grade II Listed buildings at Nos 84-86 Denmark Street, Nos 30, 31, 33, 35 and 36 Fair Green. However, in light of the separation distances from these properties and the position of these buildings, I find no harm in these respects.
16. 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 82, Bridge Farm House and Bridge Farm Cottage (Grade II listed buildings), would amount to less than substantial harm. Accordingly, this should be weighed against the public benefits of the proposal.
17. The proposal would deliver an additional house in an accessible location, in the Town 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 appellant also contends that the development is a self-build project and would make more effective use of under-utilised land. 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.

18. I appreciate that the CCA states that "*the small development of the Riverside looks dated and the area next to the bridge needs attention*". However, for the reasons set out above the proposals do not achieve this.
19. Concluding on this main issue, the proposed development would not preserve the settings of Grade II listed buildings at 82 Denmark Street, Bridge Farm House and Bridge Farm Cottage and would fail to preserve or enhance the character or appearance of the CA as a whole. The development would also result in harm to the significance of these listed buildings and the CA. Therefore, it would not accord with the Framework, Policy 2 of the Greater Norwich Development Partnership Joint Core Strategy adopted in 2011, and amendments adopted in 2014 (JCS), and policies DM3.8 and Policy DM4.10 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.

Flood Risk

20. A Flood Risk Assessment (FRA) prepared by Evans Rivers and Coastal Ltd and a Flood Risk Sequential Test (FRST) prepared by One Planning has been submitted, in support of the appeal. The Council has raised no objection to the FRST findings that there is no reasonable alternative site for the scale and type of development in an area with a lower risk of flooding. Based on the evidence before me I have no reason to disagree.
21. Both the Environment Agency and the Council's Water Management Officer consider that the site lies within fluvial Flood Zone 3a, with a high probability of flooding and as such an Exception Test is required. The Appellant's FRA shows the dwelling and parking area to be within existing Flood Zone 2 and the garden largely to be within existing Flood Zone 3. The policy within the Framework and the PPG, including the relevant table setting out the application for the exception test, refers to site and development proposed. As the garden is an integral part of the development and site, it is reasonable to conclude that the development and site comes within Flood Zone 3 and the exception test should apply.
22. With regards to the first part of Framework Exception Test, as the appellant considers that this is not required, no Exception Test has been carried out. Therefore, it has not been demonstrated that the proposed development provides wider sustainability benefits to the community that outweighs flood risk. Therefore, on the evidence before me the proposal fails Part 1 of the Exception Test.
23. The parties agree that subject to conditions, the proposal passes the second part of the Exception Test, and I have no evidence to conclude otherwise.

However, as the proposal fails the first part of the Exception Test, the development is not appropriate and should not be permitted, in accordance with Paragraph 161 of the Framework, which states that “both elements of the Exception Test should be satisfied for development to be allocated or permitted”.

24. The FRA also states that the dwelling and car parking areas will be located within the future Flood Zone 3a taking into account climatic change. The PPG’s Flood Risk vulnerability and flood zone ‘compatibility’ table is based on the EA’s Flood Map for Planning and a note indicates that the Flood Zones used do not take account of possible impacts of climatic change and consequent future probability of flooding. However, paragraph 160 of the Framework also indicates that the application should be informed by a site-specific FRA, and thus, this reinforces the need for an Exception Test to be applied.
25. Therefore, I find that the proposed development poses a risk from flooding contrary to the relevant section of the Framework, which seek to ensure that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.

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 and DMP policies DM3.8 and DM4.10. It would therefore be contrary to the relevant policies, and the development plan as a whole.
27. There is a dispute as to whether there is a 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