



Appeal Decision

Site visit made on 24 October 2019

by Daniel Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th October 2019

Appeal Ref: APP/L2630/W/19/3234632

Land to the east of School Lane, Spooner Row, Norwich, Norfolk

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Grimmer against the decision of South Norfolk District Council.
 - The application Ref 2019/0483, dated 22 February 2019, was refused by notice dated 1 May 2019.
 - The development proposed is the erection of 5 self-build dwellings including a new vehicular access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is submitted in outline with all detailed matters reserved apart from access. An illustrative layout accompanies the application and I have taken this into account in so far as assessing the acceptability of the proposal in land-use principle terms.
3. I have taken the appeal site address from the Council's refusal notice and the appellant's appeal form as this is more precise than the address on the outline planning application form.

Main Issues

4. The main issues are (i) whether the local planning authority can demonstrate a deliverable five year supply of housing sites; (ii) whether the proposal would be acceptable in locational terms taking into account the development plan strategy for the area; (iii) the effect of the proposal on the character and appearance of the area; (iv) whether the proposal would comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding; (v) the effect of the proposal on protected species including reptiles and (vi) the effect of the development on highway safety.

Reasons

Housing land supply

5. As part of the appeal, the Council has provided an update to its housing land supply and delivery position. The Council's published Annual Monitoring Report 2017-18 sets out that a deliverable 6.54 years supply of housing sites can be demonstrated across the joint Greater Norwich Authorities area: this is based

on the standard methodology for the calculation of Local Housing Need given that the Joint Core Strategy for Broadland, Norwich and South Norfolk 2014 (CS) is now more than five years old. Furthermore, the Council has confirmed that its Housing Delivery Test requirement has been met, i.e. 133% of the number of homes required between 2015/16 and 2017/18.

6. I do acknowledge that maintaining a five-year supply of deliverable housing sites is a minimum requirement and that the proposed five additional dwellings would seek to boost the supply of homes in the area. This is a positive matter to which I weigh in the overall planning balance later on in this decision. However, the appellant has not provided me with any credible evidence to refute the Council's aforementioned housing land supply/deliverability position. I therefore have no reason to disagree with the Council's expressed position in terms of housing land supply and deliverability and the appellant has not indicated why he considers that there is "*uncertainty over delivery*".
7. I conclude that the evidence before me does indicate that more than a five-year supply of deliverable housing sites for the area can be demonstrated. Consequently, paragraph 11d of the National Planning Policy Framework 2019 (the Framework) is not engaged.

Location and local housing strategy

8. Policy DM1.3 of the adopted South Norfolk Local Plan Development Management Policies Document 2015 (LP) draws on the spatial strategy for the location and scale of new housing and employment growth in the area as outlined in the CS. It states that for development in the Countryside outside of the defined boundaries of settlements (as is the case for the appeal proposal) permission will only be granted where specific development management policies allow for development outside of development boundaries or where it '*2(d) otherwise demonstrates overriding benefits in terms of economic, social and environmental dimensions as addressed in Policy 1.1*'. There are no specific development management policies in the development plan for the area which would support the release of the site for market housing in this Countryside location.
9. In respect of 2(d) of policy DM1.3 of the LP, the provision of five dwellings on the site would boost the supply of housing in the area. However, the contribution from five dwellings would only be a modest boost to the supply of housing and, furthermore, this would be in the context that I am persuaded by the Council's evidence that the local planning authority can currently demonstrate a deliverable five year supply of housing sites and that it has not fallen short in terms of meeting its housing delivery target.
10. The appeal site is close to the settlement of Spooner Row which has a range of facilities including a village hall, public house, café, primary school, pre-school, church and a recreation ground, all of which would be in convenient walking distance of the site. I acknowledge that School Lane does not include footpath along its entire length, but I do not consider that this in itself would be an impediment to walking taking into account the relatively slow traffic speeds that I witnessed as part of my site visit within what is a 30-mph zone.
11. I also note that there is a train station close to the site which I am told includes services to and from main settlements further afield and where there is a greater choice of facilities/amenities and job opportunities. Indeed, the main

parties do not dispute the point that the appeal site is positioned in an accessible location: this is therefore a positive environmental consideration to weigh in the overall planning balance.

12. I do not doubt that the proposal would also seek to at least maintain the vitality of the existing rural community and that the occupiers of the dwellings would support local services. In this regard, the proposal would accord with the rural housing aims of paragraph 78 of the Framework. In addition, the appeal proposal has been submitted on the basis that the plots would be offered on a self-build dwelling basis, thereby offering greater housing. However, this benefit is tempered by the undisputed evidence from the Council that the proposal is not fully required to meet the Council's self-build targets. Nonetheless, the above are positive social and economic benefits to weigh in the overall planning balance.
13. In considering the character and appearance main issue below, I have found that some very limited harm would be caused to the character and appearance of this Countryside location. This is therefore an environmental matter which to a limited degree weighs against allowing the appeal. However, in reaching this view it is of note that the proposal would not lead to the development of isolated homes in the countryside taking into account paragraph 79 of the Framework. Indeed, the appeal site is closely related to existing residential development and indeed to the settlement boundary for the village where there are a number of existing buildings and facilities.
14. In conclusion, the proposal would deliver some social and economic benefits. However, and as per my conclusions below, there are a number of environmental considerations that weigh against allowing the development including concerns relating to flood risk and to matters of highway safety. Furthermore, some limited harm would be caused to the character and appearance of this Countryside location. In this case, the evidence before me also indicates that the local planning authority can demonstrate a deliverable supply of more than five years housing sites and that the Housing Delivery Test requirement has been met.
15. In the context of the above, the proposal would not accord with the strategic housing requirements of Policy DM1.3 of the LP, or put another way there are no identified overriding benefits in terms of economic, social and environmental dimensions.

Character and appearance

16. In the main, the existing pattern of development in the area relates to large detached buildings set within spacious plots and arranged in a linear form alongside main roads which include School Lane, Station Road to the south and Chapel Road which is further to the east and beyond the railway. There are, however, some exceptions to this pattern of development in the wider area including development at Chapel Loke to the east and the appellant has also drawn my attention to planning permission 2016/0255 for housing development set back from the Road at 1 Cantley Villas, Station Road.
17. I acknowledge that the appeal site is currently undeveloped and that it does afford some undeveloped and green views for the occupiers of some of the existing surrounding residential properties on School Lane and Station Road. That said, many of the trees on the appeal site boundary with the dwellings off

School Lane are tall and mainly evergreen and so at this point the site is not conspicuous from the rear of most of these residential properties. In any event, the courts have held that a right to a view is not a material planning consideration and there is no dispute between the main parties that it would be possible to erect five dwellings on the site without any significant harm being caused to the living conditions of the occupiers of surrounding residential properties. I do not disagree with such a view taking into account existing boundary treatments and the potential to achieve acceptable separation distances between existing and proposed properties.

18. In addition to the above, the illustrative layout shows that it would be possible to erect five dwellings on the site in a characteristic linear form and set within spacious plots. Such development would suitably reflect the existing pattern of development on School Lane and Station Road. Furthermore, the width of the residential plots could be similar to those that surround the site. Whilst the rear garden areas might not be capable of being as long as those on School Lane, I do not consider that this in itself would result in any significant harm to the character and appearance of the area. The plots would still be capable of being spacious and residential development on the site would essentially be visually self-contained given the existing boundary planting and the potential for additional boundary planting where gaps (e.g. to the rear of some of the dwellings off Station Road) currently exist.
19. Furthermore, dwellings on the site would not be very visible from public vantage points other than perhaps glimpses from those travelling on a train to the east. Indeed, I was able to see on my site visit that there are some established trees on the boundary of the appeal site facing towards the railway line. In addition, and whilst landscaping would be reserved for future consideration, the illustrative plan also shows that it would be possible to erect five dwellings on the site whilst also ensuring that there would be land to accommodate very significant boundary/buffer planting and alongside the likely internal access road.
20. I acknowledge that the proposal would introduce development to the rear of existing properties and into an area of designated Countryside. The development of the site, which is currently undeveloped and verdant, would undoubtedly lead to some localised visual change. To this extent, there would be some harm caused to this area of Countryside. However, any such harm would be capable of being relatively limited in impact particularly if the dwellings were much lower in height than surrounding properties. This is a matter that would need to be carefully considered at reserved matters stage.
21. In reaching the above views, I am cognisant of the fact that the wider area does include a limited number of other 'backland' development, albeit that this is not a prevalent characteristic in the locality when considered as a whole. In this case, the appeal site is not very conspicuous in the public realm. The proposal would essentially represent a form of infill development between rows of houses on Station Road and School Lane and the railway line. Furthermore, there is some existing boundary landscaping that would help to screen/soften the development. Given this, coupled with opportunities to introduce some additional high-grade buffer landscaping on the site, I find that in principle the proposal would lead to only limited harm to the character and appearance of the area and to the landscape and scenic beauty of this part of the Countryside.

22. For the above reasons, I conclude that in principle the proposal would lead to only very limited conflict with the requirements of Policy 2 of the adopted CS; Policies DM1.4 and DM 3.8 of the LP and paragraph 170 of the Framework, which collectively seek to promote well designed places and to recognise the intrinsic character and beauty of the countryside.

Flooding – Sequential and Exception Tests

23. According to the Environment Agency (EA) maps the site is shown as being within Flood Zones 3a, 2 and 1. Flood zone 3a is defined by the '*Planning Practice Guidance: Flood Risk and Coastal Change*' as having a high probability of flooding. The proposal would be for new build residential development and is therefore classified as a '*more vulnerable*' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site-specific Flood Risk Assessment (FRA).
24. The appellant contends that the railway embankment forms a barrier to flood risk and as such questions why it is suggested that parts of the site would be at high risk of flooding. I have not been provided with any detailed survey information or calculations which would lead me to depart from the information provided in terms of the EA flood maps. Therefore, and given that part of the site would be at high risk of flooding and '*more vulnerable*' development is proposed, it is necessary that the appellant submits a robust and sound sequential test. In considering this matter, it is of note that the majority of the site falls within flood Zone 1 and hence has a low probability of flooding. Nevertheless, part of the site is at high risk of flooding and as this is an outline planning application (with access), it is not certain how the site would be finally laid out.
25. The Council contends that there are sequentially preferable sites located elsewhere in the wider area and that it can demonstrate in excess of a five-years supply of deliverable housing sites. However, I do not know if these housing sites are for sale, if they meet the specific requirements of the appellant, or if any or all of them fall within areas that are not the subject of the same risk of flooding. In making these points, it was perhaps incumbent on the Council to have been more specific about which of the sites it felt were sequentially preferable in flood risk terms.
26. I note that the appellant has submitted a list of sites that are being marketed as part of appendix 2 of the appeal statement. However, the appellant has not provided detailed reasons as to why these sites are not suitable from either a flood risk point of view and/or a development requirement point of view. Furthermore, it is possible that there are some additional sites which have the benefit of planning permission and/or are available for housing development which are in areas which are not at the same risk of flooding. There is clearly some uncertainty in terms of the latter issue.
27. I note that the Environment Agency raises no objection to the proposal in respect of the position of the dwellings as shown on the illustrative plan which would all be sited in flood zone 1. The Environmental Agency also raise no technical objection to the illustrative proposal commenting that the site ground level of 42.25m AOD is above the 1% (1 in 100) annual probability flood level including 35% climate change of 42.20m AOD and therefore both the site and

unknown finished ground floor levels would be dry of flooding by at least 0.05m depth in this event. Nonetheless, and for the reasons outlined above, the sequential test is not passed. In view of this, it has not been necessary for me to consider whether the Exception test would be passed.

28. For the above reasons, I conclude that the sequential test has not been passed. Therefore, the proposal would conflict with the Policy 1 of the CS and paragraph 158 of the Framework which aims to steer new development to areas with the lowest risk of flooding.

Biodiversity

29. At planning application stage, the applicant submitted a Preliminary Ecological Survey prepared by Gray Ecology. This survey indicated that whilst there was no evidence of any reptiles on the site, the likelihood of common reptiles being present within the site was '*high*'. This formed the basis of the Council's reason for refusal in so far that without further survey work it was not possible to determine with any certainty whether the proposal would cause harm to reptiles.
30. As part of the appeal, the appellant has submitted an Ecological Impact Assessment (EIA) prepared by Gray Ecology and dated August 2019. The EIA concludes that the additional July and August 2019 surveys did not reveal any reptiles on the site. It states that the likelihood of common reptiles being occasionally present within the site is '*moderate*'.
31. Subject to the precautionary measures as outlined in the EIA being implemented, as well as a series of nature conservation enhancements including the provision of bat boxes, bird boxes, retention of trees and the planting of native hedgerows/trees, I conclude that the proposal would not cause harm to any protected species/biodiversity. Furthermore, there would be some biodiversity enhancements. To this extent, the proposal would accord with Policy 1 of the CS and paragraph 174 of the Framework which seek to protect and enhance biodiversity. The Council does not disagree with this conclusion and has therefore withdrawn its reason for refusal in terms of this matter.

Highway safety

32. The access into the site is on a part of School Lane which is restricted to no more than 30 mph. On this basis, it is necessary that sightlines of 2.4 metres x 43 metres can be achieved taking into account highway standards in Manual for Streets. Whilst I do acknowledge that the proposal includes a widening of the existing site access, so that vehicles could pass before the narrower part of the access, this improvement does not obviate the need to achieve safe and acceptable visibility splays in accordance with Manual for Streets. In respect of the latter proposal, I note the comments made by the occupiers of Orchard House who claim that they do not consider that the Anglian Water own all of the land needed to widen the access road as shown on the submitted plans. However, this is not a determinative matter that needs to be clarified as the appeal is being dismissed for a number of other reasons.
33. Whilst drawing No 1646-01b does purport to show visibility splays of 2.4 metres x 43 metres, this has not been based on a detailed topographical survey. As part of my site visit, I was able to see that at either side of the site

entrance there were high hedges. It is not clear from the evidence before me if parts of these hedges overhang or are part of the highway, or if they are entirely in private ownership. Clearly, this can only be established by means of the completion and submission of a topographical survey, land ownership plans and then a detailed and appropriately scaled site access/visibility splay drawing.

34. Given the above, I cannot be certain that it would be possible to achieve the required sightlines without utilising land in private ownership. I am cognisant of the comments made by the occupiers of Orchard House, who claim that part of the land required for access widening is in their ownership, as well as the Council's assessment of current sightlines at the site access which they claim are 2.4 m x 20 m to the south-west and 2.4 m x 5.0 m to the north-east. This adds to the overall uncertain position. Without further clarity about the ownership/control of hedges/land at the site entrance, I cannot therefore conclude that it would be possible to permanently provide an acceptable, safe and unobstructed access.
35. Given the above, there is potential for the proposal to lead unacceptable highway safety consequences including accidents between drivers leaving the site and on-coming vehicles travelling along School Lane. Consequently, I am unable to conclude that the proposal would accord with the highway safety requirements of policy DM3.11 of the LP and paragraph 109 of the Framework.

Other Matters

36. I note that the appellant has referred to other appeal decisions¹ where Inspectors have concluded that the local planning authority has not been able to demonstrate a deliverable five-year supply of housing sites. I have determined this appeal on the basis of the evidence that has been submitted as part of this appeal and based on the published Annual Monitoring Report. Therefore, the other appeal decisions do not alter my findings in terms of the housing land supply main issue.
37. None of the other matters raised alter or outweigh my overall conclusion on the main issues.

Planning Balance and Conclusion

38. The proposal would fail to accord with the housing strategy for this Countryside area as outlined in policy DM1.3 of the LP and I am unable to conclude that the proposal would not result in unacceptable highway safety impacts. In addition, I have found that some limited harm would be caused to the character and appearance of this Countryside location and that in flooding terms the sequential test has not been passed. Collectively, these are adverse environmental matters to which I afford significant weight as part of the determination of this appeal.

¹ Appeal Ref Nos APP/L2630/W/18/3209464 & APP/L260/W/18/3217160

39. I have found that the proposal would not cause significant harm to biodiversity, although this is essentially a matter of neutral consequence in the overall planning balance. Whilst the proposal would deliver some benefits, as identified in this decision, these are not of sufficient magnitude to outweigh the very significant collective harm that I have identified above. On balance, and taking into account all other matters raised, I therefore conclude that the appeal should be dismissed.

Daniel Hartley

INSPECTOR