



Appeal Decision

Site visit made on 19 August 2019

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 November 2019

Appeal Ref: APP/C1570/W/19/3230731

Land South of 2-7 Freshwell Gardens, Saffron Walden, Essex

- 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 Tim Duke, Ford Homes Limited against the decision of Uttlesford District Council.
 - The application Ref UTT/18/2420/FUL, dated 24 August 2018, was refused by notice dated 20 December 2018.
 - The development proposed is construction of 10 apartments with associated parking and access driveway including the creation of a public amenity area.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) Whether the development would be safe from flooding;
 - ii) The effect on the character and appearance of the area, including the Saffron Walden Conservation Area and the setting of nearby listed buildings; and
 - iii) Whether adequate provision would be made for parking.

Reasons

Background

3. The appeal proposal is for the provision of an L-shaped, mainly two-storey block of 10 apartments on an undeveloped site with parking provision for 22 cars, with access and the provision of a new public amenity space, including a new footbridge at the south-western corner of the site, linking to an existing footpath.

Flood risk

4. The appeal site is open and known to be susceptible to flooding falling, according to the Environment Agency (EA), potentially within Flood Zone 3b. The site flooded in 2001 and twice in 2016. The National Planning Policy Framework (the Framework) indicates that a development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding and, a sequential approach should be used in areas known to be at risk from any form of flooding.

5. In order to address the sequential test the appellants have assessed the availability of suitable alternative sites within 800m of the appeal site with a lower flooding risk, concluding there are no such available sites. I take a different view. The appeal proposal appears to be for general open market housing with no particular reason demonstrated to narrow the search area either to 800m from the site or to Saffron Walden. The need and market for general housing of this nature is unlikely to be restricted to the town or to within 800m of the site, and the housing proposed is not of a specialist nature for which a different catchment might apply. For the purposes of this appeal and having regard to the pragmatic approach advocated by the Planning Practice Guidance, I consider that a wider search area, potentially district-wide, would be more reasonable for this purpose.
6. Even though there is less than a five-year land supply in the district (3.29 years according to the Council's statement) it has not been demonstrated in the evidence before me that there are no other suitable and available sites elsewhere in the District, with a lower flood risk, capable of accommodating the scale and type of housing provision proposed on the appeal site. On this basis I consider the appeal proposal fails the sequential test. Given the sequential test is not passed, there is no need for me to consider the exception test.
7. Accordingly, I conclude that the development would not be safe from flooding. It is therefore not compliant with the requirements of Policy GEN3 of the Uttlesford Local Plan (LP, 2005) which seeks to protect both development from flood risk and floodplains. It is also inconsistent with the relevant requirements of the Framework.
8. A significant amount of evidence has been submitted by the appellant relating to the provision of a sustainable drainage system (SuDS) but the details of this have not been agreed with the lead local flood authority. Therefore, my conclusion on this matter, is that there is insufficient evidence to suggest that SuDs could be satisfactorily designed to drain the development. As such, the proposals are contrary to the provisions of the Framework.

Character and appearance

9. Saffron Walden has a rich heritage where much of the town's medieval character has been preserved. The Saffron Walden Conservation Area covers the town centre and is a designated heritage asset where much of the historic street pattern remains in-place. It possesses in excess of 300 listed or groups of buildings as well as a number of other listed structures.
10. The Conservation Area Appraisal 2018 recognises the particular importance of identified open spaces including the appeal site. It describes this as the "unkempt area between New Pond and Freshwell Gardens", noting that this open space or meadow, "lies in a floodplain and the prospect of it being a properly managed environmental resource available to the community is appealing and worthy of further consideration". Freshwell Street, which leads to Freshwell Gardens and the appeal site is a very narrow single track street and is represented by numerous listed buildings principally from the 16th century. The listed wall to the gardens of Walden Place stretches from Freshwell Street alongside the public footpath which bounds the eastern edge of the appeal site.

11. The historic town centre is, for the most part, a densely built-up area. The appeal site is important and integral to the Conservation Area as it provides open views beyond the historic limits of development.
12. The proposed development would result in the loss of views of the open site from Freshwell Street and the approach to the site along Freshwell Gardens. Similarly, users of the public footpaths on the southern and eastern sides of the appeal site would be affected by the loss of openness, and, in particular, the setting of the listed wall to Walden House would be undermined by the proximity and scale of the proposed development.
13. Accordingly, I consider that the proposal would fail to preserve the character and appearance of the Saffron Walden Conservation Area and would cause less than substantial harm to its significance as a heritage asset.
14. I acknowledge there would be some identifiable public benefits arising from the proposal, including a net addition of 10 new apartments to the dwelling stock and the laying out of an area of publicly accessible open space, but I do not consider these benefits outweigh the great weight given to conservation in paragraph 196 of the NPPF.
15. I conclude the proposal would fail to preserve the character or appearance of the Saffron Walden Conservation Area and would cause less than substantial harm to its significance as a designated asset. The proposal would also be harmful to the settings of listed buildings in the vicinity of the site. In the absence of public benefits to outweigh this harm, it would be in conflict with Policies S7, GEN2, ENV1, ENV2 and ENV3 in the LP. These seek to ensure high quality of design, especially within Conservation Areas and the settings of listed buildings. The proposal also conflicts with the provisions and aspirations of the Saffron Walden Conservation Area Appraisal.

Access and parking

16. The provision for parking would be to the front of each arm of the L-shaped development on the northern and eastern sides of the site, with access to the site via an entrance close to the junction of Freshwell Street/ Freshwell Gardens. The Council are satisfied that the number of spaces proposed on-site (22 spaces vs a full requirement for 24 spaces) is adequate, bearing in mind the central location, proximity to services and facilities as well as the proximity of the nearby Swan Meadow car park.
17. Most of the parking spaces on the new development are of inadequate size and the means of access on-site gives insufficient space for turning and manoeuvring safely. This would be likely to have a harmful impact since this could increase pressures for on-street parking to the detriment of the highway and nearby residents. The narrowness of Freshwell Street would be likely to exacerbate any resultant problems.
18. I conclude that the proposed development would not make adequate provision for parking. It therefore conflicts with Policies GEN1 and GEN8 of the LP which aim to ensure adequate and safe provision for parking and access.

Other Matters

19. It is undisputed that the Council cannot currently demonstrate a five-year supply of deliverable sites for housing. However, I have identified significant

harm in relation to designated heritage assets and areas at risk of flooding, which provides a clear reason for refusing the development when considered in light of the most important policies of the development plan and the relevant policies of the Framework. Accordingly, while I have had regard to the various benefits that the development would bring, the tilted balance in paragraph 11 d)ii of the Framework is not engaged in this case.

20. The appellant has referred to 2 recent appeal decisions which also involve flooding issues. I consider that the circumstances in those appeals identified are materially different since they both involved strategic-scale proposals where the risks from flooding had been satisfactorily addressed. Therefore, I have come to my decision on this appeal on the merits of this case.

Conclusions

21. For the reasons stated above the appeal is dismissed.

David Carter

INSPECTOR