
Appeal Decision

Site visit made on 4 December 2019

by Anne Jordan BA (Hons) MRTPI

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

Decision date: 23 December 2019

Appeal Ref: APP/L2630/W/19/3231579

Land North of the Street, Ashwellthorpe, Norwich, NR16 1HD

- 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 P Muskett against the decision of South Norfolk District Council.
 - The application Ref 2018/2302, dated 15 October 2018, was refused by notice dated 21 December 2018.
 - The development proposed is six self build houses.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is made in outline form with all matters reserved. The proposal comprises the erection of 6 self-build units and contains an unnumbered plan showing a potential layout which is indicative only.

Main Issues

3. Accordingly, the main issues for the appeal are:
 - The effect of the proposal on protected species;
 - The effect of the proposal on the character and appearance of the area;
 - The impact of the proposals on the special architectural and historic interest of the Grade II listed building known as Red Squirrels.

Reasons

Protected Species

4. The site lies adjacent to Lower Wood Ancient Woodland, which is an SSSI. The application is supported by a Preliminary Ecological Appraisal (PEA)¹ which identifies, amongst other things, that the oak tree proposed for removal could provide a habitat for bats, and that the site also provides suitable habitat for Great Crested Newts (GCN) due to the proximity of ponds with the potential to support the species. As a result, the report recommends further survey work to establish the presence or otherwise of these species and any measures required for protection and mitigation.

¹ (BiOME Consulting; November 2018)

5. I share the view of the Council's Ecology Officer, that the survey provided in support of the application makes only an initial appraisal of the likely impacts. In order to ensure that development would not have an adverse impact on protected species, an appropriate survey which determines the extent to which protected species will be impacted and informs any potential mitigation measures should be carried out before the application is determined. Without this work it is not possible to establish that harm would either not occur or could be adequately mitigated.
6. Furthermore, the PEA states that the proposal would provide an appropriate buffer zone to the Ancient Woodland to the rear of at least 23m, which would exceed the minimum set out in the guidance². However, this assessment appears to be made of the basis of the indicative built footprint of the development, and the relevant guidance is clear that in order to prevent the future deterioration of Ancient Woodland the buffer zone should avoid including gardens. Whilst I appreciate that the plan is indicative, based on the evidence before me I am not persuaded that a scheme of 6 dwellings could be accommodated on site without having a significant proportion of the site given over to gardens within any buffer zone. I am therefore not convinced that a future development of 6 dwellings would not have an adverse impact on the adjoining SSSI which is an Ancient Woodland.
7. On the first matter I therefore conclude that as the application fails to establish that the proposal would not have an adverse effect on protected habitats and species, the proposal would conflict with guidance in the National Planning Policy Framework (the Framework) which advises that where development would lead to the loss of deterioration of irreplaceable habitats it should only be approved in exceptional circumstances where a suitable compensation strategy exists. It would also conflict with Policy DM4.4 of the South Norfolk Local Plan Development Management Policies Document (SNLP) and insofar as it is relevant Policy 1 of the Joint Core Strategy (JCS) which both have similar aims.

Character and Appearance

8. The site lies within a large gap in the frontage on The Street, a main thoroughfare which runs through Ashwellthorpe. Development along the road is varied in age and appearance. Along with some small well-spaced cul de sacs to the south of The Street the north side is predominantly made up of single dwellings in generous gardens which front the road. In some cases, views of open fields behind the dwellings are available in gaps in the frontage. The general size of dwellings and associated gardens, coupled with the open fields around the plots, gives a sense of space to development which is rural in character.
9. The proposal comprises 6 self-build dwellings. An indicative plan shows 2 plots located along the frontage with 4 to the rear. This layout seeks to retain some of the trees in the south-east corner which form part of the small coppice separating the site from the adjoining dwelling known as Red Squirrels. It also locates dwellings towards the front of the site in order to provide a buffer to the Ancient Woodland to the rear.

² <https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences#assess-the-impacts>

10. The identified constraints to a large extent predetermine the layout of development and any dwellings would need to be located toward the south and west of the site. Given the size of the remaining site a development of 6 dwellings would also need to be relatively tightly spaced. Therefore, although the density of development for a site of this size would not be particularly high, taking into account the site constraints I am not convinced that 6 dwellings could be comfortably accommodated. It would require an overly intensive form of development within the developable area which would appear at odds with the generally well-spaced rural character of the surrounding area. This would be evident in views into the site from The Street, particularly in the approach from the west where development on site would be visible across open fields. In these views the amount of development proposed would be likely to appear cramped and incompatible with the prevailing pattern of development in the village.
11. On the second matter I therefore conclude that the proposal would harm the character and appearance of the area and so would conflict with guidance in the Framework which seeks development which is sympathetic to local character and to resist development which fails to take the opportunities available to improve the character and quality of an area. It would also fail to comply with policies 1 and 2 of the JCS and policies DM1.4, DM3.8 and DM4.5 of the SNLP which together seek high quality development which makes a positive contribution to local character and distinctiveness.

Heritage Assets

12. Red Squirrels is a grade II listed building which sits to the east of the appeal site. Although parts of the structure date from the late 16th Century, it has been altered and extended over time. It sits on a moderately sized plot within the linear development which fronts The Street. However, its setting is largely enclosed and the adjoining wooded area to the east contributes to the secluded character of the site. Its significance lies predominantly in the antiquity of parts of its fabric and as a surviving example of a vernacular building of its type and age.
13. The wooded area which separates the appeal site from the curtilage does not form part of the application site. As such, the intimate setting of the asset would be undisturbed, and the site would maintain its sense of enclosure. Although wider views into the site would also encompass views of the proposed development, such views would also include the other existing development which adjoins the asset to the east. As the wider setting of the asset makes only a limited contribution to the significance of the asset, and would, in any case be only marginally affected by the development, I am of the view that the proposal would have a negligible effect on the significance of the asset. I am therefore satisfied that the proposal would comply with guidance in the Framework which seeks to preserve heritage assets for future generations, and I find no conflict with DM4.10 of the SNLP and with Policy 1 of the JCS, insofar as it relates to heritage assets, which both have similar aims.

Other Matters

14. The appellant has drawn my attention to the absence of harm arising from the proposal in relation to highway safety and residential amenity. Whilst I share the view that no harm would be likely to arise in either regard, these matters are nonetheless neutral factors which do not weigh in favour of the proposal.

15. I note the appellant's view in relation to the status of housing supply in the district. The proposal would make a contribution to housing provision and I am advised that there is a need for self-build housing in the district which the proposal would help to meet. This is a benefit which weighs in favour of the proposal. However, in this case I have found that the proposal fails to demonstrate that the adjoining SSSI and protected species would not be adversely affected. I consider that these provide a clear reason for refusing the development and having regard to paragraph 11d) of the Framework I am satisfied that the "tilted balance" should not be applied in this case. Therefore, even if I were to accept that there was a deficit in housing supply of the extent put to me by the appellant, the benefits to housing supply would not provide the exceptional circumstances needed to justify the harm that would arise to protected species from the proposed development.
16. It therefore follows that although the parties do not dispute that the development is in a relatively sustainable location, as it would lie outside the development boundary, and the benefits of the scheme would not outweigh the harm identified above, and the proposal would also conflict with policy DM1.3 of the SNLP.

Conclusion

17. The proposed development would not harm the setting of the adjoining heritage asset. However, the application has failed to adequately demonstrate that the development would not give rise to harm to local habitats and protected species. This matter alone is determinative. The amount of development proposed would also harm the character and appearance of the area.
18. Accordingly, having regard to all other matters raised, the appeal is dismissed.

Anne Jordan

INSPECTOR