
Appeal Decision

Site visit made on 28 May 2020

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th July 2020

Appeal Ref: APP/L2630/W/19/3241717

Land to the north of Garden Court, Loddon NR14 6LP

- 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 Laurel Wood Homes Ltd against the decision of South Norfolk District Council.
 - The application Ref 2019/0687, dated 20 March 2019, was refused by notice dated 26 July 2019.
 - The development proposed is the erection of four self-build detached dwellings and associated access points.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant submitted a revised Flood Risk Assessment (FRA)¹ and amended plans with this appeal, which mainly alter the height of the proposed dwellings, taking into account additional flood mitigation measures. The Council have had the opportunity to comment on the FRA and amended plans as part of this appeal. I am satisfied that interested parties have not been prejudiced and I have taken the FRA and amended plans into account in determining this appeal.

Main Issues

3. The main issues are the effects of the proposal on:
 - The character and appearance of the area;
 - Flood risk,
 - Biodiversity; and,
 - The living conditions of future occupiers with particular regard to privacy.

Reasons

Character and appearance

4. The appeal site lies off Garden Court, a cul-de-sac which forms part of an enclave of relatively recent housing. It is situated towards the end of the street near the junction with Filbert Road, flanked by housing on two sides,

¹ Which includes a sequential test and surface water drainage strategy

with fields to the rear. Despite the eminently rural surroundings of Loddon, the number and arrangement of houses on this estate, coupled with the presence of streetlights and tarmac roads, gives the area a suburban appearance.

5. The Council have informed me that, whilst the appeal site was intended to be used as public amenity space in association with the planning permission granted for housing on Garden Court², it has not been maintained as amenity space. They accept that any opportunity to enforce this requirement has long since expired. Moreover, the appeal site lies within the development boundary for Loddon, and I have no evidence before me to suggest that the land is subject to any designation or equivalent in the local plan due to its recreational or visual amenity value, and there is no indication that the appeal site functions as recreational open space.
6. It is put to me by the Council that an Inspector, in determining a previous appeal, found that the open nature of the appeal site was an important characteristic of the area. However, I have not been provided with a copy of the appeal decision and note that the decision was made some time ago (1987), at a time when the planning policy context was significantly different from today. To my mind, despite the appeal site's verdant appearance, generous width, and open character, it lies within the settlement boundary for Loddon, and amidst a run of other dwellings which front Garden Court and Filbert Road. Consequently, I find that the appeal site has a greater affinity with the housing that surrounds it, as opposed to the open countryside which lies to the rear, thus housing could be provided in a manner which complements the suburban residential character of the area.
7. However, it is imperative that new housing also comprises high quality design, which has regard to the local character, in accordance with the requirements of the National Planning Policy Framework (the Framework). Having regard to this, I saw that the properties towards the eastern end of the cul-de-sac have a traditional, rustic appearance and historic significance, reflected by their position within the Loddon and Chedgrave Conservation Area (CA). Whilst the appeal site lies at the opposite end of the cul-de-sac and outside the CA, the houses nearby generally reflect the modest form and traditional style of the vernacular buildings further along the street, despite their more recent age.
8. Despite the plot sizes as proposed being comparable with those nearby, the development would bear little resemblance to the existing houses on the street. Even taking into account the lowered roof height of the front projecting elements, the proposed dwellings would have an appreciable mass, be notably taller, and would display a fenestration pattern and overall appearance which would be at odds with dwellings on Garden Court. The facades of the dwellings taken together would appear incongruous in the street and their design would lack subtlety, contrasting with the more organic and restrained appearance of existing dwellings which are rooted in a more traditional style, reflective of Loddon's historic core. This harm would be exacerbated by the site's prominent location close to the junction with Filbert Road. Consequently, the houses would be visually intrusive in the street.
9. The development would therefore harm the character and appearance of the area. It would be in conflict with Policy 3.8 of the South Norfolk Local Plan Development Management Policies Document 2015 (DMP) which requires,

² Granted *circa* 1983

amongst other matters, that the scale, height, massing, form and appearance of development has a satisfactory relationship with its surroundings, including with regards to ensuring local context is considered so as to reinforce or create local distinctiveness. The development would also conflict with paragraphs 127 and 130 of the Framework in that it would fail to be sympathetic to local character and would fail to improve the character or quality of the area.

Flood risk

10. The site lies within Flood Zone 1 based on the Environment Agency flood maps which represents a low risk of flooding from rivers or the sea. However, there is no dispute between the main parties that the site lies in an area which has between low and high risk of surface water flooding³. Paragraph 155 of the Framework advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.
11. The possibility of surface water flooding on the appeal site represents an elevated flood risk and in such circumstances paragraph 158 of the Framework advocates a sequential approach to site selection, taking into account surface water and other sources of flooding⁴, in order to steer new development towards the lowest risk of flooding, highlighting that development should not be permitted if there are reasonably available sites in areas with a lower risk of flooding.
12. The appellant has submitted a sequential test which considers alternative sites across the entire district, including local plan housing allocations, sites on the Council's brownfield register, and other sites that could potentially accommodate housing. A large number of sites were considered, all of which were assessed as being unsuitable and were discounted for a variety of reasons. In short, the appellant considers that there are no reasonably alternative sites available for the proposed development.
13. However, when assessing whether there are reasonably alternative sites at a lower risk of flooding, in terms of a proposal for four dwellings, it is not appropriate to discount sites on the basis that planning permission has already been granted for more than four dwellings, or that site areas are much larger than required. The sequential test did not include sites in excess of 0.5ha, but I see no reason why the quantum and type of housing proposed here could not be accommodated within a larger allocation or site, and no such consideration has been given in this case. Furthermore, where sites have been discounted on the basis that they are 'unavailable', I do not know the extent to which enquiries have been made to ascertain their availability. Consequently, alternative available sites may exist.
14. In context of the Council's housing land supply position, the Council are able to demonstrate in excess of five years' worth of deliverable housing land. Moreover, the Council have confirmed that sufficient planning permissions to meet the demand for self-build and custom housebuilding have so far been provided, and I have no reason to consider that the figures provided by the Council do not reflect the requirements of the Act⁵.

³ According to the Environment Agency's Surface Water Flooding Map

⁴ Planning Practice Guidance Paragraph: 019 Reference ID: 7-019-20140306

⁵ The Self-build and Custom Housebuilding Act 2015 (as amended)

15. Ultimately, the aim of the sequential test is to steer development away from areas at highest risk of flooding. Given the Council's housing land supply position, and the inadequacies identified in respect of the sequential test, I am not persuaded that the quantum and type of development proposed in this case could not be located in zones with a lower risk of flooding.
16. I also note the submission of an exception test. However, as I find that the proposal fails the sequential test, the requirements of the Framework have not been met, and I do not need to consider the exception test or the drainage and flood risk mitigation measures proposed.
17. The development would represent an unacceptable flood risk as it would fail to address the requirements of paragraph 158 of the Framework as the appeal site is at risk from flooding, and it has not been demonstrated that there are no reasonably available sites with a lower risk of flooding which could provide the additional housing.

Biodiversity

18. The Council considers that the site and its surroundings may be capable of providing suitable habitat for wildlife. I note the appellant's assertion that the site is regularly mown and is not protected for its ecological value. Be that as it may, I saw on my site visit that the appeal site constitutes an undeveloped parcel of grassland which is surrounded by an assortment of trees and vegetation. Despite the presence of housing adjacent and opposite, the site backs onto a network of fields and vegetation, beyond which lies a river providing wider links to nearby habitat designations⁶. Therefore, taking on face value all that I have seen, the location of the site and its proposed use for housing could significantly affect biodiversity.
19. I am aware of the appellant's intention to provide mitigation through landscaping and other measures. However, paragraph 175 of the Framework is clear that mitigation should be based on the harm arising from a development and, to my mind, the proposed layout should be designed having regard to ecological constraints. In the absence of any information regarding the ecological value of the site, it is not possible to say with any certainty that the scheme would successfully integrate with the biodiversity that surrounds it, thus it could be significantly harmful to biodiversity.
20. As such, in the absence of suitably robust evidence to the contrary, I conclude that the development would be significantly harmful to biodiversity. It would fail to accord with Policy 1 of the Joint Core Strategy for Broadland, Norwich and South Norfolk 2011⁷ (Core Strategy) which, amongst other matters, requires that schemes minimise fragmentation of habitats and seek to conserve and enhance existing environmental assets.

Living conditions

21. No 10 Filbert Road includes habitable front facing windows which would generally face the garage, access, and rear extent of the garden of one of the proposed dwellings. However, No 10 is sufficiently set back in its plot so as to ensure that there would be no direct overlooking of the proposed garden area,

⁶ According to the appellant the appeal site lies 230m from the Broads Special Area of Conservation, Broadland Special Protection Area and Broadland Ramsar Site

⁷ Amendments adopted January 2014

nor direct views into any of the proposed dwellings, thus the privacy of future occupiers would be adequately protected. A detached dwelling also lies adjacent to No 10, but first floor habitable room windows face away from the appeal site, thus significantly limiting opportunities for overlooking sensitive areas of the proposed development, such as gardens and rooms within houses.

22. In conclusion, the proposal would not unacceptably harm the living conditions of future occupiers of the appeal dwellings. It would comply with Policy DM3.13 of the DMP which requires, amongst other things, that development ensures a reasonable standard of amenity for occupiers, including with regard to overlooking.

Other matters

23. The proposal would make a contribution to housing provision and the Council's requirement to provide serviced self-build plots in an accessible location. There would be benefits to the local economy during construction and indirect economic benefits through an increase in spending by future occupants. In connection with four dwellings and having regard to the Council's housing and self-build supply position, these considerations carry modest weight, insufficient to outweigh the harm I have identified.
24. I appreciate that a relatively recent planning application was refused on the appeal site, and the proposal is an attempt to address the previous refusal. However, I have assessed the scheme on its planning merits and find unacceptable harm for the reasons given.
25. There would be limited opportunities for overlooking of existing properties from any of the dwellings proposed due to the position of their windows which would generally face the street and undeveloped land to the rear. However, policy compliance in this respect carries neutral weight, and does not diminish the extent of the overall harm I have identified.

Conclusion

26. The proposal would not unacceptably harm the living conditions of future occupiers. However, it would be unacceptably harmful to the character and appearance of the area and biodiversity and would represent an inappropriate form of development in an area of flood risk. Therefore, the appeal is dismissed.

Matthew Woodward

INSPECTOR