
Appeal Decision

Site visit made on 15 March 2022

by David Spencer BA(Hons) DipTP MRTPI

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

Decision date: 21 March 2022

Appeal Ref: APP/V2635/W/21/3281138

Rose Villa, 314 Smeeth Road, Marshland St James PE14 8EP

- 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 D Woods against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 20/02106/O, dated 18 December 2020, was refused by notice dated 7 May 2021.
 - The development proposed is outline for 1 no. dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters of detail reserved for later consideration. The planning application was supported by a Design and Access Statement, a Flood Risk Assessment and an indicative site layout plan. The Local Planning Authority (LPA) determined the proposal on this basis. I have done the same.

Main Issues

3. The main issues in this appeal are as follows:
 - i) Whether the appeal site would represent a suitable location for the type of residential development proposed, including the effect on the character and appearance of this part of Marshland St James;
 - ii) The effect of the proposed layout and access arrangement on the living conditions of nearby residents, including future occupiers of the proposed dwelling, with particular reference to noise and disturbance; and
 - iii) Whether the proposal represents an acceptable form of development having regard to its flood zone location and the relevant provisions of the development plan and national planning policy.

Reasons

Suitable Location, including character and appearance

4. The appeal site is situated outside of the development boundary for Marshland St James as identified on the Policies Map as part of the Site Allocations and Development Management Policies Plan 2016 (SADMPP). Accordingly, the

appeal site, for the purposes of the development plan is in the countryside, where new housing is to be carefully managed and generally limited to types of housing requiring such a location. The appeal proposal would not comprise one of the types of housing identified in Policy DM2 of the SADMPP that would justify a countryside location. In the circumstances of this appeal the approach in Policy DM2 is consistent with the National Planning Policy Framework (NPPF) at paragraphs 11 a), 79 and 80 in terms of promoting sustainable patterns of development, including for rural housing.

5. Furthermore, the LPA can demonstrate through recent Housing Delivery Test results that there is a sufficient supply of deliverable housing land¹ to meet housing needs for at least the next five years. As such, the development plan policy framework, including Policy DM2 of the SADMPP, is delivering the required levels of homes needed in the Borough, and should be afforded full weight in this decision. Accordingly, the appeal proposal would result in significant harm by virtue of its location conflicting with the development plan, and the up-to-date development boundary.
6. The development boundary in this part of Marshland St James logically follows the strong linear pattern of predominantly residential development along this part of Smeeth Road. Whilst there is a range of single storey structures associated with the horticultural use at the appeal site, these utilitarian flat-roof buildings are not prominent and are clearly of a different character and form compared to the dwellings fronting onto Smeeth Road. The simple, plain appearance of the horticultural structures means they are experienced as ancillary buildings. There are other non-domestic buildings to the rear of dwellings elsewhere in this part of Smeeth Road and the farmyard complex opposite the appeal site entrance. As such the current pattern of development at the appeal site is not at odds with the character or appearance of this part of the village.
7. In contrast, the rearward position of the proposed dwelling would be harmfully incongruous with the established pattern of housing and residential curtilages in this part of Smeeth Road. The inappropriate back-land position of the dwelling would be visible from the existing access road and from the gap between Nos. 318 and 320 Smeeth Road. The perceptible depth of residential development arising from the appeal proposal would detrimentally erode the established linear arrangement of housing in this part of Smeeth Road.
8. The appellant has drawn my attention to other housing developments in the village as setting a precedent in support of the layout and position of the appeal proposal. In terms of the larger developments under construction at both Walton Road and School Road these are some distance from the appeal site and not part of the linear pattern of development on Smeeth Road described above. This significantly limits their applicability. In any event the development at Walton Road appears to be replicating the strong linear road frontage form redolent of development elsewhere in the village. In respect of School Road, the development here appears to be consolidating a small nucleus of development focused south of the crossroads, including the existing small housing estate at Hickathrift Field. The circumstances and context for these developments are therefore materially different to the appeal location and so they do not form a basis to justify the back-land position of the proposed

¹ 7.96 years in 2020

dwelling. With regards to the nearby former railway station location, a short distance to the east on Smeeth Road, the new dwellings on Signal Close clearly occupy a logical infill site between the former Station House and an established bungalow to the west. Again, this is materially different to the circumstances at the appeal site. I appreciate these dwellings are visible in the gap between the Station House and No.292 Smeeth Road but I am not persuaded that this uncommon depth of development should now set the pattern for new housing in this part of Smeeth Road where a one plot depth, linear layout still prevails.

9. I therefore conclude that the appeal site would not represent a suitable location for the type of residential development proposed and would have a significantly harmful effect on the character and appearance of this part of Marshland St James. As such the proposal by virtue of its location outside of the development boundary for Marshland St James would be contrary to Policy CS02 of the Core Strategy 2008 and Policy DM2 of the SADMPP. In terms of the harm to local character and appearance the appeal proposal would be contrary to Core Strategy Policy CS08 and Policy DM15 of the SADMPP. These policies require development to respond sensitively and sympathetically to the context and character of places in West Norfolk including local setting and pattern of adjacent development. On this matter, the proposal would fail to accord with the objective of national planning policy to achieve well-designed places, including at paragraphs 126 and 130 a), b), c) and d) of the NPPF.

Living Conditions

10. The proposed dwelling would be accessed via an existing driveway which passes directly and closely between the bungalows at Nos. 314 and 316 Smeeth Road and serves the existing horticultural premises. From the plans submitted by the LPA, the bungalow at No.314 has openings serving bedrooms and a lounge which face directly towards the driveway. Whilst the bungalow at No.316 does not have openings on the flank elevation adjacent to the access, there are nonetheless windows on the front and rear elevations very close to the gable end of the property. Consequently, vehicle movements associated with the appeal proposal would pass close enough to generate a level of noise and disturbance that would harmfully affect the living conditions at both properties, including in the quiet rear garden areas.
11. The boundary to No.316 comprises of timber fencing although this is relatively low closer to the front of the property. The indicative site plan shows a 1.8 metre timber fence to be erected alongside the boundary to No.314. Due to the tight arrangement of the proposed dwelling and the access road, boundary fencing, in my view, would only provide limited mitigation from the noise and intrusion of vehicle manoeuvring in the generally quieter area to the rear of these dwellings, especially at night. There would be no reasonable control over the comings and goings from the property and this is likely to be materially different to the frequency and timing of vehicle movements generated by the existing business use, which the appellant describes as being used on an adhoc basis, as a satellite site to the main business operation in Snettisham.
12. Whilst the appeal proposal would remove an existing office and packing sheds associated with the business, the appellant identifies that part of the existing use would be retained at the wider site, albeit as a "quasi agricultural use", which it is submitted would not generate significant traffic movements. Given that the appellant also submits that the future use of the remainder of the site

remains to be established, I share the assessment of the LPA that it is somewhat equivocal as to whether the appeal proposal would result in a material reduction in vehicle movements associated with the business at the wider site. Moreover, any access to the remaining land and polytunnels would involve vehicle movements very close to the proposed dwelling to the significant detriment of the living conditions of future occupiers.

13. I therefore conclude the proposed access arrangement would have a significantly harmful effect on the living conditions of nearby residents and future occupiers of the proposed dwelling, with particular reference to noise and disturbance. As such, the appeal proposal would be contrary to Policy DM15 of the SADMPP which seeks to prevent development that would have a significant adverse impact on the amenity of others. It would also fail to accord with NPPF paragraph 130 f) which secure a high standard of amenity for existing and future users.

Flood Risk

14. The appeal site is within Flood Zone 2 as identified in the LPAs Strategic Flood Risk Assessment 2018 (SFRA)². The overarching approach as set out in the NPPF and associated Planning Practice Guidance is to sequentially steer development to areas with the lowest risk of flooding, including withholding planning permission where there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Where it is not possible for development to be located in areas with a lower risk of flooding the exception test is to be applied, with NPPF paragraph 165 making clear that there are two aspects to the test, both of which must be satisfied. Firstly, there would need to be wider sustainability benefits to the community which would outweigh the flood risk. Secondly, the development will need to be safe for its lifetime (and not increase risk of flooding elsewhere).
15. I have considered the appellant's Flood Risk Assessment (FRA) (updated April 2021), supplemented by the appellant's statement of case and references to property searches, which advocate that there are no available allocated sites within Marshland St James that offer a lower level of flood risk and therefore the appeal development is considered to pass the Sequential Test. In respect of the sequential test, the LPA directs me to evidence of land allocated for residential development in Marshland St James in the SADMPP in a part of village which the LPA submits is Flood Zone 1. I observed that whilst part of the SADMPP allocation (Site G57.2) has been developed, more than half remains undeveloped. As such there is a reasonably available site, which has been determined through the plan-making process, to be appropriate for housing development in the village. On this basis, the sequential test has not been passed.
16. Even if it could be demonstrated that the remaining land at the SADMPP housing allocation (Site G57.2) was not available and taking it into the appellant's evidence at Section 5.2 of the updated FRA that the appeal proposal could be made safe over its lifetime, the first aspect of the exception test at NPPF paragraph 164 a) would be problematic for the appellant to satisfy in this case. As set out above, housing needs in the Borough are being amply met, including what appears to be a healthy level of housing under construction at

² Noting the appellant's updated FRA identifies the site within defended Flood Zone 3 on Environment Agency mapping (December 2020)

various sites in areas of lower flood risk around Marshland St James. There would be only very limited social and economic sustainability benefits to the village from the proposed dwelling. Notwithstanding the existing buildings on the site, there would be no notable environmental benefits and in terms of local character there would be significant harm. Accordingly, the appeal proposal would not provide wider sustainability benefits to the community, noting the objection from the Parish Council, and so the proposal would not pass the exceptions test.

17. I therefore conclude that the proposal would not represent an acceptable form of development having regard to its flood zone location. It would be contrary to provisions of the development plan and national planning policy. This includes Core Strategy Policy CS08 which confirms that the SFRA will be used to guide developments away from areas of high flood risk and reflects the sequential and exceptions tests in national policy. It would also be contrary to NPPF paragraphs 159-165 on planning and flood risk, including specifically the need to apply a sequential, risk-based approach to the location of housing development as set out in NPPF paragraphs 161-162. Whilst I note the Environment Agency have raised no objection, they defer to the LPA to apply the sequential test. The LPA in this case has applied the sequential test appropriately, utilising its latest SFRA, which paragraph 162 of the NPPF states is the basis for applying the test.

Conclusion

18. In the main issues for this appeal, the proposal would be contrary to the relevant and up-to-date policies of the development plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The very modest social and economic benefits arising from an additional single dwelling are not material considerations sufficient to override the clear conflict with the development plan. As set out above, other nearby housing developments do not set a precedent to approve the appeal proposal.
19. I have taken into account all other matters raised but there is nothing other that leads me to conclude that the appeal be dismissed for the reasons given.

David Spencer

Inspector.