
Appeal Decision

Site visit made on 5 August 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022.

Appeal Ref: APP/K2610/W/22/3295091

48 Mansel Drive, Old Catton, Norwich, NR6 7NB

- 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 R A G Bailey against the decision of Broadland District Council.
 - The application Ref. 20212183 dated 22 November 2021, was refused by notice dated 27 January 2022
 - The development proposed is the erection of a single storey dwelling.
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Decision

1. The appeal is dismissed

Preliminary matters

2. The application was in outline with all matters reserved for later consideration. The red line plan shows the site connecting with the road between the donor dwelling (48 Mansel Drive) and the neighbouring house at No. 52. There is also a plan in 6 segments that shows a number of possible positions for the proposed dwelling and its access and turning heads in the site. Clearly these are simply indications of the various ways in which the site might be laid out.

Main Issues

3. The main issues in this case are: i) the effect of the proposal on the character of the area; and ii) the effect of the proposal on the living conditions of neighbouring occupiers.

Reasons

4. The plot, which is the rear part of the garden of 48 Mansel Drive, is located to the northwest of the two-storey donor dwelling. To the north and west are two storey properties located on Oak Lane. The neighbour to the south (No. 52 Mansel Drive) is a detached house with an extensive rear garden. There is a bungalow with rooms within the roof space to the east (No. 46). The plot is located in a residential area of Old Catton within the settlement boundary.
5. The existing access to No.48 Mansel Drive would be used to serve both the plot and the existing dwelling. In order to access the plot an attached garage would be removed and the driveway extended along the southern boundary of the site. The land declines steeply beyond the rear of 48 Mansel Drive and then levels off.

6. The starting point is the development plan, in addition to which, the National Planning Policy Framework (the Framework) is a material consideration of substantial weight. The development plan for the area comprises the Joint Core Strategy, adopted in 2011 with amendments adopted in 2014 (JCS), the Development Management, Development Plan Document adopted in 2015 (DMDPD), and Old Catton Neighbourhood Plan (CNP) made in 2016.
7. The policies referred to in the refusal reasons are well known to the parties, and therefore do not need to be set out here in full. Policy 2 of the JCS states that "all development will be designed to the highest possible standards, creating a strong sense of place, in particular proposals will respect local distinctiveness". DMDPD Policy GC4 (i) requires proposals to pay adequate regard to the character and appearance of an area to avoid any significant detrimental impacts. Policy 7 of the CNP seeks the delivery of high quality design in new development.
8. These policies are in line with Framework paragraph 124 (d) that states that decisions should take into account the "desirability of maintaining an area's prevailing character and setting (including residential gardens) and paragraph 130 requires developments to add to the overall quality of the area and be sympathetic to local character and add to a sense of place.
9. The site is within the built up area of Old Catton, within its defined settlement boundary and in a sustainable position with regard to services and facilities meeting everyday needs. Therefore new residential development is acceptable in principle. However, the appeal proposal must be assessed against the issues that I have identified above.

The effect of the proposal on the character of the area

10. The appellant explains that there is a gap in the house numbering, with the adjoining dwelling to the south being numbered 52, and there being currently no number 50. It is said that the appeal site was always intended to be developed as No.50, but it is not explained how the original developer intended the extra dwelling to be accessed. There is no other dwelling set behind frontage property in Mansel Drive. It could have been the intention to continue the development of Swinbourne Close, since the contour line at the rear of the dwellings on the eastern side of the Close continues to line up with the south-eastern boundary of the appeal site. However, that possibility was closed off with the construction of the final dwelling at No.8 Swinbourne Close. I therefore give very little weight to this contention.
11. Irrespective of the point made in the paragraph above, the whole character of Mansel Close derives from substantial, mainly 2 storey houses set on a generally consistent building line. Whilst a bungalow on the appeal site would not be evident in the streetscene, inevitably there would be clear evidence of the additional use of an access running through to the rear that is not a feature of the estate. I do not find that 8 Swinbourne Close, to the south-west of the appeal plot, having a road frontage similar to other dwellings in Swinbourne Close, is comparable with the setting of the appeal site as is suggested. I also consider that the matters that I have dealt with under the second issue below, also run to the matter of the character of the area. The appeal proposal would have an unacceptably harmful effect on this character.

The effect of the proposal on the living conditions of neighbouring occupiers

12. The development in Mansel Drive consists mainly of 2 storey family dwellings, although No. 46 to the right of the donor property is chalet bungalow. In respect of this bungalow, I am satisfied that the proposal would not be harmful to the living conditions of the occupants, since it is away from the position of access, and there is good foliage screening between it and the appeal site. The dwelling at No.52 is set close to its boundary with No. 48, and there are clearly living rooms on this side of the house. With the removal of the garage to the host property, there is a substantial gap of more than a single attached garage width.
13. Nevertheless, the new access would be at close quarters to the occupants of No.52 and that part of their private garden immediately at the back of the house. I appreciate that this house has a sizeable rear garden, but I consider that there would be considerable intrusion on the living conditions of these neighbours from the additional household that would access the rear plot. This is not a change of circumstances that it is reasonable to expect in a rather close-knit, well established development such as here.
14. I also consider that the houses at the back of the appeal site in Oak Lane would experience undesirable effects from the proposed development. The nature of the access and its initial incline down to the main part of the appeal plot would mean that a degree of loss of privacy would be experienced and at night vehicle headlights could be most disturbing to the residents' wellbeing. I appreciate that a drive for the donor dwelling, down to the lower level, could be constructed without the need for express planning permission, but that does not alter my view about the proposed development. In addition, the new dwelling would bring additional noise and disturbance, and an unwelcome element in the outlook from first floor windows. Whilst there is no entitlement to a particular view, it is reasonable to expect existing living conditions not to be affected in this way in a well-established residential area. I do not accept that there would be any unacceptable loss of privacy from a single storey building with adequate fencing, although I have already identified such loss from the nature of the access.

Other matters

15. There are a number of policies in the Framework that are also brought to my attention; including paragraphs 10, 11, 38, 60, 62, 69, 119, 120, 124, 126, and 130, which I have noted and taken into account.
16. The main points of relevance in these paragraphs are the presumption in favour of sustainable development, that decision makers should seek to approve applications for sustainable development, the need for a significant boost in the supply of homes having regard to the needs of different groups, that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, that policies and decisions should promote an effective use of land for homes and other uses, that decisions should take into account the desirability of maintaining an area's prevailing character and setting (including residential gardens) and that developments should add to the overall quality of the area, be sympathetic to local character

and add to a sense of place. None of these matters acts to alter my view of the acceptability of the proposal.

17. In its response statement, the council draws attention to the fact that, following advice from Natural England, it would be necessary to undertake a Habitat Regulation Assessment (HRA) before an application could be approved. This is due to the impact of nutrients on Habitats Sites which are already in unfavourable condition due to nitrates and phosphates. When undertaking an HRA, at the screening stage, proposals should only be granted consent where it is possible to exclude, on the basis of objective information, that the proposal will have significant effects on the sites concerned. Since I am dismissing the appeal and not granting planning permission, this matter need not be considered further.

Conclusions

18. In my reasoning above I have found that there would be clear evidence of the additional use of an access running through to the rear that is not a feature elsewhere on the estate and that the appeal proposal would have an unacceptably harmful effect on the character of the area. Furthermore, the new access would be at close quarters to the occupants of No.52 and the part of their private garden immediately at the back of the house, resulting in a considerable intrusion on the living conditions of these neighbours from the additional household that would access the rear plot. This is not a change of circumstances that it is reasonable to expect in a rather close-knit development such as here. I have also found that the houses at the back of the appeal site, in Oak Lane, would experience undesirable effects from the proposed development.
19. I have noted the conditions suggested by the council in the event of the appeal being allowed, however these conditions would not serve to make the development acceptable in terms of the matters that have led to my decision.
20. For these reasons the appeal proposal is contrary to the aims of the policies referred to in paragraph 7 above and therefore I will dismiss the appeal.

Terrence Kemmann-Lane

INSPECTOR