
Appeal Decision

Site visit made on 28 June 2022

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2022

Appeal Ref: APP/W3520/W/21/3285874

The Acorns, Nursery Gardens, Wetheringsett Cum Brockford IP14 5NX

- 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 Ms Amanda Dossett against the decision of Mid Suffolk District Council.
 - The application Ref DC/21/03976, dated 13 July 2021, was refused by notice dated 28 September 2021.
 - The development proposed is described as "full planning application proposing the erection of a new build dwelling and cart lodge on excess garden amenity land serving The Acorns, Nursery Gardens, Brockford Street, Brockford, Suffolk, IP14 5NX".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect on the character and appearance of the surrounding area; and
 - the effect on the living conditions of neighbouring properties with specific regard to enclosure and overlooking.

Reasons

Character and Appearance

3. The appeal site is part of the large rear garden of The Acorns which sits to the rear of the properties at No 1 and No 3 Nursery Gardens. Access to the site would be taken from the existing access to the A140 and an existing track between The Acorns and No 3.
4. There is an irregular layout to the built form of Nursery Gardens which is a development clustered around the shared access from the A140 (The Street), with the exception of Dhekelia which sits in proximity to the A140. There is a clear distinction between the built form and layout of The Acorns and Red Oak House and the remainder of this development as they are positioned close to the turning head of the cul-de-sac and are within spacious plots whereas the other dwellings are relatively smaller and in more compact plots but landscaped front gardens to the cul-de-sac. From this layout the order in which Nursery Gardens was developed is not obviously apparent. What is significant is the way the dwellings (other than Dhekelia) can be seen from the shared access.

5. The appeal proposal would extend this built area into the rear garden of The Acorns which extends behind the gardens of Nos 1 and 2. The dwelling would be accessed via the long, narrow access track which is between the garage at the front of The Acorns and the hedge on the boundary with No 3. This would mean that the dwelling would not be seen from the estate road but would be concealed behind other buildings in a very different way to the majority of the existing dwellings. This would be at odds with the prevailing character of this cluster of dwellings and would be an unsatisfactory form of development, contrary to the established pattern and form of development in the area.
6. Both parties have referred me to the previous scheme for the erection of 2 dwellings on the site which was dismissed on appeal¹. The scheme before me has involved a reduction in dwellings and with more detail provided. However, this does not alter my views on the impacts of this proposal.
7. I conclude in relation to this main issue that the proposal would have a harmful impact upon the character and appearance of the surrounding area. It would not be consistent with the existing pattern and form of development, would not have an acceptable relationship with its surroundings which would materially and detrimentally affect the character and appearance of the area. In these respects, the proposal would not comply with to Mid Suffolk Local Plan September 1998 (MSLP) Policies GP1, H13, H15 and H16.

Living Conditions

8. No 3 Nursery Gardens is a single storey dwelling with a steeply pitched roof to allow accommodation in the roofspace. There is a gradual incline which places the appeal site at a slightly higher level than No 3. While only slight, when combined with the proximity of the appeal proposal to the boundary and its overall scale, there would be an increase in the sense of enclosure to No 3. While the appeal proposal has been set at an oblique angle, there would be a perceived increase in being overlooked which would be harmful to the living conditions of neighbouring occupants.
9. I conclude in relation to this main issue that the appeal proposal would have a detrimental impact on the living conditions of No 3 Nursery Gardens due to the increased sense of enclosure and perception of overlooking. It would materially reduce the amenity and privacy of No 3 Nursery Gardens contrary to MSLP Policy H16.

Other Matters

10. There is acceptance by both parties that there are policies in the development plan that may be out of date, although there is dispute as to whether these are policies which are most important for determining the appeal. This partly comes from the stance that previous Inspectors have taken in the area and regarding this site as recently as 2021. There have been no changes in local policy or circumstance since that time, however an updated version of the Framework was published in July 2021, after the previous appeal was determined.
11. Paragraph 11d of the National Planning Policy Framework (the Framework) states that where the policies which are most important for determining the application are out of date, permission should be granted unless any adverse

¹ APP/W3520/W/20/3263277 dismissed 28 April 2021

impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Paragraph 219 of the Framework also confirms that existing policies should not be considered out of date simply because they were adopted prior to its publication. Due weight should be given according to their consistency with the Framework.

12. The planning application was refused on the basis of the main issues above, in short, the effects on living conditions and the effects on character and appearance. The most important policies for determining this appeal are therefore those referred to above: MSLP Policies GP1, H13, H15 and H16. These policies are consistent with the advice of paragraph 126, which seeks the creation of high quality, beautiful and sustainable buildings and places. Paragraph 130 of the NPPF requires developments to be, among other things, visually attractive and sympathetic to local character. The proposal does not comply with this advice from the Framework, for the reasons as set out in relation to the main issues.
13. The site is in a location where it would be capable of enhancing or maintaining the vitality of the rural community and therefore would support the aims of paragraph 79 of the NPPF.
14. It is not disputed that the Council can demonstrate well in excess of a five year housing land supply. Nonetheless, national policy remains to significantly boost the supply of housing and there is a small but significant benefit from the provision of an additional dwelling close to a settlement with varied facilities. There would also be economic benefits arising from the construction of the dwelling and ongoing expenditure of residents as well as biodiversity net gains. I give these benefits limited weight.
15. The dwelling would include some low carbon energy generation but this limits the impact of the development and is therefore a neutral factor.
16. The appellant has provided a copy of other appeal decisions in support of their case. That was for a different proposal in a different local authority to that before me. I have considered this appeal on its own merits but do not consider that I have been inconsistent with the broad principles set out in those decisions.
17. The Council has referred to The Griffin, a Grade II Listed Building further to the south of the appeal site, while the appellant has referred to the Wetheringsett Cum Brockford Conservation Area and considers that the site is not in proximity to any Listed Buildings. As this appeal fails for the reasons I have identified above, I have not gone on to consider this matter with regard to the statutory tests contained within s66(1) or s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning Balance

18. Notwithstanding what I have set out above about the consistency of the most important policies for the making of this decision with the Framework, both parties agree that other policies are not consistent with its advice. In the previous appeal decision on this site, the Inspector agreed with that position. The Council and appellant refer to Mid Suffolk District Core Strategy Development Plan Document (MSCS, adopted September 2008) Policies CS1

and CS2. Policy CS1 provides a settlement hierarchy and defines the rest of the district as countryside although allows for, amongst other things, other development that supports the rural economy, meets affordable housing and community needs. This at least is consistent with paragraph 79 of the Framework. Policy CS2 provides a list of developments that will be accepted although it is not a closed list and requires consideration of other policies.

19. Planning decisions should be taken in accordance with the development plan unless material considerations indicate otherwise. I have concluded that the appeal proposal would be contrary to the development plan when read as a whole.
20. Even if I do not give Policies CS1 and CS2 any significant weight and consider the proposal on the basis of the advice in paragraph 11d of the Framework, the adverse impacts of the proposal as I have identified above, significantly and demonstrably outweigh the limited benefits of the appeal proposal I have identified, when assessed against the policies in the Framework taken as a whole.

Conclusion

21. For the reasons given, the appeal would conflict with the development plan. There are no material considerations, including the policies of the NPPF, that would indicate a decision otherwise than in accordance with the development plan should be taken. The appeal is therefore dismissed.

J Downs

INSPECTOR