



Appeal Decision

Site visit made on 8 November 2022

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Appeal Ref: APP/F3545/W/22/3297324

Nowell Lodge, Fordham Road, Newmarket CB8 7AQ

- 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 Mr M Rogerson of Fen Developments (Ely) Ltd against the decision of West Suffolk Council.
 - The application Ref DC/21/0604/FUL, dated 16 March 2021, was refused by notice dated 11 November 2021.
 - The development proposed is for the construction of one dwelling, as amended by plans received 21 October 2021.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of one dwelling at Nowell Lodge, Newmarket CB8 7AQ in accordance with the terms of the application, Ref DC/21/0604/FUL, dated 16 March 2021, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The proposal was amended during the course of the planning application process, reducing the amount of housing and altering the type of dwellings to be delivered on site. I have therefore used the development description cited on the Council's Decision Notice.

Main Issues

3. The main issues in this appeal are:
 - The proposals effects on the character and appearance of the area; and
 - Whether the proposed dwelling would provide adequate living conditions for future occupants, with particular regard to outlook and refuse facilities.

Reasons

Character and appearance

4. The appeal site is located within the grounds of Nowell Lodge, a modern, high quality, apartment block. The proposal would involve the construction of a bungalow within a broadly square-shaped plot located to the rear of the apartments.
5. From my site visit I found the plot is presently unused and vacant. The plot is enclosed and offers no meaningful amenity or recreational value to existing

occupants of Nowell Lodge. 1.8m close boarded fencing runs along the front and rear boundaries. A tall, maintained hedge forms one-side boundary, with a mixed hedgerow located along the other. The clear, level plot contains no existing structures or distinctive features and is screened from view by its tall boundary treatments.

6. The appeal site adjoins Fordham Road, a primary entrance into the town of Newmarket. Fordham Road is a long, straight route flanked by mature trees, hedges and road verges which contribute a green, sylvan character. Fordham Road is generally characterised by large, detached dwellings, situated on generous plots which are set back from the highway. However, the modern apartment block and large, modern care home are dominant features within the area immediately surrounding the appeal site and contrast with the prevailing character of the area. The appeal plot is not visible from Fordham Road, and as such makes little contribution to its character. The proposed development would not therefore alter the domestic and tree lined character of Fordham Road.
7. There is a clear relationship between the Nowell Lodge site and the appeal plot. Located behind Nowell Lodge's large ornate gates, within its tall boundary treatments and through sharing the same access road, the proposed dwelling would appear as part of the Nowell Lodge development. Notably, the existing access road running through the grounds of Nowell Lodge has been purposefully designed to access the plot, continuing beyond the apartment block's car parking area and up to the plot's boundary. In addition, the proposed dwelling would be constructed using materials which would match those used on the exterior of the apartments. Development of the plot would not therefore disrupt the coherent layout of the Nowell Lodge site, would not appear contrived and would relate positively to surrounding development.
8. The grounds of Nowell Lodge appear landscaped, with grassed areas and planted borders, and consists of high-quality materials which contribute to the area's appearance, such as brick weave parking spaces and timber cladding at the bin store. An area of grassed amenity space is situated between the plot and the apartment block's parking area with a cycle store located at one end. The amenity space along with the planted borders provide further visual separation between the plot and the parking areas and cycle store, and as such these structures would not appear excessively dominant within the proposed dwelling's setting.
9. The proposed L-shaped bungalow would occupy most of the appeal site plot, with a modest garden area provided at the front of the dwelling. The side and rear elevations would be positioned close to the plot boundaries. Likewise, the apartments at Nowell Lodge are set within small gardens and surrounded by narrow borders. The proposed dwelling's position within the plot would not therefore appear uncharacteristic or out of keeping with the layout or grain of surrounding development.
10. I find therefore, the proposal would not give rise to harm to the character and appearance of the area. As such, it would accord with Policies DM2 and DM22 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (JDMPD) which requires residential development proposals to maintain and respect local character, including

through employing designs that are specific to the scheme and by contributing to a coherent and legible place that is visually interesting.

11. In addition, the proposal would accord with the design requirements set out at paragraph 130 of the National Planning Policy Framework (the Framework), which requires planning decisions to ensure developments will function well and add to the overall quality of the area and be visually attractive as a result of good architecture and layout.

Living conditions

12. Windows located on the north and east facing elevations would have limited outlook due to their close proximity to the site's boundaries. However, this would be compensated by the extensive south-facing section of glazing, and west-facing window on the front projection, which would enjoy outlook over the dwelling's garden.
13. The dwelling's outlook would not be adversely affected by the apartment block's car parking and cycle store areas which, from the perspective of occupants of the dwelling, would be concealed by the plot's boundary fence.
14. The Council has raised concerns regarding the distance occupants of the proposed dwellings would need to transport refuse bins for collection from the public highway. The existing bin store serving Nowell Lodge is also set back some distance from the highway and therefore the experience of occupants of the appeal site would be similar to that of occupants of the apartments and therefore appears satisfactory.
15. In conclusion, the proposed dwelling would provide suitable living conditions for future occupants, with particular regard to outlook and refuse collection, and would therefore accord with JDMPD Policy DM2 which requires proposals to incorporate appropriate refuse facilities and would not conflict with paragraph 130 of the Framework which requires planning decisions to ensure new development to provide a high standard of amenity for future users.

Other Matters

16. Issues relating to the outlook and privacy of occupants of neighbouring dwellings have been drawn to my attention. These issues are largely identified and considered within the Council's delegated report, and it is noted that the Council did not consider these were reasons to refuse the application. I have been provided with no substantive evidence which would prompt me to disagree with the Council's conclusions on these matters. As such, whilst having regard to the concerns expressed by local residents, I give these factors limited weight.

Conditions

17. The Council has supplied a list of conditions which I have considered carefully against the Framework's tests. I have attached a condition specifying the approved plans in the interests of providing certainty.
18. The plans indicate that the root protection area for a tree located within the garden of neighbouring property 'Aldene' extends into the appeal site. JDMPD Policy DM13 seeks to protect existing landscape features and paragraph 174 of the Framework recognises the benefits from natural capital such as trees. A

condition requiring the submission and written agreement to a Tree Protection Plan and Arboricultural Method Statement prior to commencement of development is necessary to ensure that existing trees are adequately protected prior to any ground disturbance.

19. In the interests of highway safety, a condition is necessary to ensure that sufficient space for the on-site parking of vehicles is provided and maintained. In addition, a condition requiring details of the storage areas for refuse and recycling bins is required to ensure that bins are not stored on the highway causing obstruction and dangers for other users.
20. To safeguard the living conditions of the occupants of surrounding dwellings, I have included a condition which specifies the hours that construction and related activities may take place. To provide suitable living conditions for future occupants of the development, a condition is necessary which specifies the levels of sound insulation required to mitigate internally generated noise.
21. To ensure the proposal meets sustainability requirements of JDMPD Policy DM7 and conserves water supply in accordance with paragraph 153 of the Framework, the higher standard for implementation of water efficiency measures set out in the Building Regulations is required. I have therefore specified this requirement in a planning condition.
22. To secure biodiversity enhancements commensurate with the scale of the development in accordance with JDMPD Policy DM12 and paragraph 179 of the Framework, I have included a condition requiring the development to put in place the recommendations of the preliminary ecological appraisal. To ensure the planning conditions are kept to minimum, as required by paragraph 56 of the Framework, I have combined the Council's two suggested conditions relating to ecological measures into a single condition, by requiring the appellant to seek the Council's written approval of the timescale of the implementation of such measures.
23. I have not included the Council's suggest condition to secure the provision of charging facilities for electric vehicles as, at the time of my decision, such facilities are required by Building Regulations. The condition is therefore no longer necessary.

Conclusion

24. For the reasons given above, the proposal would accord with the development plan taken as a whole and therefore I conclude that the appeal should succeed.

E Dade

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2021-010-007 A, 2021-010-008 A.
- 3) Prior to commencement of development a detailed Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS), in accordance with *BS 5837:2012 - Trees in relation to design, demolition and construction – Recommendations*, shall be submitted to and approved in writing by the Local Planning Authority.

The TPP shall show the extent of root protection areas, details of ground protection measures and fencing to be erected around retained trees, including the type and position of these. The protective measures contained within the scheme shall be implemented prior to commencement of any development, site works or clearance in accordance with the approved details and shall be maintained and retained until the development is completed. The AMS shall include details of all construction measures within the root protection areas of those trees on and adjacent to the application site which are to be retained specifying the position, depth, and method of construction / installation / excavation of any foundations, service routes, hard surfaces or boundary treatments. The TPP and AMS shall include a schedule of monitoring and a programme of arboricultural supervision by a suitably qualified arboriculturalist. The development shall be carried out in accordance with the approved TPP and AMS.

- 4) The development hereby permitted shall not be occupied until the areas within the site shown on Drawing No. 2021 / 010 - 007A for the purposes of manoeuvring and parking of vehicles has been provided and thereafter those areas shall be retained and kept available at all times for those purposes.
- 5) The development hereby permitted shall not be occupied until details of the areas to be provided for storage and presentation of refuse/recycling bins have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out prior to occupation and shall be retained thereafter for no other purpose.
- 6) Site preparation and construction work, including deliveries to the site and the removal of excavated materials and waste from the site shall take place only between the hours of 08:00 to 18:00 Mondays to Fridays and between the hours of 08:00 to 13:00 on Saturdays and at no time on Sundays, Bank or Public Holidays.
- 7) The acoustic insulation of the dwelling shall be such to ensure noise levels, with windows closed, do not exceed an LAeq (16hrs) of 35dB(A) within bedrooms and living rooms between the hours of 07:00 to 23:00, and an LAeq (8hrs) of 30dB(A) within bedrooms between the hours of 23:00 to 07:00.
- 8) The dwelling hereby approved shall not be occupied until the requirement for water consumption (110 litres use per person per day) in part G of the Building Regulations has been complied with.

- 9) The dwelling hereby approved shall not be occupied until all biodiversity enhancement measures and/or works have been carried out in accordance with the details contained in the Preliminary Ecological Appraisal dated 19 May 2021 prepared by Greenlight, with details of the timescale for installation having been submitted to and approved in writing by the Local Planning Authority. All such measures shall be installed in accordance with the agreed timescales and thereafter retained as so installed.