



Appeal Decision

Site visit made on 22 August 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2023

Appeal Ref: APP/L2630/W/22/3309690

Land at Cemetery Lane, Wymondham NR18 0JX

- 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 C and J Hawkins against the decision of South Norfolk District Council.
 - The application Ref 2021/2413, dated 27 October 2021, was refused by notice dated 27 April 2022.
 - The development proposed 2no new 3-storey 3-bedroom dwellings with associated parking and pedestrian footway.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development provided on the application form, the appellant has confirmed that the proposal comprises two three-bed dwellings as opposed to four-bed dwellings. I have altered the description accordingly for the purposes of this appeal.
3. The appeal site is located within Wymondham Conservation Area (CA). The Council's reasons for refusal include reference to Local Plan¹ Policy 4.10, which relates to heritage.
4. However, the Council's evidence was not particularly clear on whether harm was alleged in this regard. Under section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am obliged to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. For this reason, I have afforded both main parties sufficient opportunity to make representations in relation to the effect of the development on the CA and I have taken these into account.

Main Issues

5. The main issues are:
 - The effect of the proposed development on the character and appearance of the Wymondham CA.
 - Whether the appeal site is a suitable location for the proposed development, having regard to the Council's strategic approach to the location of new residential development.

¹ South Norfolk Local Plan Development Management Policies Document, October 2015

- The effect of the proposed development on the integrity of European Sites.

Reasons

Conservation Area

1. The evidence before me indicates that the CA primarily derives its significance from its historic function as a market town and the proliferation of historic buildings, particularly in the town centre. The appeal site is located on Cemetery Lane, which the CA Character Appraisal and Management Plan (2012) outlines is an attractive leafy lane. It links the 19th Century ornamental cemetery with the nearby 19th Century Train Station. This part of the CA is notable for the prevalence of flintwork, including a retaining wall which runs along a large section of Cemetery Lane.
2. The appeal site is a relatively narrow strip of land which is located to the west of the cemetery. There are several terraced dwellings to the north of the appeal site. There are also several dwellings located to the south, beyond the railway line. However, the appeal site is visually separated from these buildings, given the narrow and verdant nature of this part of the lane. Indeed, whilst I accept that existing vegetation within the appeal site is not particularly attractive, the site is nonetheless far more synonymous with the verdant character of the land surrounding the cemetery. It therefore makes a positive contribution to the significance of the CA.
3. The proposed development includes a pair of semi-detached dwellings which would have a modern appearance, with multiple materials used to create visual interest and unusual fenestration patterns. The second floor of each building would also include a balcony. Whilst as a stand-alone development, the proposal might be considered attractive, it does not appear to take design cues from the train station nor the cemetery in terms of their more traditional appearance and use of flintwork.
4. With this in mind, even taking into account that additional planting is proposed, the development would harmfully erode the verdant character of this part of the CA and would not reflect the character of existing development in the surrounding area. The layout of the dwellings, which would face away from the highway, would also be contrary to the prevailing linear character of the surrounding area, exacerbating the harmful visual impact.
5. For these reasons, the proposed development would conflict with Joint Core Strategy² Policies 1 and 2 and Local Plan Policies DM1.4, DM3.8 and DM4.5 which collectively seek to ensure that new development is in keeping with local character.
6. Furthermore, the proposed development would fail to preserve the character of the CA. This harm would be 'less than substantial' within the meaning of Local Plan Policy 4.10 and Framework Paragraph 202.
7. Local Plan Policy 4.10 states that less than substantial harm will only be justified where there are public benefits that outweigh the harm. This is consistent with the test set out under Framework Paragraph 202.

² Greater Norwich Development Partnership – Joint Core Strategy for Broadland Norwich and South Norfolk (Adopted March 2011, amended January 2014)

8. The Council's statement of case indicates that it cannot currently demonstrate a five-year supply of deliverable housing sites. This adds further weight to the economic and social benefits associated with the increase in the housing stock. Despite this, the benefits can only be afforded moderate weight, given the very small quantum of development proposed and the limited effect that it would have on the supply of land for housing in the district.
9. In addition, the proposed development includes the provision of a 1.8m wide footway along the northern boundary of the appeal site. This footway would allow the completion of a pedestrian link between the train station and existing and planned residential development to the north and west of the appeal site. This is a benefit which can be afforded significant weight given its effect on increasing access to sustainable modes of transport.
10. The use of sustainable building materials and the incorporation of ecological improvements would only result in a small environmental public benefit, given the small scale of the proposal.
11. The appellant asserts that the proposed dwellings 'could' be self-build dwellings. Under the Self-build and Custom Housebuilding Act 2015 (as amended) relevant authorities are required to keep a register of individuals seeking self-build plots within the authority's area. Relevant authorities are also required to grant sufficient permissions to meet the demand for self-build and custom housebuilding in their area.
12. However, the appellant has not provided any substantive evidence to demonstrate that the Council is not meeting its obligations in this regard. As such, I only attribute minimal weight to the self-build nature of the proposal as a material consideration.
13. There would also be a limited increase in the local population and an associated increase in support for local services and facilities. In addition, there would be some temporary benefits from support for construction jobs. However, given that only two dwellings are proposed, the scale of these public benefits would be limited and for that reason I only afford them moderate weight.
14. In summary, there would be some significant benefits associated with the proposal but overall, these would not amount to benefits which would outweigh the less than substantial harm to the CA given the 'great weight' which Framework Paragraph 199 suggests should be afforded to such harm.
15. For these reasons the proposed development would fail to preserve the character and appearance of the CA and it would therefore conflict with Local Plan Policy DM4.10 and the aforementioned provisions of the Framework.

Location

16. The appeal site is located outside of any development plan defined settlement boundary and it is therefore in the countryside for the purposes of applying planning policy. Local Plan Policy DM1.3 sets out the Council's approach to the 'sustainable location of new development'. This policy states that, in areas outside of the defined development boundaries, permission for development will only be granted where specific development management policies allow or where there are overriding social, environmental and economic benefits.

17. Neither main party has referred to any other specific development plan policies which allow the proposed development in this location. As such, it is necessary to consider whether there are overriding social, environmental and economic benefits of allowing the proposed development.
18. I have already established that the public benefits of the proposal would not outweigh the less than substantial harm to the CA. For this reason alone, the proposed development does not result in 'overriding benefits' of the type required to meet the requirements of Local Plan Policy DM1.3.
19. As such, notwithstanding that there is common ground that the site has good access to services and facilities, the proposal would conflict with the Council's strategy for the location of residential development and would be contrary to Local Plan Policy DM1.3.

European Sites

20. The appeal site is within the Nutrient Neutrality catchment of the Broads Special Area of Conservation (SAC). The Broads SAC contains several examples of naturally nutrient-rich lakes. Although artificial, having been created by peat digging in medieval times, these lakes, as well as the ditches in areas of fen and drained marshlands, support relict vegetation of the original Fenland flora, and the SAC contains one of the richest assemblages of rare and local aquatic species in the UK.
21. The Broads SAC is designated for the following features: Hard oligo-mesotrophic waters, Natural eutrophic, Molinia meadows on calcareous, peat or clay-silt soil, Transition mires and quaking bogs, Calcareous fens, Alkaline fens, Alluvial woods, Desmoulin's whorl snail, Otter, Fen orchid and Little ram's-horn whirlpool snail.
22. The evidence before me³ indicates that the proposed development would lead to an increase in nutrient loading (nitrates and phosphates) as a result of foul and surface water drainage. NE has highlighted that the Broads SAC is in unfavourable conservation status for nitrogen and phosphorus. Given the unfavourable status of the SAC and the evidence of likely increases in loading of nitrate and phosphorus as a result of the development, the aforementioned species and habitats would likely be adversely affected without mitigation measures. As such, the proposal would (both alone, and in combination with other development) be likely to lead to significant effects on the Broads SAC.
23. The appellant has submitted additional information on Nutrient Neutrality with this appeal, however, given that I am dismissing this appeal on other grounds⁴, it is not necessary to consider this information in further detail, nor undertake an appropriate assessment in accordance with the Conservation of Species and Habitats Regulations 2017 (as amended) ('the Habitat Regulations').
24. In addition to the Broads SAC, the appeal site is within the ZOI of various European Sites. The proposed development, in combination with other residential development, would result in likely significant effects on these sites. This is because of the increased recreational pressure associated with residential development, as explained in the Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy (March 2021). However,

³ Appellant's Nutrient budget Calculations

again, given that I am dismissing this appeal on other grounds it is not necessary to consider this matter further, nor undertake an appropriate assessment.

Planning Balance

25. The Council's statement of case confirms that it cannot currently demonstrate a 5 year housing land supply (5YHLS). Neither main party has provided any evidence to confirm the extent of the shortfall. Nonetheless, Framework Footnote 8 confirms that in instances where a 5YHLS cannot be demonstrated paragraph 11d will be engaged.
26. However, the harm caused to the CA and the subsequent conflict with Framework Paragraph 202 provides a clear reason for refusing permission. Therefore, Framework Paragraph 11di is engaged and the presumption in favour of granting permission at paragraph 11dii does not apply.

Conclusion

27. The proposed development would conflict with the development plan taken as a whole. Even taking into account the Council's HLS shortfall, the approach at Framework paragraph 11 indicates that planning permission should be refused, given that the proposal would fail to preserve the character and appearance of the CA. There are no other material considerations raised which indicate that a decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

Luke Simpson

INSPECTOR