



Appeal Decision

Site visit made on 14 December 2023

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 January 2024

Appeal Ref: APP/U2615/W/23/3317497

1 Seafeld Close, Great Yarmouth, Norfolk NR30 3JN

- 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 Spencer Self against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/22/0773/F, dated 28 August 2022, was refused by notice dated 6 December 2022.
 - The development proposed is a detached 2 storey 3 bedroom dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework ('the Framework') was revised in December 2023. The content of the Framework has not been materially altered in respect of the main issues before me, and therefore it has not been necessary to go back to the parties.
3. The appellant's originally submitted appeal documentation includes a revised site plan (February 2023). The Council requests that I do not take it into consideration as it was not subject to public consultation, although the reason for this has not been ascertained. The plan shows minor layout amendments at first floor, including removal of an eastern elevation window. This improves the situation with regard to the adjacent occupiers' privacy. As such, despite the lack of consultation, I find that no parties would be prejudiced in the interests of natural justice, and so in accordance with the Holborn Studios Ltd 2017 judgement, accepting this revised plan as the basis for the appeal meets the substantive and procedural tests. I have made my determination accordingly.

Main Issues

4. The main issues are:
 - whether the proposed development is in an appropriate location with regard to flood risk;
 - the effect of the proposed development on the character and appearance of the area, with regard to the preservation or enhancement of the Camperdown Conservation Area (CA); and
 - the effect of the proposed development on the living conditions of the occupants of neighbouring dwellings, with regard to outlook and privacy.

Reasons

Flood Risk

5. The site is within flood zone 2, and is therefore at risk of flooding. The Framework paragraphs 165 to 168 and Policy CS13 of the Great Yarmouth Local Plan: Core Strategy 2013–2030 (CS) (2015) aim to direct development away from areas at highest flood risk. A new dwelling is categorised as a 'more vulnerable use', and must pass the sequential test.
6. The main parties agree the sequential test area of search for alternative sites to be Great Yarmouth Town. However, they dispute the extent to which those sites may be 'reasonably available', as identified by the Framework paragraph 168. The Planning Practice Guidance (PPG) advises for a pragmatic approach to be taken in this regard. It states there should be a reasonable prospect that the site is available to be developed at the point in time envisaged for the development, which could include part of a larger site.
7. The appellant's sequential test discounts all its identified sites, including for reasons of not being in a sequentially preferable flood risk zone, having no planning permission or permission for a different residential type, or not being currently listed for sale. However, the sequential test does not include sites with uncommenced extant permissions for residential development as identified in the Council's 'Housing trajectory and site assessments table' (undated).
8. The appellant asserts that these sites are not actively marketed for sale and so are not reasonably available. However, I have been presented with no guidance to suggest the preclusion of sites with extant permissions on this basis. The PPG identifies that sites do not need to be owned by the appellant. I find the current owners could implement development, or alternatively future site purchases may be made within the lifetime of the permissions. Furthermore, the sequential test references an appeal decision¹ which concludes a reasonable basis to discount a site's availability as being the physical commencement of works on site following a planning permission. To my mind, this reinforces that prior to such commencement, a site with planning permission would normally therefore be reasonably available.
9. As such, I find that relevant sites with extant permissions should be included within the sequential test. The appellant has provided no site specific circumstances to discount all of these, such that on the balance of probability I consider there are likely to be reasonably available sites. The proposed development has therefore not passed the test on this basis. As such, I have found it unnecessary to also assess in detail the test's other discounted sites.
10. Overall, I am not assured that there are no reasonably available sites appropriate for a single dwelling in areas at a lower risk of flooding. The proposal would therefore not be in an appropriate location with regard to flood risk, and would conflict with the CS Policy CS13, and with guidance in the Framework section 'Planning and Flood Risk'. The Council also cites conflict with Policy E1 of the Great Yarmouth Local Plan Part 2 (LP) (2021), but I find that its advice has been followed in that the area of search for alternative sites can be limited to Great Yarmouth Town.

¹ PP/F1610/W/19/3222393

Character and Appearance

11. The appeal site comprises part of the plot of the detached dwelling at No. 1 Seafield Close. The proposal is for a new detached 2 storey dwelling, which would replace the host's flat roof garage, an attached outbuilding, and parking and garden/yard areas. The proposal would also relocate off-street parking to the side of the host dwelling. Seafield Close is a cul-de-sac with a mix of 2 storey detached and semi-detached dwellings.
12. Section 16 of the Framework requires that great weight should be given to the conservation of designated heritage assets. The CS Policy CS10 also requires the conservation and enhancement of the significance of the Borough's heritage assets and their settings. The Camperdown CA wraps around the Seafield Close on 3 sides, and the appeal site lies opposite the northern part of the CA to the north of Kings Road. The significance of this part lies in its block pattern of historic terraced dwellings and hotels, and a concentration of large detached hotels. The CA's significance also includes the early 1800s Grade II listed building of the Royal Naval Hospital in the southern part, with the current layout still predominantly reflecting its relationship within its large grounds.
13. The Council considers that in isolation, the proposed dwelling would be in keeping with the appearance of the built design of the surrounding properties, including its hipped roof and material palette. I see no reason to take a different view. It would also have a relatively similar separation distance from its host as that of other dwellings in Seafield Close.
14. However, the width of Queens Road/Kings Road and the set back of the hotels creates an open character, with long and wide vistas. The high level boundary walls along the south side of Kings Road also help to separate the contrasting built form of the Seacroft Close dwellings. The hotels retain prominence within this streetscene due to the lower height form of those dwellings and their general building line set back, allowing the retention of a sense of the original formality and grandeur. Their single storey rear extensions and outbuildings do not strongly impact on this general building line, as openness remains evident above the first floor level.
15. Therefore, the proposal's corner positioning and its 2 storey massing forwards of the building line would narrow this openness, and attract undue prominence in the streetscene from various viewpoints. The host's separation into 2 fairly small plots would also sit uncomfortably within the existing urban grain. My site visit identified that the forwards positioning of No. 56 Kings Road is not read in the same context as the appeal site, being more aligned with the open vista to the seafront and the Marine Parade dwellings, rather than the Kings Road corridor. It therefore does not set a supportive precedent.
16. Overall therefore, the proposal would cause harm to the character and appearance of the area, with particular regard to the lack of preservation of the Camperdown CA. It would lead to less than substantial harm to the significance of the CA as a designated heritage asset. Although the Council's Conservation Officer made no objection, this does not reduce the harm I have found. Paragraph 208 of the Framework identifies that less than substantial harm should be weighed against the public benefits of the proposal.
17. The Framework seeks to significantly boost the supply of homes, including support for development of windfall sites, the effective use of land, and the use

of suitable brownfield land within settlements for homes. However, the benefits from a single additional dwelling would be a very small-scale contribution, and the Council also suggests it has over 5 years of housing land supply. There would also be very small social and economic benefits from local construction, and from the local expenditure and demand for local services by the additional residents. It is generally expected for all new dwellings to be energy efficient, and so the proposed electric vehicle charging point and air source heat pump would not be a specific benefit of the proposal.

18. Overall, I give minor weight cumulatively to these minor public benefits of a new dwelling in this location, but this would not outweigh the great weight I give to the less than substantial harm to the CA, as advised by the Framework paragraph 205. The proposal would therefore conflict with the CS Policies CS09 and CS10, and the LP Policies A2 and E5. Together and amongst other matters, these require the preservation of heritage assets, and encourage distinctive and well-designed places, with reference to scale, form, and massing. Development should reflect and have regard to the local context including the surrounding built environment and the urban grain, and should have a good relationship between the height and massing of buildings and the street.
19. The proposal would also conflict with the Framework Section 16 on conserving and enhancing the historic environment, and paragraph 135 in needing to achieve well-designed places through developments which are visually attractive, sympathetic to local character and history, and maintain a strong sense of place.

Living Conditions

20. The Council considers the proposal's scale, proximity, and form, would result in an overbearing and over-dominant relationship with the host, and an unacceptable level of enclosure. This includes a loss of outlook from the host's windows due to the 5m separation distance. However, the host's corner position means the appeal dwelling would only be to its side. The affected windows would be to a hallway, stairs, and kitchen, which are not habitable rooms. As such, I do not find this relationship to be so proximate, to cause a sense of enclosure or undue harm to outlook.
21. The Council also identifies a privacy issue due to an eastern elevation first floor window overlooking of No. 3 Seafeld Close. The revised plan I have accepted now only proposes a first floor obscure glazed landing window in this elevation. There would therefore be no privacy impact to No. 3. At ground floor, windows between the proposed dwelling and the host would be screened by a fence. The host only has one first floor window in its northern elevation, which I identified as serving the stairs/landing. Views into the ground floor patio door in the proposed dwelling would only be glimpsed from this window in passing, and at a relatively acute angle, such that this would be very limited.
22. The Council also raises concern with the resulting size of the host's garden, although this was not identified in the reason for refusal. The existing high fence around the garden is not shown on the plans, and I am not aware whether it is authorised. However, I find the garden area which would remain would provide a suitably sized space. If minded to allow the appeal, I could impose a condition to require agreement of a suitable boundary treatment to ensure sufficient privacy. I therefore find no harm to living conditions in this regard.

23. In conclusion, the development would provide acceptable living conditions for the occupants of neighbouring dwellings, with particular regard to outlook and privacy. It would comply with the CS Policy CS09, and the LP Policy A1, which together require the protection of a high standard of amenity for existing and future residents to ensure a suitable living environment.

Other Matters

24. The site lies within an Indicative Habitat Impact Zone for the several sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Permission may only be granted after having ascertained that the proposed development would not affect the integrity of these protected sites. There are likely significant in-combination effects on these sites resulting from increased recreational visitor pressure from new residential development.
25. The Council identified appropriate mitigation to be the payment of a Green Infrastructure Recreational Avoidance Mitigation Strategy (GIRAMS) contribution, which had not been paid at the point of its decision. To this end, the appellant subsequently made a direct financial payment to the Council, and provided an up to date 'shadow template' Habitat Regulations Assessment. However, as I have identified above that I am dismissing the appeal on other grounds, I do not need to consider further the implications of the Habitats Regulations, and whether this contribution would adequately mitigate the proposal's effect on the integrity of the protected sites.
26. A further reason for refusal relates to a lack of mitigation for the pressures the development would place on public open spaces, albeit the Council similarly suggested that this could be overcome via a financial contribution towards off-site provision. The appellant's evidence includes confirmation from the Council of a subsequent relevant payment. I therefore do not find it necessary to have considered this matter as a main issue within my decision. Again, as I am dismissing the appeal on other grounds, I have not considered further whether this contribution would provide appropriate mitigation.

Conclusion

27. The proposal conflicts with the development plan as a whole. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR