



Appeal Decision

Site visit made on 12 March 2024

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2024

Appeal Ref: APP/L2630/W/23/3324120

Caistor Lane, Caistor St Edmund NR14 7QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Lambford Homes Ltd against the decision of South Norfolk District Council.
 - The application Ref is 2022/2135.
 - The development proposed is outline permission (with all matters reserved) for one detached single-storey dwelling with garage and gardens.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Lambford Homes against South Norfolk District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was made in outline with all matters reserved. I have treated any plans which show the siting, layout or scale of the proposed dwelling and/or internal access arrangements to be illustrative only.
4. Subsequent to my site visit, the Greater Norwich Local Plan (GNLP) was adopted on 25 March 2024. This replaces the Joint Core Strategy referred to in the decision notice. I gave the parties the opportunity to comment on the implications of this for the appeal. I am required to consider the most up-to-date development plan and thus have had regard to the GNLP in my decision and any comments made relating to it.
5. A new National Planning Policy Framework (the Framework) was published in December 2023. I have also had regard to this in my decision and any comments received on how any changes are relevant to the appeal.

Main Issues

6. The main issues are (i) whether the site is a suitable location for residential development, with particular regard to the spatial strategy, and (ii) the effect on the character and appearance of the area.

Reasons

Location

7. The site is not within any defined settlement boundary and is thus considered to be located in the countryside for policy purposes. Policy DM1.3 of the South Norfolk Local Plan – Development Management Policies Document (2015) (SNLP) states that development outside a defined development boundary will only be permitted where specific development management policies allow for it or otherwise demonstrates overriding benefits in terms of economic, social and environmental dimensions. My understanding is that this policy has not been superseded by the GNLP.
8. The purpose of the policy is to promote more sustainable patterns of development by focusing new housing into defined settlements and allocations. There is nothing to suggest the development meets the requirements of any other development management policy. Therefore, to be consistent with the policy, there must be overriding economic, social or environmental benefits.
9. It is important to note here any 'benefits' tests set out in paragraph 11d of the Framework are different to that set out in Policy DM1.3. Moreover, even if paragraph 11d is activated, this does not render the policies of the development plan irrelevant. S38(6) of the Planning and Compulsory Purchase Act (2004) still applies. This requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Therefore, whether paragraph 11d applies or not in this case, it is still necessary to first consider the proposal against the requirements of the relevant policies.
10. The development would make a small contribution to meeting the Council's housing needs. The Framework also places importance of the contribution small sites can make to the overall housing supply. The Council have concluded that the dwelling would be 'nutrient neutral'. There are issues relating to nutrient neutrality in the district and this may be having some effect on delivery. The lack of harm in terms of nutrients is a neutral factor in the planning balance. However, the fact that there would be no theoretical delay to delivery in this regard adds some weight to the proposal. The development would bring with it associated economic benefits, including supporting a small business and short-term construction jobs. There would also be some long-term support to local businesses and services. Nevertheless, the effect of these, including on the vitality of any nearby settlements, would be small.
11. The appellant has drawn my attention to potential environmental benefits associated with the provision of sustainable drainage and biodiversity net gain. These would derive from the necessary mitigation and any benefits would not be substantial in scale. The development would not constitute "isolated development in the countryside" in the context of paragraph 84 of the Framework. However, there is also nothing to suggest the site is particularly well related to local services and facilities and there is no evidence to suggest that most trips would not be made by car, rather than walking, cycling or public transport. The overall environmental benefits would therefore be limited.
12. Neither the policy nor supporting text define what is meant by an 'overriding' benefit. Given the context of the policy it would be reasonable to assume that this should represent a higher bar than what would be considered normal or

commonplace. The delivery of a single dwelling does not in my view amount to an overriding benefit as required by Policy DM1.3. Even having regard to nutrient issues, a single dwelling would not make such a valuable contribution to the housing supply that it would constitute an overriding benefit. Such benefits would be commonplace for a development of this scale and could be replicated in many locations outside settlement boundaries across the district. If such development met this requirement as a matter of course, then the policy would serve little purpose. Similarly, I do not consider the other limited social, economic and environmental benefits would be so great as to individually or cumulatively result in the 'overriding' benefits needed to satisfy the policy.

13. Policy 7.5 of the newly adopted GNLP allows for the delivery of self-build and custom-build on sites adjacent to a settlement with or without a defined settlement boundary. To be consistent with the policy then future occupants would first have to meet the eligibility criteria for the Council's self-build register. Neither the original application nor appeal was made based on the dwelling being either self- or custom-build. Following adoption of the GNLP the appellant has, however, indicated a willingness to accept a condition to ensure the development would be a custom-build property.
14. The Procedural Guide for Planning Appeals makes clear that if an applicant thinks that amending their application proposals will overcome the local authority's reasons for refusal, they should normally make a fresh planning application. Furthermore, the appeal process should not be used to evolve a scheme. It is important that what is considered is essentially the same as that on which the local planning authority took their decision and on which the views of interested people were sought. Although the development would still be a dwelling, a custom-build dwelling would involve different considerations. As such, this constitutes an evolution of the proposal.
15. Notwithstanding this, neither party has provided me with any wording for a potential condition. I cannot therefore be certain that such a condition would be effective in meeting the requirements of the policy. This is particularly in terms of eligibility, or the other aspects of being considered a self/custom-build property such as ensuring any occupant has had an input into the design or occupancy periods. Similarly, no other mechanism, such as a S106 agreement, is before me to ensure the development would be delivered appropriately. Therefore, even if I were content to consider the change in the proposal, the development would not meet the basic requirements of Policy 7.5 in any event. As such, there is no need for me to consider whether the development could meet the other aspects of the policy. Taking all these factors into account, I have therefore given no weight to the potential for the development to be a self- or custom-built dwelling.
16. In conclusion on this matter, the development would conflict with SNLP Policy DM1.3 which seeks to direct development to defined settlements and allocations. The site does not therefore constitute a suitable location for new housing development in the context of the spatial strategy.

Character and appearance

17. Although the development would be low density, this does not mean it would not have an urbanising influence of the site. There would be a distinct change in character from an open and undeveloped paddock to a dwelling and its

grounds. While some details would be considered at reserved matters stage, it would be reasonable to assume that any proposal would include the potential for enclosed private garden space, boundary treatments, the long access drive, areas for parking and/or manoeuvring of vehicles and other associated domestic paraphernalia. This, along with the inevitable changes in activity a dwelling would bring, would all contribute to an overt change in the character and appearance of the site. To that end any dwelling would still appear as part of the built form of the settlement and not part of the transition to open countryside that currently exists.

18. Any dwelling on the site would fail to complement the existing settlement pattern. Backland development of this type is not a feature of the locality. Development on this part of Caistor Lane follows a largely linear pattern, punctuated in places by cul-de-sacs on the southern side of the road. While these add some depth to the built form, they do not constitute backland development. Even along these, the dwellings are all generally facing the road in a linear pattern. In this regard, there is no similarity between the development and the cul-de-sacs, either in form or how they function. Wherever located within the site, a single dwelling would appear as a somewhat incongruous feature, sitting on its own in this relatively large space, with a poor visual and physical relationship with nearby housing.
19. Field House itself is set apart from development on Caistor Lane and is set back from the road. It is also served by a relatively long drive. However, the development would not reflect this arrangement either. It would be sited behind the bungalows fronting the lane, and accessed by what would be a much longer driveway. Whatever form or route this would take, it would also serve to erode the existing character of the site.
20. It is unlikely that any dwelling would be highly visible from Caistor Lane itself. Depending on where its location within the site, and its scale, glimpsed and fleeting views might be possible through the access or gaps in the built form. Additional landscaping could also be provided. Nevertheless, the discordant nature of the development would still be readily apparent from the private views of neighbouring properties. To that end, I am not persuaded that a landscaping scheme would be sufficient to address my concerns.
21. There are obviously no policies which specifically require a road frontage. However, development should have regard to the character and appearance of the surrounding area. In my view, the backland siting of any dwelling on this site combined with its means of access would not meet this requirement.
22. The bungalows fronting the site also differ to that of the proposal. They continue to the linear character of the street scene and thus complement the existing pattern of development. They are not comparable to the development and thus do not weigh in its favour in terms of the effect on local character.
23. The harm caused would be localised in nature and would not have a significant effect on the wider landscape character. Nevertheless, this does not alter my view that a single dwelling situated in this backland plot would constitute an inappropriate form of development. In coming to this conclusion, I have had regard to the fact that the proposal is in outline and the exact design, layout and scale of development would be addressed through reserved matters. It is however possible to consider the likely effect of a single dwelling in this plot.

Any dwelling here would be at odds with the current pattern of development and erode the rural character of the site.

24. I therefore conclude that the proposal would cause unacceptable harm to the character and appearance of the area. This would conflict with SNLP policies DM1.4 and DM3.8 and GNLP policies 2 and 3. These seek, amongst other things, to ensure development makes a positive contribution to local character.
25. There was some discussion in the evidence about SNLP Policy 4.5. This was not included in the reason for refusal, though subsequently the Council indicated it would be relevant. I do not consider the Council sought to introduce a new reason for refusal by referring to this policy. In any event, the policy clearly refers to wider landscape character issues which differ to those highlighted by policies referenced in the decision notice. I have addressed this above. The limited effect the development has on wider landscape character does not alter harm that would be caused to local character and appearance.

Other Matters

26. The Framework does not contain a blanket restriction on development in the countryside, but it does seek to encourage sustainable patterns of development, including directing development to locations with better access to services and facilities. Policy DM1.3 therefore retains a high degree of consistency with the Framework.
27. However, I acknowledge that the harm to the spatial strategy is tempered by the small scale of development and the relevant proximity of the site to the existing built form. I also saw new development coming forward a short distance away along Caistor Lane. While the circumstances of that development differ considerably to that before me, including its scale and effect on local character, it would not differ significantly in terms of access to services and facilities. I am also mindful that, in seeking to meet the housing requirement, development has also been permitted elsewhere outside settlement boundaries. As such, I have given only moderate weight to the conflict with Policy DM1.3.
28. The development would cause unacceptable harm to the character and appearance of the area. Both local and national policy place great weight on delivering beautiful and well-designed places. I have concluded the proposal would perform poorly in this respect by introducing a discordant feature into the pattern of development. I have therefore given significant weight to the conflict with local and national policy in this respect.
29. My attention has been drawn to several appeal decisions elsewhere in the district. These are all for larger schemes and/or in different locations. While the Inspectors in those cases may have concluded the proposals were acceptable, it is inevitable that the consideration of the planning balance would be highly dependent on the specifics of each case. This is particularly so in terms of the potential effect on character and appearance and the weight given to any benefits. In this case, while the harm and conflict with policy may be affected by the scale of development and the site's location on the edge of the built-up area, the associated benefits are also extremely limited in nature. These decisions do not therefore add significant weight in favour of the development.

30. The appellant has submitted a signed and dated Unilateral Undertaking (UU). This includes provision for a financial contribution toward the Council's Green Infrastructure Recreational Avoidance Mitigation Strategy (GIRAMS). The UU also includes provision for a separate financial contribution toward Green Infrastructure. The contributions are mitigation for any potential impact to the recreational use of protected Habitats Sites and to ensure development delivers sufficient green infrastructure. As noted above, the Council are content that the development would be nutrient neutral and thus no mitigation is needed. Accordingly, they would not be seeking any mitigation. As I am dismissing the appeal for other reasons, I do not need to consider these matters further. However, the lack of harm in these respects is neutral and weighs neither for nor against the development.
31. No harm has been identified against any other aspect of the development, including in relation to such things as biodiversity, highway safety or the living environment of neighbours. Again, a lack of harm is however neutral in the planning balance.
32. The Council have stated that the GNLP Inspector's report confirms they have a 5.77-year supply of deliverable supply of housing land. However, they have also indicated that they consider the appeal should still be dealt with on the basis of paragraph 11d of the Framework. This is ostensibly due to the on-going uncertainty relating to nutrient neutrality and the transitional arrangements for the Framework. I have noted the appellant's comments on the date of the most recent survey data. However, it is still not clear from the Council's evidence why the Inspector's findings in relation to the 5-year supply do not enable them to demonstrate an adequate supply exists, even if they are still required to do so because of the transitional arrangements. Nonetheless, the evidence provided would suggest the housing supply situation is improving and mitigation for nutrient issues is being actively pursued. The outlook for housing delivery therefore appears more positive. I have had regard to this in considering the overall benefits of the scheme.
33. Even if paragraph 11d were activated in this case, I consider the adverse impacts of the development would still significantly and demonstrably outweigh the benefits of a single dwelling when considered against the Framework as a whole. As such, the presumption in favour of sustainable development would not apply in any event and would not be a material consideration in favour of the proposal.

Conclusion

34. The development would conflict with the development plan as a whole and there are no other considerations, as set out above, that would outweigh this conflict. For the reasons given above the appeal should therefore be dismissed.

S J Lee

INSPECTOR