



Appeal Decision

Site visit made on 18 June 2024

by R Norman BA(Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2024

Appeal Ref: APP/V2635/W/23/3335739

Land adjacent to Nursery Lane, South Wootton, King's Lynn PE30 3NA

- 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 Barker Bros Builders Ltd against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 23/00268/O.
 - The development proposed is described as Outline application with some matters reserved for erection of up to 4no. dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal was submitted in outline with only access committed at this stage. All other matters (scale, appearance, layout and landscaping) are reserved for later consideration. Indicative plans showing a possible site layout and elevations and floor plans have been submitted and I have considered these as illustrative only.
3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal for it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

4. The main issues are:
 - Whether the proposal would result in harm as a result of the loss of an area of Local Open Space; and
 - Whether the development would provide acceptable provisions towards affordable housing.

Reasons

Local Open Space

5. The appeal site comprises a piece of undeveloped land which is characterised as an area of Local Open Space. It is located adjacent to Nursery Lane and Avon Road. It currently comprises an area of grassland, nettles and scrub,

somewhat overgrown, with boundary fencing and hedging. There are trees and bushes present also. The wider area is characterised largely by residential estates. A footpath runs to the side of the appeal site and Nursery Lane runs along the other side.

6. The proposal would introduce up to four dwellings into the appeal site. Indicative plans have been submitted showing the dwellings arranged in a staggered, linear fashion, with the density seeking to reflect the character and spacing of the existing properties on the opposite side of Nursery Lane.
7. Policy E3 of the South Wootton Neighbourhood Plan 2015 – 2026 (Neighbourhood Plan) seeks to protect local green spaces, as shown on the Proposals Map, from built developments. Whilst the policy refers to the site as Mixed Woodland area, the appeal site does not comprise woodland. However, it is an area of green, vegetated space that has a clear link to the wider areas of woodland. In this regard, it is reasonable to refer to it as such and the appeal site forms an important part of this larger area, providing relief to the extensive built-up areas which surround it. I also note the findings of the examining Inspector in relation to this Policy who concluded that the areas identified on the Proposals Map are important local green spaces that should be safeguarded¹.
8. Policy DM22 of the Site Allocations and Development Management Policies Plan 2016 (SADMPP) seeks to protect Local Open Space and highlights a list of factors that should be considered in assessing the value of any area of open space in relation to planning applications. These include visual amenity and landscape character, amongst other things. It goes on to state that proposals that will result in the loss or restriction of access to locally important areas of open space will be refused unless such a loss can be offset by the replacement of equivalent or higher standard of provision or the wider benefits outweigh the value of the site as an area of open space.
9. The appeal site is currently relatively overgrown, nevertheless it still provides a substantial break in the built form which is appreciated when using the public footpath. By introducing housing into a fairly significant part of this area of open land it would have an enclosing effect, essentially flanking part of the footpath with housing either side. The footpath currently appears as an attractive route leading to the wider woodland areas. As such, the loss of this area of land would be harmful.
10. I accept that there is no public access into the appeal site itself however this does not detract from the contribution it makes to the general feel and character of the area and to the wider network of green spaces in this part of South Wootton.
11. The Appellant has advised that, as the appeal site does not encompass the entirety of the area of open space, the remainder would be gifted to the Parish Council and could be made into a community area, increasing biodiversity and landscape character. However, whilst I have been provided with a copy of the letter to the Parish Council, this is not sufficient in itself to formally secure this arrangement. I have been provided with little other evidence of how this could be secured nor a suggested plan for achieving this community space and biodiversity and landscape enhancements.

¹ South Wootton Neighbourhood Plan – Examiner's Report

12. Consequently, the proposal would result in the loss of a relatively large part of this parcel of open space which, for the above reasons, makes a positive contribution to the character and appearance of the surrounding area. As such, I find that the proposal would conflict with Policy E3 of the Neighbourhood Plan and DM22 of the SADMPP. It would also be at odds with the overarching aims of the National Planning Policy Framework (2023) to seek to achieve well-designed and beautiful places which are sympathetic to local character and landscape setting amongst other things.

Affordable Housing

13. The proposal would introduce up to 4 new dwellings into the appeal site which would fall under the threshold for seeking affordable housing. Policy CS09 of the Core Strategy sets the thresholds over which affordable housing provision will be sought are on sites of 0.165 hectares or 5 or more dwellings in rural areas. Whilst the appeal development proposes up to 4 dwellings, the appeal site area is approximately 0.67 hectares and therefore the affordable housing requirement is triggered in this instance.
14. The Council have calculated the required contribution and advise that the site should attract an affordable housing contribution of £48,000. They also consider that the appeal site could accommodate 5 dwellings which would attract a higher contribution. However, it is for the Appellant to determine the level of development they wish to apply for and in this instance the appeal proposal is for up to 4 dwellings and I have therefore considered the development as proposed and the resultant requirements that would arise.
15. The requirements of Policy CS09 have been triggered in this instance as a result of the overall size of the appeal site and I note that the Appellant has stated that they would be willing to provide a draft legal agreement to secure this. However, I have no legal agreement before me and therefore the appeal proposal has failed to comply with the requirements of Policy CS09 in this instance.

Other Matters

Self-build

16. The Appellant has highlighted that the proposed dwellings could be taken forward as self-build plots and that a formal arrangement could be provided to secure this. Nevertheless, I have no legal agreement or undertaking or other mechanism suggested to secure this.
17. Whilst the Appellant has referred to a shortfall in self-build plots, which the Council have not disputed, the parties have not provided an updated position on the level of need for self-build plots within King's Lynn and West Norfolk. Whilst there may be a current shortfall in self-build plots, in the absence of any mechanism as part of the appeal documentation to secure this, I give this consideration limited weight. In any event, the provision of 4 self-build plots, if secured, would be a relatively low number and therefore would only attract moderate weight.
18. I have been provided with an example of another appeal decision² which considered self-build housing in the King's Lynn and West Norfolk area for a

² APP/V2635/W/23/3320506 – Station Road, Docking

proposal for 4 plots for custom housebuilding. The Appellant states that the Council have a shortfall in plots for self-build and custom homes and this previous appeal afforded significant weight to this. However, I have not been provided with any details of this, including the appeal decision letter, and do not know the full circumstances behind this. Therefore, I am unable to conclude that this case is sufficiently comparable to the appeal before me in order to alter my conclusions in relation to self-build housing in this instance.

Local Objections

19. A number of letters of objection from local residents have been received concerning, in addition to the above matters, increasing levels of traffic, too many houses being built, impacts on wildlife and biodiversity, flooding concerns, disturbance during construction and insufficient capacity at local services and facilities. However, given my findings above it is not necessary for me to conclude on these additional matters as they would not alter my overall conclusions.

Planning Balance

20. For the above reasons I have found that the proposal would be harmful in respect of the loss of the open space and would therefore conflict with Policies DM22 of the SADMPP and Policy E3 of the Neighbourhood Plan, and therefore the development plan as a whole. It also fails to provide a legal agreement to secure the necessary affordable housing.
21. The Appellant has identified benefits in the provision of high-quality open space on the remaining area of land and the gift of this to the Parish Council to provide a community area and biodiversity and landscape improvements. However, whilst I note the support from the Parish Council, I have not been provided with suitable assurance that this would or could be secured and how it would be brought forward, therefore I can only give this limited weight.
22. In conclusion, I find that the benefits that would arise from the appeal proposal would not be sufficient to outweigh the harms arising and the resultant policy conflicts identified above.

Conclusion

23. For the reasons given above, and having had regard to all matters raised, the appeal should be dismissed.

R Norman

INSPECTOR