

Appeal Decision

Site visit made on 20 August 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th September 2024

Appeal Ref: APP/K2610/W/23/3327831

Land adjacent to 10 Laundry Close, Thorpe St Andrew, Norwich, NR7 0XH

- 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 Mr R Lerner against the decision of Broadland District Council.
 - The application Ref is 20222061.
 - The development proposed is a single retirement bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline form with all matters reserved. I have therefore treated the submitted plans as being indicative only.
3. Since the application was determined the Greater Norwich Local Plan (the GNLP) has been adopted. This replaces the Joint Core Strategy for Broadland, Norwich and South Norfolk (the JCS). The National Planning Policy Framework (the Framework) has also been updated. I have made my decision having regard to the most up to date policies.

Main Issues

4. The main issues are the effect of the proposed development on i) the character and appearance of the area including protected trees; ii) flood risk; and iii) designated habitats.

Reasons

Character and appearance

5. Laundry Close is a private gravel driveway, providing vehicular access to 4 existing dwellings as well as secondary access to the rear of Nos.88 and 90 Thunder Lane. This private driveway appears to have been extended in recent years to serve two new dwellings (Nos.8 and 10 Laundry Close) at the rear of No.6 Laundry Close.
6. The appeal site comprises a narrow lawned area, which is situated to the front of No.10 Laundry Close, and in between No.4 and the extended driveway that runs alongside No.6. A mature hedgerow marks the western boundary of the site with No.4 and there is a group of mature trees close to the northern boundary of the site, which are covered by a Tree Preservation Order (TPO).
7. I have not been provided with any evidence to show the root protection areas or surveyed canopies of the protected trees or the boundary hedge. As such it has

not been demonstrated which areas of the site would need to be protected from building works, including the laying of associated hardstanding and underground services.

8. Even if the site could be developed without causing harm to the protected trees and boundary hedge, it is evident from the indicative plan, and my observations on site, that any new dwelling would need to be sited very close to the shared driveway already serving Nos.8 and 10, resulting in the whole of this area appearing cramped. Whilst I acknowledge that the plot is similar in size to others nearby, its developable area is constrained by the protected trees, and being a corner plot, bound by the access road on two sides, it is visually prominent, including in views from the ring road. This area of land appears to have been purposefully left open, when allowing Nos.8 and 10 to be built, to prevent the over development of this former garden plot.
9. I therefore conclude that the development of the site would result in the loss of an open green space that makes a positive contribution to the verdant character and appearance of the area, and which aids the long term health and future of the protected trees. This would be contrary to Policies GC4 and EN2 of the Broadland Development Management DPD (Broadland DMDPD), Policy 2 of the GNLPP and paragraph 135 of the Framework, which seek amongst other things to ensure that new development protects green spaces and natural features that contribute to defining the character of an area.

Flood risk

10. I have not been advised that the site is in an area at risk of flooding from rivers or the sea, or that it is in a critical drainage area. However, there is disagreement between the main parties as to the risk of surface water flooding on the site, and neither party has provided me with any evidence to identify which part of the site is at risk of flooding or what level that risk is. Whilst the appellant states that the proposed dwelling would not be sited within the affected area, I cannot be sure of this given that I have no evidence to show which parts of the site are at risk of flooding, and given that the layout of the site is reserved for subsequent approval and would also need to be informed by root protection areas.
11. Local residents state that Nos.8 and 10 Laundry Close have experienced surface water flooding, which has also resulted in the backing up of local sewers. It was evident from my visit that the site is lower than the adjacent A1042 ring road. Whilst I am advised that a report published in November 2019 stated that highway improvement works had been undertaken in the local area to alleviate surface water run-off from adjacent public highways, I have not been provided with a copy of that report or advised that the Environment Agency has accepted these works have resolved their previous concerns or that their flood maps have been amended accordingly.
12. As the only matters that can be considered at reserved matters stage are access, layout, scale, appearance and landscaping, it would not be appropriate to defer flood risk for consideration at that stage. Outline planning permission can only be granted where it has been demonstrated that the development would be acceptable in principle. I have had regard to the submitted photographs showing that the site was not flooded following heavy rainfall in January. However, that does not demonstrate how well drained the site would be following the construction of a new dwelling and any associated hard standing on this grassed area.

13. I therefore conclude that it has not been demonstrated that future occupiers of the proposed development would not be at risk of flooding or that the development would not increase the risk of flooding elsewhere. As such the proposal fails to accord with Policy 2 of the GNLP and paragraph 173 of the Framework, which seek to ensure new development is not located in areas at risk of flooding by applying the sequential test, that it would be flood resilient and that it would not increase flood risk elsewhere.

Designated habitats

14. The site falls within the 'Zone of Influence' (ZoI) for one or more of the European designated sites scoped into the Norfolk Green Infrastructure and Recreational Disturbance Avoidance and Mitigation Strategy ('GIRAMS'). The proposed development is likely to result in localised effects on these areas, for which mitigation measures would usually be required. The site also lies within the nutrient catchment area for the River Wensum and no supporting information or assessment has been submitted to demonstrate nutrient neutrality with regard to the nitrate and phosphate effect of the development on this river or The Broads Special Area of Conservation (SAC).
15. I have not been provided with sufficient information regarding the designated sites affected or their special features, to undertake an appropriate assessment in accordance with the Habitats Regulations. However, as an appropriate assessment is only necessary where the competent authority is minded to grant planning permission, it is not necessary for me to consider this matter further in light of my conclusions on the other main issues.
16. I therefore conclude that the proposal fails to meet the requirements of the Conservation of Species and Habitats Regulations 2017 (as amended) and consequently is contrary to Policy 3 of the GNLP, Policy EN1 of the Broadland DMDPD and the Framework, in so far as they seek to protect designated habitats.

Other Matters

17. The proposal would make efficient use of the land and future occupiers of the dwelling would have good access to services and facilities. Although all matters are reserved, the proposal is intended to be well-designed and energy efficient. These are neutral matters that are required of all new market housing developments. The proposed bungalow would assist in meeting the needs of a growing population of retired persons that may wish to downsize and there would be some economic benefits resulting from its construction phase. Such benefits would however be very small from a single bungalow. I am advised that the bungalow would exceed current building regulation requirements in terms of utilising renewable energy technology. However, this does not outweigh my concerns.
18. Both parties have quoted parts of a previous appeal decision relating to the same site. However, as I have not been provided with a full copy of that decision or the plans relating to it, I afford it little weight.

Conclusion

19. For the reasons given above the appeal is dismissed.

R Bartlett

INSPECTOR