

Appeal Decision

Site visit made on 24 September 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2024

Appeal Ref: APP/V2635/W/24/3345478

**Land and outbuildings south of no 28 and north of 30 Meadow Way,
West Lynn, King's Lynn, Norfolk PE34 3JZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Miss Anona Lee against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 23/02240/F.
 - The development proposed is demolition of two existing garages with the erection of a private detached 1-bed dwelling and associated works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address stated on the application form contains an incorrect postcode. In the interests of clarity, in the header above I have used the site address provided on the appeal form.

Main Issues

3. The main issues in this appeal are:

- The effect of the proposed development on the character and appearance of the area;
- Whether the proposed development would avoid inappropriate development in areas at risk of flooding; and
- The effect of the proposed development on the living conditions of occupants of no 28 Meadow Way, with particular regard to sunlight and daylight.

Reasons

Character and appearance

4. The site is an overgrown area which currently accommodates two garages which are in poor condition and detract from the area's character. The site is within the built area and is surrounded by housing development.

5. The area comprises a mix of house types, including some two-storey semi-detached houses. However, the immediate area surrounding the appeal site is characterised by modern, detached bungalows, with a traditional and simple form, set back from the street by front gardens, driveways and low boundary walls. The surrounding area therefore has a spacious, suburban character.
6. The proposed dwelling has been designed to address the constraints of the site. Notably, habitable rooms would be accommodated within the roof space. The eaves and ridge height would broadly match surrounding bungalows. However, the bulk and mass of the mansard-style roof would appear out of keeping with the pitched and hipped roof forms of surrounding dwellings.
7. The ground floor would comprise non-habitable rooms, including a bathroom, utility room, cycle store, bin store, and car port. The front elevation would have few openings, with only a bathroom window facing the street at ground level and would not complement the arrangement of windows at surrounding dwellings. The design would not therefore be sensitive to the appearance of nearby development.
8. The dwelling would sit forward of the front elevation of neighbouring dwelling no 28 and would be close to the pavement edge. The dwelling would be near the shared boundary and detached garage of no 28. The garden areas would be small and enclosed by the canopy of trees on neighbouring land. The scale and siting of the dwelling within the small plot would therefore appear cramped and unsympathetic to the layout and spacious character of the area.
9. Beyond the rear boundary of the site is a mix of tall trees with dense foliage. The trees contribute greenery to the street scene and have a positive effect on the area's character.
10. The siting of the dwelling has generally sought to avoid the root protection areas (RPAs) of the group of trees. Whilst the proposed dwelling's foundations would encroach into the RPA of T3, a category B tree of moderate arboricultural, landscape or ecological value, the Tree Survey sets out measures to protect its roots during construction and concludes overall that the arboricultural impact of the proposed development would be low.
11. However, the Tree Survey indicates that RPAs are a notional depiction of the minimum area around a tree deemed to contain sufficient roots. Appendix 4 of the Tree Survey shows the rear elevation would abut the RPAs of trees T1 and T4 without any buffer to account for differences between the RPA and the actual location of roots, or to avoid encroachment during construction. No mitigation measures are proposed to protect the roots of trees T1 and T4.
12. The proposed dwelling is designed to create a harmonious relationship with the trees, with no windows to be overshadowed or gutters to be filled with leaves. However, the trees would overshadow the small garden, requiring frequent pruning to the boundary, and would create pressures for further removal of material to provide light or avoid damage to the building's fabric.
13. The Tree Survey therefore fails to demonstrate the proposal would avoid harm to trees on neighbouring land. Even if I were to accept the proposed root protection measures as adequate, the proposed dwelling would have a

poor relationship to the trees by virtue of its close siting and increased pressures from future occupants.

14. As set out above, the form and appearance of the proposed dwelling would appear out of keeping with surrounding dwellings. The dwelling would appear cramped within the site, and its occupation would place pressure on the vitality of trees on neighbouring land which have a positive effect on the area's character. For these reasons, the proposal would harm the character and appearance of the area.
15. The proposal would therefore conflict with Policy CS08 of the King's Lynn & West Norfolk Borough Council Local Development Framework – Core Strategy 2011 (CS) which requires new development respond to the context and character of places by ensuring that the scale, density, layout and access enhance the quality of the environment.
16. In addition, the proposal would not comply with Policy DM15 of the Site Allocations and Development Management Policies Plan 2016 (SADMPP) which requires proposals be assessed against factors including visual impact, and requires the scale, height, massing, and layout of a development respond sensitively and sympathetically to the local setting and pattern of adjacent streets through high quality design.
17. Furthermore, the proposal would not satisfy paragraph 135 of the National Planning Policy Framework (the Framework), which requires development add to the overall quality of the area, be visually attractive as a result of good architecture and layout and be sympathetic to local character including the surrounding built environment, and paragraph 136 which recognises that trees make an important contribution to the character and quality of urban environments. I have also had regard to paragraph 139 of the Framework which states development that is not well designed should be refused.

Flood risk

18. The appeal site is within Flood Zone 3a and therefore comprises land with a high annual probability of flooding from rivers or the sea. The site is within the Environment Agency's Tidal Hazard Mapping Area which identifies that the site could flood to depths of up to 2m in a breach event.
19. Paragraph 165 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. The Flood Risk Assessment (FRA) suggests there are no reasonably available sites to accommodate the proposed development, based on an online search, and deems the sequential test to be passed.
20. Annex 3 of the Framework classifies dwellings as 'more vulnerable' to the risks of flooding. The Planning Practice Guidance's (PPG) *Table 2: Flood risk vulnerability and flood zone 'incompatibility'* requires 'more vulnerable' development in Flood Zone 3a be subject to the exception test. Therefore, even if I were to accept the sequential test as passed, the exception test must also be applied.
21. As set out at paragraph 170 of the Framework, the exception test requires proposals demonstrate that: (a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and (b)

the development be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, reduce flood risk overall.

22. The proposal would provide social and economic benefits through the contribution of one dwelling to the area's housing stock. However, the Council can demonstrate a sufficient supply of housing land and I have no evidence to suggest the area's housing needs could not be met on sites of lower flood risk. The provision of one dwelling would make only a small contribution to the supply of housing. The proposal would therefore offer modest community benefit, but this would be of insufficient magnitude to outweigh the flood risk.
23. The Environment Agency raised no objection to the proposal, subject to the mitigation measures recommended by the FRA, including that finished floor levels be at least 500mm above existing ground levels, flood resilience measures be incorporated up to 2m above finished floor levels, and there be no habitable ground floor accommodation.
24. Paragraph 171 of the Framework states that development that would not satisfy both elements of the exception test should not be permitted. As set out above, the proposal would not provide wider sustainability benefits to the community that outweigh the flood risk, and therefore the development would not comply with paragraph 170(a) of the Framework. The proposal therefore fails the exception test. The proposal would increase the area and volume of built development on the site and therefore would have a material effect on flood risk. Consequently, the siting of the proposed development would result in inappropriate development in an area at risk of flooding.
25. The proposal would conflict with CS Policy CS01 which guides new development away from areas at risk of flooding, and CS Policy CS08 which requires proposals demonstrate they would contribute to the wider sustainability needs of rural communities where the development's vulnerability type is not compatible with the flood zone.
26. In addition, the proposal would not comply with paragraphs 165 and 167 of the Framework which require inappropriate development in areas at risk of flooding be avoided by directing development away from areas at highest risk through a sequential, risk-based approach to the location of development.

Living conditions

27. No 28 Meadow Way is a detached bungalow with a large side projection with a blank front and end elevation. A detached garage sits between no 28 and its southern boundary. The rear elevation of no 28 is close to the side boundary of no 26, a two-storey dwelling, and there is a group of tall, dense trees close to the southwest corner of no 28's plot. The rear elevation and rear garden of no 28 would experience overshadowing from the existing built form and trees.
28. The proposed dwelling would be sited close to the southern boundary of no 28. Whilst the side elevation of the proposed dwelling would be partly visible from no 28's rear garden, the dwelling would generally be obscured by no 28's existing garage and would be set forward in the plot from no 28's rear garden. The proposal would not therefore result in a significant loss of daylight or sunlight at the rear garden of no 28.

29. Furthermore, there would be adequate distance between the proposed dwelling and no 28 to prevent a loss of sunlight and daylight at windows serving habitable rooms. Therefore, the proposal would not harm the living conditions of no 28's occupants.
30. The proposal would therefore comply with SADMPP Policy DM15 which requires proposals be assessed against factors including overshadowing, and resists development that would have a significant adverse impact on the amenity of others. The proposal would satisfy the requirement of Framework paragraph 135 to provide a high standard of amenity for existing users.

Other Matters

31. The site lies within the Zone of Influence of European sites including the North Norfolk Coast Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar, the Breckland SPA, Dersingham Bog SAC and Ramsar, and The Wash SPA and Ramsar. The Norfolk Green Infrastructure and Recreational disturbance Avoidance and Mitigation Strategy (GIRAMS) identifies residential development in this area is likely to have a significant effect on the interest features of European sites through increased recreational pressure when considered either alone or 'in combination' with other plans and projects. The appellant has provided payment in accordance with the GIRAMS to mitigate effects of the development on European sites. Where a proposal is likely to have significant effects on European Sites, Regulation 63 of the Habitats Regulations requires the competent authority carry out an Appropriate Assessment (AA). However, AA is only necessary where the competent authority is minded to grant consent for the proposal. Since I am dismissing the appeal due to identified harms in respect of character and appearance and flood risk, AA is not necessary.
32. The overgrown site and poor condition of the existing garage buildings detracts from the character of the area. Some local residents expressed support for the scheme, suggesting it would improve the site's appearance. Whilst the proposal would remove the garages and vegetation, as set out above, additional harm to the character and appearance of the area would arise and the proposed development would be inappropriate development in an area of high flood risk. Remediation of the site's unkempt appearance does not therefore outweigh conflict with the policies of the development plan.

Conclusion

33. Whilst I have identified no harm in respect of living conditions, the proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given the appeal should be dismissed.

E Dade

INSPECTOR