



Appeal Decision

Site visit made on 7 November 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2025

Appeal Ref: APP/V2635/W/24/3339896

1 Newlands Avenue, King's Lynn, Norfolk PE30 2NJ

- 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 Mr R Daly of White Feather Projects Ltd against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 23/01248/F.
 - The development proposed is construction of new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An update to the National Planning Policy Framework (the Framework) was published on 12 December 2024. The main parties have been given the opportunity to comment on any implications for the appeal arising through the updated Framework and I have taken account of these comments in my decision.

Main Issues

3. The main issues are whether the proposed development would:
 - accord with local and national planning policy relating to flood risk; and
 - have an acceptable effect on the character and appearance of the area.

Reasons

Flood risk

4. The appeal site is a semi-detached house located at the corner of Newlands Avenue and St Edmundsbury Road, in a predominantly residential area.
5. The Flood Risk Assessment (FRA) submitted with the planning application includes an excerpt from the Environment Agency Flood Map. This identifies the appeal site as being within Flood Zone 3, which has a high probability of flooding, but within an area benefitting from flood defences.
6. Whilst the Council's officer report intermittently references part of the site being within Flood Zone 2, it assessed the proposal based on its location within Flood Zone 3a. The appellant's FRA refers more generally to Flood Zone 3 only, but I have found no evidence indicating the site is within Flood Zone 3b. Given the available evidence, I have determined the appeal on the basis that the site is within Flood Zone 3a.

7. The Framework sets out that a sequential risk-based approach should be taken to individual applications in areas known to be at risk now or in future from any form of flooding, with the aim being to steer new development to areas with the lowest risk of flooding from any source. The FRA has applied the sequential test accordingly, concluding that no sequentially preferable sites in areas at lower risk of flooding are available. I have seen no substantive evidence, including the Council's submissions, to lead me to an alternative finding on this matter.
8. As a 'more vulnerable' use in Flood Zone 3a, the FRA goes on to apply the exception test (the ET), as required by the Framework and the Planning Practice Guidance (the PPG). Paragraph 178 of the Framework establishes that to pass the ET, it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, reducing flood risk overall.
9. Regarding criterion a), the FRA argues that the development would contribute to the target within Policy CS01 of the King's Lynn & West Norfolk Borough Council Local Development Framework – Core Strategy, Adopted Version July 2011 (the CS), of delivering at least 7,510 new dwellings within and around King's Lynn between 2011 to 2026. Given the time since its adoption, I cannot be sure whether this remains an accurate depiction of the Borough's housing requirement. Nevertheless, any sustainability benefits of providing new housing would be consistent with the Government's objective of significantly boosting the supply of homes, as set out in the Framework.
10. The development would provide a new dwelling in an established residential area with good accessibility to services and facilities, offering some sustainability benefits. However, as a single-dwelling proposal, these benefits would be modest. Furthermore, I am provided with limited substantive detail of specific sustainability benefits that the development would provide to the community that would outweigh the flood risk. I am therefore not persuaded that the proposal would address criterion a) of the ET.
11. The Council has not raised specific concerns regarding criterion b) of the ET. Nevertheless, paragraph 179 of the Framework requires both elements of the ET to be satisfied for development to be permitted. As such, even if the proposal met criterion b), it would still fail the ET due to its failure to satisfy criterion a).
12. Policies CS01 and CS08 of the CS broadly reflect the provisions of the Framework regarding flood risk. Whilst both policies recognise that development may be required within flood risk areas to deliver regeneration objectives in King's Lynn, they also require proposals to demonstrate that they contribute to such objectives. Given the limited benefits previously set out, I am not persuaded the proposal would meet this requirement.
13. For the reasons given above, I conclude that the proposed development would fail to accord with local and national planning policy relating to flood risk, with specific reference to Policies CS01 and CS08 of the CS and the relevant provisions of the Framework, the aims of which have previously been set out.

Character and appearance

14. The area surrounding the site is predominantly formed of brick-built houses and flats, along with several shops and community facilities. The proposed development would involve subdividing the plot of No 1 Newlands Avenue and adding a new dwelling to the side of the existing semi-detached house, thereby creating a short terrace of 3 houses.
15. Newlands Avenue stretches northeast to its junction with Riversway, featuring a mix of residential styles and dwelling types along its length. Whilst most homes near the appeal site are semi-detached, nearby streets include a variety of dwelling types such as bungalows, taller blocks of flats and terraced houses. Therefore, introducing a short terrace in this location would not be at odds with the area's varied character.
16. A roughly triangular green space sits at the corner of Newlands Avenue and St Edmundsbury Road, which sets the neighbouring corner-facing houses of No 1 Newlands Avenue and No 89 St Edmundsbury Road back from the road junction. Currently, a noticeable gap exists between these properties, which is further emphasised by the set-back position from the junction.
17. The proposed development would reduce this gap, positioning the rear corner of the new dwelling close to the side boundary of No 89. However, the angle of the shared boundary means both plots widen towards the front. As such, the front elevation of the proposed dwelling would retain a reasonable separation from the boundary. Consequently, although the proposal would reduce the distance between dwellings, it would retain a reasonable degree of spaciousness and would not appear as a cramped form of development.
18. The appeal property and its adjoining pair are constructed from brick and feature side entrances, reflecting the design and elevational treatments of most neighbouring dwellings on that side of Newlands Avenue. Other nearby properties, including those on the opposite side of Newlands Avenue and the adjacent houses on St Edmundsbury Road, share a similar semi-detached appearance but feature subtle differences in detailed design and fenestration. Many neighbouring properties have also been extended or altered over time.
19. The proposed dwelling would introduce some design elements not found on the existing house, such as an archway providing rear garden access and subtly different fenestration. However, these elements would not appear out of place within the varied streetscape, especially given the range of housing styles and later modifications. Accordingly, the proposed dwelling would appear compatible among its surroundings.
20. For these reasons, I conclude that the proposed development would not harm the character or appearance of the area. In respect of this issue it would accord with Policy CS08 of the CS and Policy DM15 of the Site Allocations and Development Management Policies Plan, Adopted September 2016, which together seek for development to be of high-quality design, to respond to the context and character of places, to optimise site potential and make the best use of land, and to integrate sensitively and sympathetically to the local setting and pattern of adjacent streets.

Other Matters

21. Paragraph 11.d) of the Framework directs that where there are no relevant development plan policies, or the policies which are most important for determining an application are out-of-date, permission should be granted unless certain circumstances apply. Under paragraph 11.d) i, this includes circumstances where the application of policies in the Framework that protect areas or assets of particular importance (including policies relating to areas at risk of flooding or coastal change) provides a strong reason for refusing the development proposed.
22. Footnote 8 of the Framework directs that paragraph 11.d) is engaged if the Housing Delivery Test (HDT) indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. Although I understand the Council has challenged the latest HDT measurement, the published figure stands at 60%. This would therefore engage paragraph 11.d).
23. Nevertheless, even if the HDT did engage paragraph 11.d), I have found the proposal would conflict with the relevant policies of the Framework relating to flood risk. Under the provisions of paragraph 11.d) i, this provides a strong reason for refusing the development. Therefore, the proposal would not be supported under paragraph 11.d) of the Framework.
24. The appeal site falls within the 'Zone of Influence' (ZoI) for several European Sites, including Breckland Special Protection Area (SPA) and Special Area of Conservation (SAC); North Norfolk Coast SPA, SAC and Ramsar; Roydon Common & Dersingham Bog SAC; Roydon Common Ramsar; Dersingham Bog Ramsar; The Wash SPA and Ramsar; The Wash and North Norfolk Coast SAC; and Norfolk Valley Fens SAC.
25. The Norfolk Green Infrastructure and Recreational disturbance Avoidance and Mitigation Strategy (GIRAMS) identifies that residential development in the ZoI 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. To mitigate these effects, the appellant has made a payment under Section 111 of the Local Government Act 1972, to be used to fund mitigation measures in accordance with the GIRAMS.
26. Where a proposal is likely to have significant effects on European Sites, the competent authority is required to carry out an appropriate assessment if minded to grant consent. However, because I am dismissing the appeal for other reasons, an appropriate assessment has not been undertaken.

Conclusion

27. Although I have identified no harm in respect of the character and appearance of the area, my conclusions in relation to flood risk mean the proposal would conflict with the development plan as a whole. There are no material considerations, including the provisions of the Framework, to lead me to a decision other than in accordance with the plan. I therefore conclude that the appeal should be dismissed.

P Storey

INSPECTOR