
Appeal Decision

Site visit made on 25 September 2018

Appendix 1

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 October 2018

Appeal Ref: APP/J3530/W/18/3200488

Mallards, 5 St Mary's Way, Westerfield IP6 9BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Stephen Gittins against the decision of Suffolk Coastal District Council.
 - The application Ref DC/17/5215/OUT, dated 8 December 2017, was refused by notice dated 6 March 2018.
 - The development proposed is erection of five new dwellings with car parking spaces accessed off St Mary's Way.
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Decision

1. The appeal is dismissed

Procedural Matters

2. The original application was made in outline with all matters reserved. A proposed site plan (drawing number 2) has been provided to show a potential form of development including access, landscaping and layout. While I have had regard to this plan, I have treated all elements shown as indicative only.
3. A revised version of the National Planning Policy Framework (NPPF) was published on 24 July 2018. Both main parties have been given the opportunity to comment on the revised NPPF in relation to this appeal, and I have taken comments made into account.

Main Issues

4. The main issues are:
 - (a) the effect of the proposed development on the living conditions of occupiers of neighbouring properties, particularly 5 and 6 St Mary's Way with regard to privacy and outlook;
 - (b) the effect of the proposed development on the character and appearance of the area; and
 - (c) whether the site would provide a suitable location for housing, having regard to local and national planning policy relating to development in the countryside.

Reasons

Living conditions

5. The appeal site occupies an elevated position to the rear of 5 and 6 St Mary's Way and housing on Westerfield Road and Church Lane. It comprises the rearmost half of the back garden for 5 St Mary's Way and an area of rough grassland, trees and shrubs to the rear of 6 St Mary's Way and Acorns on Westerfield Road.
6. From the southernmost part of the site, there are direct views across the back garden of 5 St Mary's Way to the rear elevation of that property. 6 St Mary's Way is located immediately to the west of the appeal site. Despite the amount of vegetation in the northern half of the site, it was possible at my site visit to look down towards the rear and side elevations of No 6 and its back garden. I observed a number of windows on the rear elevation of No 6 including a conservatory, while there is a first floor side window facing the site. It is not possible to know exactly which rooms each window serves, but some will certainly be habitable including the conservatory. In terms of the garden, I could see the patio next to the house and other parts of the garden looking over the existing boundary fence.
7. The proposed development is in outline with all matters reserved. The layout and form of the dwellings shown on the proposed site plan are indicative and I note the appellant's comments that this could be refined at reserved matters stage with a condition attached to this decision prohibiting the indicative layout. However, it seems probable that access would occur between Nos 5 and 6 due to the location of the existing road. Moreover, given the shape of the site and the number of dwellings proposed, it also seems likely that a linear form of development would take place from north to south, served by an access road along the western edge of the site. In order to accommodate the development, it seems likely that some of the existing trees would be removed particularly in the northern half of the site.
8. It is possible that a house to the rear of No 5 could be orientated to face northwards with no windows on the western elevation to prevent overlooking issues. While there would be a reasonable distance between this new house and No 5 and the opportunity for sympathetic boundary treatments, the elevated position of the new house would likely have some adverse effect on the living conditions of occupiers of No 5 in terms of outlook.
9. For the remainder of the site, a linear form of housing facing towards No 6 could result in overlooking to the side and rear elevation and back garden, including from the northernmost house. Movement along the access road could also result in privacy issues. The outlook from No 6 and its garden would change significantly with a line of housing to the east. The elevated position of the appeal site would accentuate these negative effects.
10. I note that the new access road would not necessarily be elevated, but without significant excavation the ground levels for the houses would still be higher than No 6. The appellant argues that the access road could be moved further east to allow for increased landscaping along the boundary with No 6 and that housing could be moved further east to increase separation distances. However, with limited site width, the differences and improvements in increased landscaping and separation distances would be modest. Moreover,

the remaining space for private gardens as result of this eastwards shift would likely be inadequate for the living conditions of future occupiers.

11. The dwellings could be restricted via planning condition to single storey with no windows above ground floor and lower finished floor levels, but on an elevated site there is still likely to be overlooking towards No 6 from the front of these properties. A landscaping screen along the western site boundary with No 6 is unlikely to be sufficiently wide or dense to block views from the development. A condition preventing windows on the west elevation other than those approved at the reserved matters stage would not address the likelihood that this elevation would be the front elevation for most of the properties where it would be reasonable to expect a number of windows including those serving habitable rooms. Similarly, a condition restricting westward extensions would do little to address the likely impact of the main properties themselves.
12. While I appreciate that the outline application is intended purely to establish the principle of 5 dwellings on the site, I am unconvinced that the number of dwellings and the access road could be satisfactorily accommodated without adverse effects on the living conditions of neighbouring occupiers given the constraints of the site. This is even with the potential mitigation measures and conditions put forward by the appellant. The fact that future occupiers could decide whether or not to live at Nos 5 or 6 does not justify the negative effects.
13. Concerns regarding effects on living conditions have been expressed in two previous appeal decisions¹ for housing on this site in 1978 and 1982. I have little evidence of any significant changes to the site in terms of living conditions since those decisions were issued or evidence to demonstrate that the effects could be adequately addressed at the reserved matters stage. While there is a lack of detailed guidance regarding separation distances between properties, I consider that the proximity, elevation and number of properties would be harmful.
14. Houses on Westerfield Road and Church Lane, including Acorns, Bewick House, Kimanda and Maaya Mela are further away with intervening buildings, boundary treatments and vegetation, reducing any effects relating to outlook, privacy and light. Nevertheless, this does not diminish the negative effects I have identified, particularly with regards to 6 St Mary's Way.
15. Concluding on this main issue, the proposed development would have an unacceptable effect on the living conditions of neighbouring occupiers, particularly at 6 St Mary's Way in terms of privacy and outlook. Therefore, the development would not accord with Policy DM23 of the Suffolk Coastal Core Strategy and Development Management Policies 2013 ('the Core Strategy') which seeks to avoid an unacceptable loss of amenity to adjoining occupiers with regards to various matters including privacy and outlook.

Character and appearance

16. Housing development in Westerfield is focused along the main routes of Westerfield Road, Church Lane and Lower Road, but also in side streets and cul-de-sacs. St Mary's Way is an example of the latter and is perpendicular to housing on Church Lane to the south and parallel to housing on Westerfield Road to the west. Elsewhere in the village, Fullers Field is a residential cul-de-

¹ T/APP/5382/A/78/01518/G5 and T/APP/5382/A/81/11690/G4

sac off Swan Lane that is currently being extended further northwards with a development of around 23 dwellings. Fieldfare Way on the south side of Church Lane is a small new cul-de-sac development of 6 dwellings. Planning permission has been granted at appeal for 5 dwellings to the rear of The Mount just to the east of St Mary's Way.

17. As noted above, the site is located at the end of St Mary's Way and contains various trees and shrubs to the rear of No 6 and Acorns, with lawn to the rear of No 5. At my site visit, I observed that the site is contained along its eastern boundary by established vegetation and what appears to be garden land to the rear of Maaya Mela. There is also considerable vegetation within the northernmost part of the site including trees. As such, the site has the character and appearance of neglected garden land, separating it from fields and open countryside to the east and north-east.
18. The proposed development would elongate the cul-de-sac form of St Mary's Way further to the north and east. While it would be distant from Church Lane and Westerfield Road and not relate particularly well to either road, the same can be said for existing development at St Mary's Way and the approved scheme at The Mount. The housing being built at Fullers Field will be a long distance from main routes too. While the ground is elevated, it would not be highly visible from either Westerfield Road or Church Lane due to intervening properties and vegetation.
19. There would be little negative effect on the countryside given the character and appearance of the site and the opportunity to retain and enhance screening along the eastern boundary. I am also conscious that the approved scheme at The Mount would adjoin the countryside in a similar location to the appeal scheme. Notwithstanding my concerns regarding negative effects on living conditions, there is little to suggest the development would be harmful in terms of the character and appearance of the area.
20. I note that the aforementioned appeal decisions from 1978 and 1982 as well as an earlier decision² from 1975 found that development in this location would result in a small residential estate alien to the character of Westerfield and intrude into the open countryside. However, I have based my assessment of this main issue on what exists on the ground today, including more recent housing developments in Westerfield and the character and appearance of the site in relation to the surrounding area. As such, I do not consider that the development would be a contrived extension or relate poorly to the settlement.
21. Concluding on this main issue, the proposed development would have an acceptable effect on the character and appearance of the area. Therefore, it would accord with Policy SP15 of the Core Strategy which, amongst other things, seeks to preserve and enhance the character of the district's settlements and landscapes. It would also comply with paragraph 127 of the NPPF insofar as it seeks development sympathetic to local character.

Suitability of location

22. The appeal site is just beyond the physical limits boundary for Westerfield and so is considered to fall within the countryside. Policy SP19 of the Core Strategy sets out a settlement hierarchy for the district, where Westerfield is identified

² T/APP/5382/A/74/12509/G6

as a Local Service Centre. Policy SP29 limits new development in the countryside to that which of necessity requires it to be there and accords with other Core Strategy policies or accords with the special circumstances outlined in paragraph 55 of the NPPF (now paragraph 79 of the revised NPPF). Policies DM3 and DM4 set out the circumstances in which housing in the countryside will be permitted, none of which apply to the proposed development.

23. The proposed development would not be isolated due to its location on the edge of the village and not far away from other places, buildings or people. As such, there would be no conflict with paragraph 79 of the NPPF which seeks to avoid isolated homes in the countryside. The services and facilities within the village include employment sites, a public house, village hall, church, railway station and bus stops. Pavements and street lighting along Church Lane is not extensive but the speed limit is 30mph and it is a short distance to Westerfield Road where better pavement and lighting provision exists. As such, it is possible to walk to these services and facilities, while the bus and train provide a reasonable option of public transport to Ipswich and other local towns.
24. I have already found that the development would have an acceptable effect on the character and appearance of the area as a result of its location. The proximity of the village means that the development would provide some support for local services as advocated by paragraph 78 of the NPPF.
25. Concluding on this main issue, the development would conflict with Policies SP19, SP29 and DM3 of the Core Strategy in terms of its location beyond the physical limits boundary. However, based on the site specific circumstances in terms of accessibility of services and facilities and the effect of development on the character and appearance of the area, I give limited weight to this conflict. Therefore, I consider the site would provide an appropriate location for housing having regard to local and national policies relating to the countryside.

Planning balance

26. The Council states that it can demonstrate a 5 year housing land supply based on its June 2018 Housing Land Supply Assessment (HLSA) which puts the figure at 9.3 years. The Council also points towards an appeal decision³ dated 20 July 2018 which confirms that a 5 year housing land supply exists. The appellant disputes this position arguing the HLSA pre-dates the revised NPPF and the new standard method for assessing housing need. The appellant's assessment puts this figure at below 5 years.
27. Paragraph 11(d)(ii) of the NPPF states that where the policies which are most important for determining the application are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole ("the tilted balance"). A lack of housing land supply would trigger paragraph 11(d)(ii) and the tilted balance.
28. The limitations of the written representations procedure make it difficult for me to come to a conclusion on the housing land supply position. Nevertheless, it would be prudent to consider the proposal against the tilted balance bearing in mind that the appellant disputes the Council's position.

³ APP/J3530/W/16/3160194

29. The benefits of the proposed development would involve the contribution of 5 dwellings to help boost local supply and the provision of economic investment in terms of their construction and subsequent support for local services. It would also be possible to access services in larger settlements by non-car modes of transport. However, regardless of the housing land supply position, the number of new dwellings would be limited and so I can only attach moderate weight to these benefits. While the appellant refers to the provision of affordable housing, there is no mechanism before me to secure such provision and so I give very little weight to this aspect. There would be no harm to the character and appearance of the area, but this carries neutral weight in the overall balance.
30. Turning to the adverse impacts, the development would be located beyond the physical limits boundary and conflict with Policies SP19, SP29 and DM3 of the Core Strategy. Nevertheless, the proximity of the development to the village and the accessibility of services and facilities limit the weight I attached to this adverse impact and policy conflict.
31. However, there would also be adverse impacts in terms of the living conditions of neighbouring occupiers, particularly at 6 St Mary's Way, and conflict with Policy DM23 of the Core Strategy. I remain unconvinced that the site could satisfactorily accommodate the proposed development without harm to privacy and outlook for occupiers of No 6 in particular, or that such matters could be adequately resolved at the reserved matters stage. As such, I attach significant weight to the adverse impacts of development.
32. Therefore, even with the application of paragraph 11(d)(ii) of the NPPF, the adverse impacts of the development would significantly and demonstrably outweigh the benefits. This weighs against the grant of planning permission and there are no considerations that lead me to conclude against the development plan and the harm I have identified.

Other Matters

33. Interested parties have raised a number of other matters, but given my overall conclusion, it has not been necessary to consider them in any detail.

Conclusion

34. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR