



Appeal Decision

Inquiry Held on 30 June to 2 July, 31 July and 3 August 2020

Site visit made on 3 July 2020

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2020

Appeal Ref: APP/X3540/W/19/3242636

**Land to the north and west of Garden Square and Gardenia Close,
Rendlesham, Suffolk IP12 2GW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Anthony Hardy of Capital Community Developments Ltd against the decision of East Suffolk Council.
 - The application Ref DC/19/1499/FUL, dated 9 April 2019, was refused by notice dated 8 July 2019.
 - The development proposed is a phased development of 75 dwellings, car parking, public open space, hard and soft landscaping and associated infrastructure and access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Inquiry was adjourned on 3 August 2020 to allow for closing submissions to be made in writing and a detailed application for costs to be made. The Inquiry was closed in writing on 21 August 2020.
3. There were 8 reasons for refusal. The Council indicated in its statement of case that it did not wish to defend reasons 1, 4 and 7. Those reasons concern alleged conflict with Policy SSP12 of the Site Allocations and Area Specific Policies¹ (SA), potential odour from an adjacent water treatment works and accommodation of on-site sewers.
4. A Section 106 Agreement has been provided. This secures a number of measures that address reasons 2, 6 and 8. Those reasons concern the provision of affordable housing, potential impact on European designated habitats, and the need for a planning obligation to secure mitigation measures.
5. The remaining reasons which are in dispute are reasons 3 and 5. Reason 3 concerns the design of the development, in terms of its appearance and functionality. Reason 5 concerns the living conditions of occupants of the development and adjacent properties. Agreement has been reached between the parties on some of the matters covered by that reason and the only matter which remains in contention is the potential for overlooking between facing side windows in adjacent dwellings in the development.

¹ Suffolk Coastal District Local Plan: Site Allocations and Area Specific Policies (2017)

6. In the heading I have taken the site address from the appeal form, as this more comprehensively describes the location than that given on the application form.

Application for costs

7. An application for costs was made by Mr Anthony Hardy of Capital Community Developments Ltd against East Suffolk Council. This application is the subject of a separate Decision.

Main Issue

8. From all that I have read, heard and seen, the main issue in the appeal is the design of the proposed development, and its implications for:
 - i) the character and appearance of the area;
 - ii) pedestrian and vehicular movement and legibility;
 - iii) social interaction and community safety; and
 - iv) the living conditions of its occupants.

Reasons

Character and Appearance

9. The appeal site is an open field which adjoins the northern extent of the existing built up area of Rendlesham. There is woodland to its northern and western boundaries and existing housing to the east. The site is allocated for residential development in the SA. Rendlesham is a village characterised by modern housing, having been developed following the closure of the US Air Force base at Bentwaters.
10. The proposed development would be of similar design to an existing development at Garden Square and Gardenia Close, which is to the immediate south-east of the site. A mixture of dwellings would be provided, including detached and semi-detached houses, two bungalows, maisonettes and apartments. The buildings would be of a neo-classical architectural style and would be raised above ground level by 0.5m. They would all be orientated so that their front elevations face east. The roads and footpaths would be landscaped.
11. To the south-west there is a housing development of a more conventional modern design off Tidy Road. The proposed development would be served by a road linking Tidy Road with Garden Square. While the proposed development would be similar in character to Garden Square and Gardenia Close, it would differ significantly from that of Tidy Road.
12. Areas of open space would be included which would relate appropriately to the adjacent woodland. The proposal would relate to the existing development at Garden Square and Gardenia Close, but it would be of significantly larger scale than that development. The fixed orientation of the dwellings and their regular spacing in a grid-like pattern would be over quite an extensive area in comparison to the existing development. These aspects of the design would be dominant, and would result in a uniform, regimented appearance. Although

- individual dwelling designs and their siting relative to the roads would vary, this variation would not alter the overall rigid and regimented character.
13. This pattern of development would bear no relation to the existing development to the south-west of the site. Because of its seemingly standardised approach to layout, with little variation, it would have the appearance of having been imposed on the site rather than offering a bespoke response to it.
 14. The change in character on entering the development from Tidy Road would be abrupt. The rigid orientation of the dwellings would result in their side boundaries fronting both sides of the road, with the buildings being set back behind fences and hedges.
 15. The National Planning Policy Framework (the Framework) states that good design is a key aspect of sustainable development. The Framework states that permission should be refused for development of poor design, and that, conversely, where design accords with clear expectations in plan policies, it should not be used by the decision-maker as a valid reason to object. Key aspects of good design, as set out in the Framework, are its functionality and its visual attractiveness, providing or maintaining a strong sense of place. In achieving this it is important to ensure that developments are safe, inclusive and accessible.
 16. Policy DM21 of the Local Plan (LP)² similarly expects development to establish a strong sense of place, using street scenes and buildings to create attractive and comfortable places. The policy requires proposals to relate well to the character of their surroundings.
 17. Because of the fixed orientation of the proposed dwellings, front elevations would face rear elevations. The fronts would be served by culs-de-sac off the main spine route through the development, and for the most part, buildings would not front onto either of the main or secondary routes through the development. This layout would clearly differ from conventional perimeter block layouts whereby buildings face the surrounding streets and their back gardens face each other.
 18. The existing development at Garden Square and Gardenia Close was approved by the Council in 2004³. The dwellings here also have fixed orientation with fronts facing east. However, because of the position of the access road to that development, a much greater proportion face onto roads and there is much less reliance on culs-de-sac to serve the dwellings. Although the design principles would be the same in the proposed scheme, it would differ in terms of its size and overall layout and the extensive use of culs-de-sac.
 19. The lack of active frontages onto the main and secondary routes through the development would not be in accordance with Building for a Healthy Life (BHL)⁴. This document advises, on page 38 against compromising important urban design principles such as perimeter block structure. On page 50 BHL advises that streets and spaces should be well enclosed by buildings and/or structural landscaping, with care taken to ensure that front doors and principal facades face streets and public spaces. The importance of providing streets

² Suffolk Coastal District Local Plan: Core Strategy & Development Management Policies (2013)

³ Ref C03/2362

⁴ Building for a Healthy Life: A Design Code for neighbourhoods, streets, homes and public spaces, by Homes England

and spaces that are defined by buildings, with active frontages onto those streets and spaces is also set out in paragraphs 62 and 68 of the National Design Guide (NDG).

20. Because the buildings would be set back from the main and secondary route frontages within enclosed plots and without entrances facing the streets, there would be little sense of enclosure of the streets and no active frontages. Although surveillance of the streets would be possible from ground floor windows above boundary fences and hedges, this would not amount to active frontages as envisaged in BHL and the NDG. I acknowledge the variation within the layout such as that provided by the group of four 'Bealings' blocks in the centre of the development with the space to the west opening out towards the feature space at the west of the development. However, this does not alter my finding that the street scenes would lack interest and would not provide a sense of place. For these reasons and those given above the proposal would not accord with Policy DM21 of the LP. On this basis, the effect on the character and appearance of the area would be unacceptably harmful.
21. Policy SSP12 of the SA identifies the site for residential development of approximately 50 units. The policy criteria include a requirement that the design and layout is compatible with the housing objectives in the Rendlesham Neighbourhood Plan (2015) (RNP). Housing objective 3c of the RNP states that the street scene is an important part of the aesthetics of any housing development and that development should be guided by the design principles in the RNP. Paragraph 10.20 lists the features of an ideal street scene, which include open front gardens. Because the dwellings would not face the streets, this feature would be lacking. Rendlesham Parish Council expressed the view at the Inquiry that the development would not conform to Objective 3c of the RNP. The lack of frontage development would not provide a street scene of sufficient quality and for this reason the development would not accord with Objective 3c of the RNP or with Policy SSP12.

Pedestrian and Vehicular Movement and Legibility

22. The main route connecting Garden Square and Tidy Road would be a road with footpaths on both sides. Off this there would be a loop road which would have a shared surface. The different treatment would indicate that this would be the secondary route. Culs-de-sac would extend from both sides of the main and secondary routes. Most of the proposed dwellings would have access from the culs-de-sac.
23. Together the main and secondary routes would form an east-west axial route. The change in the status of the route would not reflect any change in its alignment. Neither would the change in status of the route reflect any change in the layout. Because the majority of the dwellings would have access from the secondary part of the route via culs-de-sac on both sides, its function in terms of its level of usage would be more akin to that of a main spine road.
24. The NDG states, in paragraph 81 that a clear layout and hierarchy of streets and other routes helps people to find their way around so that journeys are easy to make. The highway authority has not objected to the proposal in terms of highway standards, but nonetheless I am concerned that the route hierarchy would not logically relate to the layout of the scheme in terms of its appearance and functionality. The emphasis on shared surface routes with

multiple culs-de-sac would not provide a readily identifiable hierarchy to assist movement for anyone unfamiliar with the layout.

25. Footpaths would be provided between three culs-de-sac and the main route giving access to services and facilities to the south of the site. Although the Council expressed concern about the attractiveness of those footpaths, they would, with the exception of part of one of the routes which would pass a garage, largely be open on one side. I do not find that these would be unattractive routes. A footpath link to the Maharishi Peace Palace, which is to the south of the site would be provided. There would also be footpaths within the development linking culs-de-sac and the secondary route in the western part of the development. I find that adequate provision would be made for pedestrian permeability and connectivity.
26. Car parking spaces would be provided on plot frontages, meeting the highway authority's requirements. Landscaping would break up the parking spaces, avoiding long unbroken rows of parked cars. Bicycle storage facilities would be provided for the proposed apartment blocks.
27. Policy DM22(b) of the LP requires adequate provision for access ways and footways in a manner whereby this does not prejudice the overall quality of design. For the reasons given I find that although provision in these respects would be adequate, this would be at the expense of the overall quality of the design in terms of its legibility and ease of movement.

Social Interaction and Community Safety

28. The development would enable social interaction through the provision of open space and pedestrian access to the Peace Palace. That said, I have concern that the design would not encourage or promote social interaction. This is because there would be no active frontages throughout the majority of the development. The individual dwellings would be within enclosed plots giving a private, rather than public facing character. Any opportunity for social interaction in the culs-de-sac would be limited because of the limited number of dwellings served by each of those routes.
29. Surveillance of the streets would be possible from side windows at ground floor level given the raised levels, and from upper floor windows. However, this would not alter the private character of the plots. The lack of active frontages would in my view inhibit any sense of the secondary route being a public street.
30. Policy DM22(d) of the LP requires proposals to take into account the need for crime prevention, with particular attention to be given to secure design, natural surveillance and visibility. I am not convinced that the level of surveillance of the secondary route would be as great as that which would be provided by active frontages. Furthermore, the culs-de-sac would adjoin rear gardens and enable criminal access to properties. In these key respects the development would depart from established practice in designing out crime.
31. The Council has expressed concern about the level of surveillance of the proposed western open space. The adjacent apartment blocks would be within enclosed boundaries, but their upper floor windows would enable overlooking of the space. I do not find this aspect to necessarily be prejudicial to community

safety but, for the reasons given, I have overall concerns about community safety within the development.

32. In coming to this view, I note that existing recorded levels of crime in Garden Square and Gardenia Close are low, but I also take into account the concerns that have been expressed by the Design out Crime Officer of Suffolk Constabulary.
33. For these reasons I find that the design does not encourage social interaction and does not adequately take into account the need for crime prevention. The development would not accord with Policy DM22(d) of the LP, or with paragraph 110(c) of the Framework, which requires that places are safe, secure and attractive.

Living Conditions

34. The matter that remains in dispute with regard to living conditions is the potential for overlooking between facing side windows in adjacent dwellings. The inclusion of windows on all four elevations of the buildings would provide opportunities for overlooking between facing side windows in adjacent buildings. The windows would be closer than would normally be the case in facing front or rear elevations and in some cases would be only a few metres apart. Some of the windows would be off set from each other such that any views between them would be restricted. However, given the number of instances where windows to habitable rooms would directly face each other across very limited distances, there would be clear potential for unacceptable overlooking and loss of privacy.
35. For these reasons, the proposed development would not provide acceptable living conditions for its occupants. However, a condition could be imposed if the appeal were to be allowed, requiring obscure glazed and non-opening windows up to a suitable height above internal floor level. The parties have discussed the wording for such a condition. Although there remains some disagreement between them on this issue, I am satisfied that, if I were to allow the appeal, a condition could be imposed which would meet the tests in the Framework. Subject to imposition of such a condition, acceptable living conditions could be provided, and the development would accord with Policy DM23 of the LP which requires consideration of residential amenity including privacy and overlooking. This matter is neutral in the overall balance.

Conclusion on the main issue

36. The development would be of good quality in some respects. The use of windows on all elevations together with roof lanterns would maximise levels of sunlight and daylight and provide for good natural ventilation. Careful consideration has been given to room sizes and floor to ceiling heights would be generous. These measures are designed to be beneficial to mental and physical health.
37. A fixed requirement of the design is that front elevations face east. This orientation takes full advantage of the rising sun during the morning and the appellant states that this is beneficial to health and well-being. However, there is a lack of evidence before me to convincingly demonstrate this, or to justify why front elevations must face east. It is this latter requirement, combined

with the fixed orientation, that has resulted in the layout departing significantly from recognised good design practice.

38. I accept that good quality design does not have to be bound by convention, and reference has been made to award-winning schemes that are unconventional in their design. Because the proposal would be similar to that carried out some time ago at Garden Square and Gardenia Close and would not be a new design, I do not find it to be innovative.
39. The scheme would be well landscaped and there is no dispute between the parties on this matter. Although elements of the scheme would be of good quality, I have found that the design quality would be lacking in a number of important respects. The defining characteristic of the proposal would be its rigid and uniform layout which would be dominant and would not respond sufficiently to the characteristics of the site. The layout would lack interest and a sense of place. It would not provide legibility in terms of the road treatments and would not assist movement around the site. The lack of active frontages would not provide interest or promote social interaction, and the culs-de-sac adjoining rear gardens would not provide security.
40. These design deficiencies are significant, and the positive aspects of the design do not outweigh these. There is no convincing justification for the fixed orientation and rigid layout that gives rise to the deficiencies. The development would be unacceptably harmful in terms of its effect on the character and appearance of the area and its functioning.
41. Since the close of the Inquiry, the Council has received the Inspector's report on the examination of the Suffolk Coastal Local Plan (SCLP). Relevant policies of the SCLP include Policy SCLP9.2: Sustainable Construction and Policy SCLP11.1: Design Quality. The proposal would accord with Policy SCLP9.2, which requires improved efficiency of heating, cooling and lighting of buildings by maximising daylight and passive solar gain. That policy is not subject to any recommended main modifications. The SCLP has not yet been adopted by the Council but this policy carries almost full weight.
42. Policy SCLP11.1 of the SCLP supports locally distinctive and high-quality design. The criteria of that policy require developments that are, amongst other matters, legible, comfortable and safe, and consider the relationship between buildings and spaces and the wider street scene or townscape. The proposal would not accord with these requirements. Main modifications are recommended to this policy, but those changes do not alter the above requirements of the policy. The latter requirement of the policy would be strengthened. These policy requirements carry almost full weight.
43. Policy SCLP12.62, as recommended to be modified, does not materially change the parts of Policy SSP12 of the SA that are relevant to my decision. Any support for the proposal under Policy SCLP9.2 is countered by the conflict with Policy SCLP11.1. For the reasons given above and considered in total I conclude that the proposed development would be of poor design which the Framework advises should be resisted.

Habitats Regulations

44. The Recreational Avoidance Mitigation Strategy (RAMS) is a strategic approach adopted by four authorities which secures financial contributions from

- residential development towards measures to mitigate in-combination impacts on European designated sites. The site is within a defined 13km zone of influence where a RAMS contribution is required. The section 106 agreement secures payment of the requisite contribution. Appropriate assessment of individual sites will still be required under the Habitats Regulations⁵ which may indicate the need for site-specific mitigation measures. The RAMS contribution covers mitigation requirements for residential developments considered in combination rather than individually.
45. The Council, working with Natural England (NE), has developed a template which is intended to assist consultation with NE in considering the Habitats Regulations. This approach identifies developments of 50 dwellings or more as requiring individual consultation and likely to require site-specific mitigation measures.
 46. There is an absence of existing footpaths connecting the site to the wider right of way network to the north of the site. There is a footpath to the south of the village which leads to The Sandlings Special Protection Area (SPA), which the Council says is 2.45km from the site. There is also a car park close to the SPA. Because of its proximity to the site, there is clear potential for dog walkers to use footpath routes within the SPA, whether they access these on foot or by car. Dogs are likely to disturb ground nesting bird species, for which the SPA is designated.
 47. NE has advised that a circular dog walking route of approximately 2.7km, which should include semi-natural areas with signage/information leaflets and other provision for dogs would be required. This requirement is based on general guidance⁶ which reflects research into dog walking.
 48. Dog walking routes of this length are available within the built-up area of the village, including within Jubilee Park but these routes are of lesser quality than semi-natural routes. NE considered one of the suggested routes within Rendlesham as unsuitable in its letter of 12 March 2020. It has not explicitly considered all of the suggested routes within the village, but for the reasons given I find it unlikely that any of these would be of equivalent quality to the semi-natural route recommended.
 49. Policy SSP12 of the SA requires that greenspace within the site should be suitable for daily dog walking. This does not however mean that such provision would adequately address the requirements of the Habitats Regulations. The section 106 agreement secures provision of a 2.7km off-site dog walking route and NE has accepted this as suitable mitigation.
 50. It would be necessary for me to carry out an appropriate assessment under the Habitats Regulations before granting permission, if I were minded so to do. Because I am dismissing the appeal, I shall not consider the requirements of the Regulations further. However, for the reasons given above, I find that the off-site provision to be secured by the section 106 agreement would be necessary in order to mitigate potential adverse effects on the SPA.

⁵ The Conservation of Habitats and Species Regulations 2017

⁶ Planning for dog ownership in new developments: Reducing conflict – Adding value by Stephen Jenkinson (2013)

The Section 106 Agreement

51. In addition to providing a circular dog walking route, the off-site footpath provision would also include a link to the B1069 road, where there are nearby links to the existing public footpath network. This part of the footpath route would be required to enable occupiers of the development to gain access to footpaths to the north-east of the site, for recreational access.
52. The section 106 agreement would also secure the provision of the requisite number of affordable homes, provision of the open space to an agreed specification, the management of the open space and contributions towards a transport information board and secondary school transport.
53. These measures would be necessary to meet planning policy requirements and to mitigate the impacts of the development.

The Planning Balance

54. The development plan policies that are most important for determining the application are not out-of-date and the Council can demonstrate a five-year supply of deliverable housing sites. The parties agree that the tilted balance in paragraph 11(d) of the Framework is not engaged. For the reasons given above, the proposal would not accord with those policies, or with the development plan as a whole.
55. A mix of dwelling types would be provided, including 25 affordable homes. The proposal would provide 25 more dwellings than the number identified in Policy SSP12 of the SA, which would be beneficial in terms of boosting housing supply. Economic benefits would arise from provision of employment during construction and spending in the local economy both during construction and subsequently by the occupiers of the scheme. The Council would also receive Community Infrastructure Levy payments. I give moderate weight overall to these social and economic benefits, having regard to the scale of the development and the existence of a five-year supply.
56. The new areas of open space would primarily cater for occupiers of the development. While the new off-site footpaths are required to address the requirements of the development, the new link enabling access to the wider footpath network would also be of wider public benefit. I give further significant weight in favour of the proposal in this respect.
57. However, the proposal conflicts with the development plan as a whole. Furthermore, the Framework, which states that permission should be refused for poor design is an important material consideration which carries substantial weight. The moderate and significant weights in favour of the proposal do not outweigh this.

Conclusion

58. For the reasons given I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Paul Shadarevian, of Queens Counsel

He called

Steven Bainbridge BSc, MSc, MRTPI Principal Planning Manager, Parker Planning Services Ltd

Nicholas Sibbett BSc, MSc, CEcol, CEnv, CMLI, MCIEEM

Associate, The Landscape Partnership

David Birkbeck BA (Hons), Hon. FRIBA Chief Executive, Design for Homes

Nicola Doole Senior Associate, Birketts (planning obligation session)

FOR THE LOCAL PLANNING AUTHORITY:

Zack Simons, of Counsel

He called

Ben Woolnough BSc, MSc, MRTPI Major Sites and Infrastructure Manager, East Suffolk Council

James Meyer BSc (Hons), MCIEEM Ecologist, East Suffolk Council

Robert Scrimgeour MA (Hons), PG DipArch, PG DipTP (Dist.), PG CertUD, RIBA, MRTPI, IHBC

Principal Design and Conservation Officer, East Suffolk Council

INTERESTED PARTIES:

Neil McManus BSc (Hons), MRICS Development Contributions Manager, Suffolk County Council (planning obligation session)

Luke Barber BSc (Hons) Principal Engineer, Suffolk County Council (conditions and design sessions)

Martyn Redfern Chairman, Rendlesham Parish Council

Steven Lock Local resident

Nina Robinson Local resident

Dr Stephen D Harding Local resident

John Renwick Local resident

Bernadette Van den Hout Local resident

Jane Strachey Local resident

| | |
|----------------|--------------------|
| Linda Thompson | Local resident |
| Morris Ahmed | Local resident |
| Paul Jarvis | Chartered Surveyor |
| Roger Ellis | Local resident |
| Alan Shrimpton | Interested party |

DOCUMENTS SUBMITTED DURING THE INQUIRY:

- 1 Section 106 Agreement
- 2 Regulation 122 Compliance Statement
- 3 Letter from Natural England dated 13 July 2020
- 4 Statement of Morris Ahmed
- 5 Statement of Dr Stephen Harding
- 6 Statement of Nina Robinson
- 7 Statement of Paul Jarvis
- 8 Statement of Steven Lock
- 9 Supplementary Design Proof by David Birkbeck
- 10 E-mail from Steven Bainbridge to Ben Woolnough entitled "Draft window obscuring condition" dated 21 July 2020
- 11 E-mail from Steven Bainbridge to Ben Woolnough entitled "PD right removal – Rendlesham appeal 3242636" dated 21 July 2020
- 12 E-mail from Ben Woolnough to Steven Bainbridge entitled "PD right removal – Rendlesham appeal 3242636" dated 30 July 2020
- 13 E-mail from Ben Woolnough entitled "Draft window obscuring condition – Rendlesham appeal 3242636" dated 30 July 2020
- 14 Visual Comparison of BHL 'Red Lights' with the Council's Design Proof
- 15 LPA's closing submissions
- 16 Closing submissions on behalf of the appellant
- 17 Costs application on behalf of the appellant
- 18 LPA's costs reply
- 19 Response to LPA reply to costs application on behalf of the appellant