

# LAND NORTH OF GARDENIA CLOSE AND GARDEN SQUARE, RENDLESHAM

## LPA'S APPEARANCES & OPENING

### Appearances

1. **Zack Simons** of counsel, instructed by Jacqui Bullen, the Planning Lead Lawyer at East Suffolk Council, will call:
  - (i) **Ben Woolnough** BSc(Hons) MSc MRTPI, the Council's Major Sites and Infrastructure Manager (planning);
  - (ii) **Robert Scrimgeour** MA (Hons) PGDipArch PGDipTP (Dist.) PGCertUD RIBA MRTPI IHBC, the Council's Principal Design and Conservation Officer (design); and
  - (iii) **James Meyer** BSc (Hons) MCIEEM, the Council's Ecologist (habitats).

### Opening

2. The premium which national planning policy and guidance has placed on high-quality design over the last 2 years has never been higher. See e.g.
  - (i) The 2019 NPPF at §124 [CB:2593]:

“The creation of high quality buildings and places is **fundamental** to what the planning and development process should achieve. Good design is a **key aspect of sustainable development**, creates better places [...]”
  - (ii) The October 2019 National Design Guide tells us that good design should “**bring delight**” (§4, [CB:2636]).

(iii) The same message is also at the heart of the January 2020 report of the Building Better, Building Beautiful Commission.

3. That message is also at the heart of this Council's existing and emerging development plan: see e.g. policies DM21-23 of the 2013 CS [CB:1081-1083], and SCLP11.1 in the emerging LP [CB:2059].

4. And it is at the heart of the Council's case at this inquiry. That case is simple, but it is fundamental: the appeal scheme represents poor design.



5. *Why* it represents bad design is explained in Robert Scrimgeour's proof. In this short opening, we highlight only 5 of the important points (this list is very far from exhaustive):

(i) The grid: the uniform orientation of the buildings and their arrangement into a rectilinear grid ignores this site's contextual opportunities. Its appearance is site-unresponsive and repetitive.

- (ii) The roads: as a consequence of that grid, the highway layout comprises a rigid geometry of multiple dead-end routes, or culs-de-sac, mostly at right angles from the main linear axial route, and the road hierarchy is poorly conceived.
  - (iii) Impermeability: this over-reliance on (what will appear as private) culs-de-sac together with an under-provision of footpaths leads to poor connectivity, self-containment and separation, in a way that spurns opportunities for social spaces, chance encounters, and the life outside of private space that provides community. As we will show, that approach is flatly inconsistent with the objectives of the National Design Guide.
  - (iv) Poor street character: as a result of the grid pattern, the rigid road geometry and the impermeability, the spatial character of the streets is dominated by private enclosed spaces (e.g. single-sided culs-de-sac, which are little more than parking courts) and streets with a private character; and where the public street - the access route from Tidy Road to Garden Square with a footpath each side of the highway – is limited in extent, unattractive in character and deters use and surveillance from active frontages.
  - (v) Inadequate open spaces: the north-eastern and western areas of public open space are not properly integrated into the layout due to barriers and a lack of overlooking. This is because the housing and open spaces have not been designed together. The effect of this will be to discourage the safe use of the open spaces.
6. The Appellant’s own design witnesses thinks that the appeal scheme’s layout is “*unusual in the context of England*”, that it “*deviates from some of the accepted urban design principles*”, that “*the main street through the development has little by way of direct active frontage on it*” and that “*it is certainly true that other layouts could provide more active edges to the main street*”: see pages 21-22 of Mr Hall’s proof. We agree.

7. Mr Hall's Building for Life 12 Assessment accepts that some of the ways the scheme tries to create a "distinctive character" are "*at odds with usual urban design best practice*": p.17. We agree. He also notes that when it comes to answering whether the scheme will "define and enhance streets and spaces" that "*the principles that underpin the layout of the proposal make meeting the requirements of this question difficult*": p.21. We agree, but we say "difficult" is an understatement.
8. Further, the scheme's inclusion of side first and second floor windows throughout leads to a series of amenity issues for future occupiers in relation to privacy and over-looking (i.e. by introducing direct lines of sight between habitable rooms in the homes at sometimes only a few metres' distance apart).
9. All of this adds up to conflict with (what are agreed to be) the most important development policies for determining this appeal: SSP12, DM21, DM22 and DM23. That amounts to a failure to accord with the development plan taken as a whole. It also fails against the requirements for high-quality design in national policy and guidance, which are powerful material considerations that tell against allowing this appeal.
10. Those failings are not solved by the fact that the appeal scheme repeats some of the grid-like patterns of one of the existing developments adjacent to the site which was permitted under a completely superseded local and national policy framework. The Council has – as the Inspector, we say, should also – approached this scheme on its own merits. Indeed, that position is agreed: §5 of the Character and Appearance SoCG. Of course the scheme must respond positively to its context, but – as the National Design Guide puts it – good design doesn't mean copying your surroundings (§43, [CB:2645]), and in this case – as Robert Scrimgeour explains – to the extent the scheme's rationale derives from duplicating the existing development to the south, that amounts to poor layout design.

11. Delivering market and affordable housing on an allocated site has obvious benefits in the planning balance. On the other hand, this Council has a strong housing land supply (see e.g. [CB:3813]) which is not in dispute. And of course, the general imperative to boost housing land supply is not a blank cheque. The NPPF does not seek housing at any cost. On the contrary, it tells us to refuse permission for poor design: §130 NPPF.
  
12. Albeit the original reasons for refusal covered a range of other matters, it is anticipated that most of them – including now the ecology evidence – will not be disputed. The Appellant has spilled much ink in its planning evidence complaining about the way the planning application was determined. The Council will respond to the costs application in due course, but I make 3 short points at the outset:
  - (i) Whether they're well-founded or not, these complaints have nothing whatsoever to do with the merits of the appeal (so we don't plan to take up time with them in our planning evidence), or even the Council's conduct in relation to the appeal (which could be relevant to a costs application) because most of it is about pre-appeal disagreements.
  - (ii) The withdrawal of certain reasons for refusal based on new information submitted as part of the appeal, and confirmed early within the Council's Statement of Case so as not to take up inquiry time unnecessarily is a sign of a Council doing its job properly.
  - (iii) The idea that this appeal could have been avoided if the Council had delayed its decision just doesn't stand up. The Council has a fundamental design objection to what we're told are the Appellant's "key principles" of design. If the Appellant is intent not to deviate from any of those key principles, an appeal like this was inevitable.
  
13. In the end, this is a simple appeal. For the reasons given by Mr Woolnough and Mr Scrimgeour, the Appellant's scheme represents poor design. For those reasons, it fails the relevant tests in local and national policy, and we will ask the Inspector to dismiss the appeal.

ZACK SIMONS

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**30<sup>th</sup> JUNE 2020**