
Appeal Decision

Site visit made on 14 November 2016

by Elaine Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22nd December 2016

Appeal Ref: APP/V2635/W/16/3157697

Whitegates, Lynn Road, Great Bircham, PE31 6RJ

- 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 Geoff Simmons against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 16/01014/O, dated 24 May 2016, was refused by notice dated 1 August 2016.
 - The development proposed is the construction of one new residence.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters reserved for future consideration. However, an indicative block plan showing a shared access from Lynn Road and a bungalow or chalet house to the rear of the plot accompanied the application to which I have had regard.

Main Issue

3. The main issue in this case is whether the proposal would conflict with policies for housing which seek to protect the countryside and the character and appearance of the area and achieve sustainable patterns of development.

Reasons

4. The appeal site is outside the settlement boundary and within the countryside in the King's Lynn and West Norfolk Site Allocations and Development Management Policies Development Plan Document (Allocations DPD). This was adopted on the 29 September 2016 and superseded the remaining policies in the King's Lynn and West Norfolk Local Plan 1998 (Local Plan). Great Bircham is identified as a Rural Village in Policy CS02 of the King's Lynn and West Norfolk Borough Council Local Development Framework Core Strategy (Core Strategy).
5. Core Strategy Policy CS06 seeks to encourage a strong hierarchy of rural settlements, promote sustainable communities and sustainable patterns of development. Beyond the villages and in the countryside the strategy aims to protect the countryside for its intrinsic character and beauty.

6. Allocations DPD Policy DM2 advises that the area outside development boundaries and defined allocations will be treated as countryside where new development will be more restricted and limited to the provision of affordable housing, community facilities, development in support of the rural economy, or to infilling. The supporting text at paragraph C.2.2 explains that the identification of such boundaries helps avoid development encroaching on the countryside and limit urban and village sprawl.
7. Although it had not been adopted at the time of the Council's determination of the planning application, the Allocations DPD had nevertheless been examined and was the subject of modifications at the time of the Council's decision. It was thus at an advanced stage of production. Paragraph 216 of the National Planning Policy Framework (the Framework) advises that decision-takers may also give weight to relevant policies in emerging plans according to the, the stage of preparation (the more advanced the preparation, the greater the weight that may be given), the extent to which there are unresolved objections to relevant policies, and the degree of consistency of the relevant policies in the emerging plan to the policies in the Framework.
8. The appellant considers that the proposal should be judged under the boundaries in place at the time of the determination of the application and lodging of the appeal. Prior to the adoption of the Allocations DPD, the appeal site was within Built Environment Type D in the Local Plan. The appellant advises that there were significant unresolved objections to the emerging Allocations DPD in relation to Great Bircham at the time of the decision. Despite a call for sites and the approaches of landowners he refers to a lack of sites and a reliance on the established land bank for development.
9. However, notwithstanding these objections, the Allocations DPD was found sound and adopted in a form that excludes the appeal site from the settlement boundary. Whilst I note the appellant's view that the appeal site's change in status goes against the aims of the Framework and the government's pro-growth agenda, I am conscious that the overall approach to development in the Borough was considered acceptable by the Inspector dealing with the Allocations DPD and, as such, was found to be consistent with the Framework.
10. I note the appellant's objections regarding the way in which the settlement boundaries have come about including the methodology used in drawing them up, the concern that published criteria were not followed through into the mapping exercise, and a lack of transparency and opportunity to pick up the changes and comment. In particular he considers that the appeal site should have been included within the development boundary since it abuts a highway and the natural boundary of the hedge at the end of the appeal site would have made a better boundary. He also questions the logic of allowing the adjacent pub to the south to extend its car parking area westwards.
11. That said, the supporting text to Allocations DPD Policy DM2 at paragraph C.2.5 clarifies that the change to the Council's approach to the new settlement boundaries is to reduce the extent of rear gardens and other 'backland' within the boundary at settlement edges. Prior inclusion of such land within the preceding Local Plan boundaries had led to unrealistic expectations about its development potential. The Council considers that such backland development on the edge of settlements is rarely successful in its relation to the existing frontage properties, to the wider character of the area, and to the form of the settlement and its relationship to the surrounding countryside.

12. I understand that the appeal site was put forward for development through the Allocations DPD process. The appellant advises that it scored well in the technical assessment process and outscored the Council's preferred site for the area (which he considers was chosen for political reasons). The appellant advises that historically the appeal site had been included in the development limits and regarded as one of a number of large gardens that were uncharacteristic of the area and suitable for development. These were seen as part of a village land bank and were anticipated to come forward gradually as landowners' circumstances changed.
13. However, I am conscious that the definition of previously developed land set out in the Framework now excludes land in built-up areas such as private residential gardens. Furthermore, paragraph 53 of the Framework advises that local authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.
14. I note the appellant's view that the appeal site's inclusion in the Allocations DPD was not considered properly or until it was too late and acknowledge his frustration that options for sites in the area were not re-considered by the Council in light of this. I am also aware of the appellant's view that a number of smaller sites delivered over the plan period rather than one larger site for around ten houses should have been the approach for the area. Furthermore, I am aware of the appellant's feeling that the Council's adopted policy for public consultation and involvement in the Allocations DPD was not adhered to.
15. However, whilst these important matters are relevant to the Allocations DPD process, the recently adopted development strategy including its allocations, site selection process and the establishment of the settlement boundaries are not before me for consideration. I confirm that whilst I have had regard to the appeal site's planning history, I have considered the proposal on the basis of the adopted settlement boundaries set out in the Allocations DPD, and have seen nothing to suggest that the appeal site was omitted by mistake.
16. This approach accords with the advice in the Procedural Guide to Planning Appeals – England (August 2016) which refers at paragraph 1.10.1 to what an Inspector will take into account in considering an appeal. This includes at bullet point 3, any relevant legislation and policies, including any new or emerging development plan policies since the local planning authority's decision was issued. I note the appellant's view that the planning application in this case was made in May 2016 and pre-dates this advice. However, this well established approach is not new (and was also set out at paragraph 1.9 of the previous version of the Guide date April 2015).
17. Paragraph 55 of the Framework indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. The appeal site would not be remote from the village and is located centrally close to the pub, the shop, bus services, playing fields and the church. The future occupants of the proposed house would help to sustain these services and facilities and add to the vitality of the settlement. I also note the appellant's reference to other less sustainable sites nearby having been preferred in the Allocations DPD.

18. Nevertheless, the proposed house would be outside the adopted settlement boundary for Great Bircham and therefore in the countryside in policy terms. As a result, the scheme would be contrary to adopted development plan policy, and it seems to me that special circumstances to justify a house would need to be demonstrated.
19. The appeal site is part of the large rear garden of Whitegates and includes a run down stable building along the southern boundary. It is set well back from Whitegates and the nearby existing development fronting the west side of Lynn Road and relates closely to the open countryside to the west.
20. The appellant refers to other examples of non linear development nearby in Great Bircham. These include a number of sites with planning permission (including a housing allocation) and take in cul-de-sac development, development in backland positions at further depth than the appeal scheme, and development in rear gardens including barn conversion complexes and new buildings. He also cites further examples of development permitted at odds with the linear nature of other settlements nearby
21. I appreciate that a more modern pattern of development has taken place over time and the traditional original linear form of Great Bircham does not prevail everywhere in the village. However, despite the other development referred to by the appellant in the village and further afield, in the immediate vicinity of the appeal site on the west side of Lynn Road, the surrounding development is linear in form and primarily characterised by development facing the road. Despite the extension to the pub car park to the south of the appeal site, there are no examples of houses in rear gardens, or at depth from the road frontage.
22. In this context, whilst the proposal would make efficient use of a generous plot, it would introduce a new dwelling in a backland position that would expand the extent of the existing single row of development westwards from Lynn Road. It would appear contrary to the frontage linear built form there and at odds with the immediate row and the existing pattern of development. Moreover, it would lead to an encroachment of built development into the defined countryside, and, in introducing residential development, would detract from its rural character and appearance. It would also result in the spread of the settlement westwards and contribute to village sprawl. This would be detrimental to the wider character of the area as well as to the form of the settlement and its relationship to the surrounding countryside (which Allocations DPD Policy DM2 specifically seeks to avoid).
23. The appellant advises that he would be willing to include the existing dilapidated stable block or its footprint within the proposal. He argues on this basis that the scheme would use a redundant or disused building and lead to an enhancement to the immediate area. This is an exception set out at paragraph 55 of the Framework. However, the re-use of the stable does not form part of the proposal before me. Furthermore, although it can be seen from the pub car park through the hedge, since it is set well back from the road, the stable block is not highly visible in the street. Thus, as things stand it does not currently detract from the character and appearance of the surrounding area to any great extent. As such, I would not in any event regard its redevelopment to be of any great benefit to the visual amenities of the area.

24. Although the detailed design of the dwelling is a reserved matter, the appellant indicates that it would be of brick with red tiles and use sustainable building materials. He advises that it would be individually designed, visually attractive, respond to local character and history and optimise the potential of the site. However, it seems to that such an approach would be expected by the Council as a matter of course on all development proposals. This being so, I am not persuaded that these factors comprise a special justification to set aside countryside protection policies. As such, the proposal would not meet the exceptions set out at paragraph 55 of the Framework or in Allocations DPD Policy DM2.
25. By defining settlement boundaries the Council is seeking to focus development into the towns and villages, where development would generally make the best use of existing services and infrastructure and minimise the need for travel. The development of new houses outside the adopted settlement boundaries, such as the appeal site, would undermine the Council's adopted locational strategy and the overall aim of promoting development within existing settlements. Thus, I cannot find that the proposal would help to achieve sustainable patterns of development.
26. I therefore conclude that the proposal would conflict with policies for housing which seek to protect the countryside and the character and appearance of the area and achieve sustainable patterns of development. This would be contrary to Core Strategy Policy CS06 which seeks to promote sustainable communities and sustainable patterns of development and requires development to maintain local character and a high quality environment. It would be at odds with Core Strategy Policy CS08 which expects all new development to be of a high quality design that responds to the context and character of places by ensuring that the scale density, layout and access will enhance the quality of the environment. It would fail to support Allocations DPD Policies DM2 which restricts new development in the countryside, and DM15 which requires the layout of development to respond sensitively and sympathetically to the local setting and pattern of adjacent streets. It would also conflict with the core planning principle of the Framework to always seek to secure high quality design.

Other matters

27. The appellant refers to the presumption in favour of sustainable development. I have seen nothing to demonstrate that the development plan is absent, silent or that relevant policies are out of date, and I consider the policies referred to in the Council's case to be in general compliance with the Framework. Since I have found the proposal to be contrary to the development plan, paragraph 14 of the Framework does not apply. Nevertheless, I have considered the scheme against the three strands of sustainable development.
28. In terms of the economic dimension, as well as the role of the construction phase, the future occupiers of the house would spend money in the locality. With regard to the social dimension, the proposal would support the Council's housing delivery and the appellant advises that the scheme would provide a self build scheme and that the house would be affordable. However, these benefits would be tempered by the relatively limited scale of the scheme for a single dwelling. Turning to the environmental dimension, the appeal site is adjacent to the settlement and in walking distance of its services and facilities and so future occupiers would not be reliant on the private car. However, I

have found that the proposal would fail to protect the countryside and the character and appearance of the area or to achieve sustainable patterns of development. Consequently, it would not contribute to protecting and enhancing the natural and built environment, and thus would not meet the environmental role of sustainable development.

29. The appellant would be happy to replant any trees and bushes affected by the development. The Council raises no objections to the proposal in relation to access or highway safety. However, the absence of harm in these regards count neither for, nor against the scheme. Overall, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, and I do not regard the proposal to be sustainable development.
30. The appellant refers to proposed developments at nearby Longacre and Summerfield (including those supported by officers and the subject of appeals) where no in principle objections to development at depth were raised. I am not aware of the full circumstances that led to those developments and so I cannot be sure that they are directly comparable with the appeal scheme. I confirm in any event that I have considered the appeal proposal on its individual planning merits and have made my own assessment as to its impacts.
31. I acknowledge the appellant's view that the Council's flawed administration of key changes in policy and the alteration to the settlement boundaries has damaged the financial interests of his family. However, that is not a reason to allow development that would be harmful.
32. Finally, I note the appellant's argument that, contrary to the footnote on the decision notice, the Council has failed to work proactively with him in accordance with paragraph 187 of the Framework. Whilst this is a matter between the Council and the appellant, I cannot see in this instance that the appeal scheme would improve the economic, social and environmental conditions of the area.

Conclusion

33. For the reasons set out above, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR