
Appeal Decision

Site visit made on 22 November 2016

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

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

Decision date: 5th January 2017

Appeal Ref: APP/F2605/W/16/3156939

Alder Carr House, Attleborough Road, Great Ellingham, Norfolk NR17 1LQ

- 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 Daniel Arpels against the decision of Breckland District Council.
 - The application Ref 3PL/2015/1472/O, dated 14 December 2015, was refused by notice dated 18 March 2016.
 - The development proposed is for 7 new dwellings on land adjacent to Alder Carr Hall, Great Ellingham. Including the demolition of an existing property and a redundant conference building.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was made in outline with all matters reserved. I have had regard to all the plans and documents submitted with the appeal, but have treated the layout of the dwellings, as shown on drawing PRE-02, and their size and appearance, as shown on drawings PRE-03 and PRE-04, as indicative only.
3. The application was refused for six reasons. The fifth reason related to the lack of affordable housing provision. However, the Council confirms in its appeal statement that such a contribution is no longer required for this number of residential units following a recent Court of Appeal decision¹ which reinstates government policy for small scale housing development.

Main Issues

4. The main issues are:
 - (a) The effect of the proposed development on the character and appearance of the area;
 - (b) Whether the location would provide acceptable access to everyday local facilities by a range of transport modes;
 - (c) The effect of the proposed development on highway safety; and
 - (d) The effect of the proposed development on the biodiversity of the site and surrounding area.

¹ The Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441

Reasons

Character and appearance

5. The appeal site forms part of the grounds to Alder Carr Hall, a hotel and spa complex just outside the village of Great Ellingham. Apart from the existing buildings within the site and those within the adjoining complex, there are very few buildings in the surrounding area until one reaches the edge of the village to the north-west. The B1077 between Great Ellingham and Attleborough contains small pockets of built development, but the overall character and appearance of the area is predominantly rural and undeveloped.
6. The site consists of two distinct parts; a narrow strip of land containing a driveway off the B1077 that passes an office building and a conference centre, neither of which appeared to be in active use at present; and a wider area of grassland to the north enclosed by mature trees and other vegetation. To the north and west of the appeal site is a small woodland, while large arable fields are located to the east beyond a line of trees and to the south on the other side of the B1077. While the existing buildings along the driveway are lacking in architectural merit, the mature boundary vegetation and undeveloped nature of the area of grassland means that overall the site makes a positive contribution to the rural and undeveloped character and appearance of the area.
7. As an outline application with all matters reserved, it is not yet certain exactly where the seven dwellings would be located. However, mindful of the indicative layout of dwellings (drawing number PRE-02), it seems feasible for two or three dwellings on the driveway to replace the office and conference centre, and the remaining four or five dwellings to be accommodated within the area of grassland. The indicative house plan drawings (PRE-03 and PRE-04) suggest sizeable detached dwellings of a conventional design and appearance. The extent of tree works is not yet clear, although much of the boundary planting could remain given the scale of the site.
8. The construction of two or three dwellings along the driveway would have a limited impact on the character of the area, given that they would replace the site's existing buildings and be located closest to the buildings associated with the hotel and spa complex. However, development on the area of grassland for four or five dwellings would result in a considerable loss of undeveloped space and the encroachment of built development into the countryside. The screening provided by the boundary vegetation and the lack of publicly accessible viewpoints would only partly mitigate the negative effects from the decisive change in character and appearance of the northern part of the site.
9. Concluding on this main issue, the proposed development would result in significant harm to the character and appearance of the area through the erosion of the rural and undeveloped qualities of the site. Therefore, it would not accord with Policies CP11 and DC16 of the Breckland Core Strategy and Development Control Policies Development Plan Document 2001-2026 ('the Core Strategy') which, amongst other things, seeks the protection of the district's landscape for its own intrinsic beauty and its benefit to rural character, and development that compliments the natural landscape that surrounds it. This is supported by the National Planning Policy Framework (NPPF) which recognises the intrinsic character and beauty of the countryside and seeks development that responds to local character.

Accessibility to services and facilities

10. Great Ellingham is designated as a Local Service Centre by Policy SS1 of the Core Strategy, while the appeal site lies beyond the settlement boundary in the countryside. Great Ellingham contains a number of day to day services and facilities including a shop, post office, school and bus service to the market town of Attleborough which provides a greater range of services and facilities. The entrance to the appeal site is located approximately 200 metres to the south-east of the edge of the village, which theoretically is a realistic walking and cycling distance to village's services and facilities.
11. However, the appeal site is situated on the B1077, which is described by the local highway authority as "a Main Distributor Route whose primary function in this location is to carry high volumes of traffic between centres of population". The national speed limit applies past the site, there are no pavements or street lights and the nearest bus stop is within the village. At my site visit, there was a regular flow of traffic past the site, including lorries, travelling at fast speeds towards or from the 30mph limit on the edge of the village. There is a short layby immediately to the west of the site entrance and it is possible to walk along this and the grass verges on either side of the B1077 to reach the pavement on the village edge. However, the verges are uneven and narrow in places and would be harder to use in the dark and in poor weather. As such, it is not a safe or pleasant experience to walk into the village, particularly for children and people with mobility difficulties. The road conditions do not encourage cycling either.
12. It is therefore likely that most trips to access the services and facilities of Great Ellingham would be by private motor car. It is also likely that trips to Attleborough would be predominantly car based given the difficulties in reaching the bus stops. The appellant argues that the car journeys to the village would be short and indicates a nearby appeal decision at Spooner Row² where an Inspector accepted that the harm caused by reliance on the car was outweighed by the short distance to local settlements. The appellant also highlights the small number of houses and relatively few daily car trips this would generate.
13. Nonetheless, I am not convinced that short car trips, however few there may be, represents a good form of transport. The proposal would result in negative environmental effects from an inefficient use of natural resources and cause negative social effects in terms of not providing access to local services for all. I visited the Spooner Row appeal location before my site visit, and consider that it is not directly applicable to this proposal in terms of access to facilities and the nature of the road in each case.
14. Concluding on this main issue, the location of the proposed development would not provide acceptable access to everyday local services by a range of transport modes. Therefore, it would not accord with Policy SS1 of the Core Strategy which seeks to direct housing development to larger settlements, where there is a greater range of transport options, rather than within the countryside. It would also not reflect the aims of the NPPF which seeks accessible local services.

² APP/L2630/W/15/3003743

Highway safety

15. The B1077 is a straight road past the appeal site before bending slightly to the north-east to enter Great Ellingham. The main vehicular access to the appeal site at present is via the entrance into the hotel complex a short distance to the south-east of the access point for the driveway to the office and conference centre. From the indicative drawings, it would appear that the driveway access would be used for the proposed development rather than the hotel access.
16. I have already found that the development is likely to be largely dependent on car usage and that pedestrian access from the site to village is not safe. Local highway authority data matches my site visit observations that the B1077 past the site is a busy and fast road which includes larger vehicles. The local highway authority estimates that the proposed development would generate around 42 vehicle movements a day, which the appellant does not dispute.
17. Visibility from the driveway access towards Great Ellingham is more restricted than from the hotel access due to vegetation and the proximity of the bend. According to the local highway authority, it provides around 80% of the required visibility splay for the speed of road. Vehicles leaving the village, which would be accelerating up to the national speed limit, would have less time to react to a vehicle using the driveway access. The estimated number of vehicle movements a day to and from the appeal site is not insignificant, and so there is an increased risk of disruption to traffic flow and potential accidents.
18. I do not have any evidence on the capacity of the conference centre, how often it has been used in the past and how many vehicle movements per day it could generate. However, it is unlikely to generate the same regularity of vehicle movements as housing unless it was used consistently throughout the week. This is evidently not the case at present and by proposing to demolish the building, the appellant has indicated that such frequency of use is unlikely in the future.
19. I also note that the vegetation next to the driveway access could be reduced, although it would appear that the appellant does not own all of the land to the north-west of the driveway access which would limit the effectiveness of any removal. The two appeal decisions³ cited by the appellant regarding highway safety do not seem applicable to this proposal, as they involve different road locations and conditions.
20. Concluding on this main issue, the proposed development would have a harmful effect on highway safety. Therefore, it would not accord with Policy CP4 of the Core Strategy which, amongst other things, requires development to ensure that access and safety concerns are resolved. It would also not meet the aims of the NPPF which in paragraph 32 seeks safe and suitable access to the site for all people.

Biodiversity

21. The appeal site contains a large amount of mature trees and undeveloped grassland backing onto woodland to the west and north, with two redundant buildings. There is thus a reasonable likelihood of protected species being present on or near the site. There is a risk that they could be disturbed by the

³ APP/K2610/A/14/2224279 and APP/K2610/W/14/3001643

proposed development, notwithstanding the lack of detail regarding layout, access and landscaping.

22. Following the Council's decision, the appellant has produced two ecological reports which have been submitted as part of the appeal documentation, which focus in particular on bats and great crested newts. The reports set out mitigation measures to deal with the possibility of bats and great crested newts being discovered during the construction and operational phases of development, along with enhancement measures for bats. Mitigation measures for other protected/notable species are also proposed. These measures appear appropriate and proportionate to the scale of development proposed. I have not been presented with any specific planning conditions to secure such measures, but it would be possible to devise appropriately worded conditions that meet the six tests set out in paragraph 206 of the NPPF.
23. Concluding on this main issue, I am satisfied that with appropriately worded conditions the proposed development would have an acceptable effect on biodiversity. Therefore, it would accord with Policy CP10 of the Core Strategy which, amongst other things, requires the production of ecological reports for protected species and the use of appropriate mitigation measures such as planning conditions. It would also accord with Policy CP11 which requires development to have particular regard to maintaining the biodiversity qualities of natural features within the landscape.
24. The development would also minimise impacts on biodiversity as required by paragraph 109 of the NPPF and having regard to the Conservation of Habitats and Species Regulations 2010.

Planning balance

25. The Council provided a statement late on in the appeal process which states that the Council can now demonstrate a five year supply of deliverable housing sites. The appellant, who has been afforded the opportunity to comment on this statement, has made the case during the appeal that the Council cannot demonstrate a five year supply. They have argued that in line with paragraph 49 of the NPPF, relevant policies for the supply of housing should not be considered up to date and the presumption in favour of sustainable development set out in paragraph 14 applies. Paragraph 14 states that where relevant policies are out of date, 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 whole or specific policies in the NPPF indicate development should be restricted.
26. In terms of the benefits of the proposal, the delivery of seven houses would provide some social benefits. There would also be some benefit to the local economy through the development's construction and occupation. The appellant indicates a willingness to provide affordable housing, but I have not been presented with any evidence of how this would be secured and I am mindful that the Council are no longer contesting this issue. I can therefore give the provision of affordable housing very little weight as a benefit. Overall, the benefits of development can be given moderate weight.
27. Conversely, I have found that the adverse impacts of the development would result in significant harm to the character and appearance of the area. It would also not provide acceptable access to everyday local services by a range

of transport modes and would have a harmful effect on highway safety. For these reasons, significant weight can be afforded to the adverse impacts of the proposed development.

28. Therefore, even if I were to conclude that there is a shortfall in housing land supply, and that relevant policies for the supply of housing should not be considered up to date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. In the circumstances, the presumption in favour of sustainable development would not apply and the proposal would not represent sustainable development.

Conclusion

29. The proposed development would not be harmful to biodiversity, and would provide moderate social and economic benefits. However, there would be significant harm to the character and appearance of the area and harm to highway safety, and the development would not provide acceptable access to everyday local services by a range of transport modes. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR