
Appeal Decision

Site visit made on 7 December 2016

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 18 January 2017

Appeal Ref: APP/K2610/W/16/3154486

Land adjacent to Old Rectory, Mill Lane, Postwick, Norwich NR13 5DS

- 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 and Mrs A Williams against the decision of Broadland District Council.
 - The application Ref 20152027, dated 17 December 2015, was refused by notice dated 12 February 2016.
 - The development proposed is the erection of 5 dwellings [on] land adjacent to The Old Rectory.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Since the appeal was submitted and in light of the West Berkshire Court of Appeal Judgement¹ relating to planning obligations and affordable housing and tariff-style contributions and update to the Planning Practice Guidance², the Council has confirmed that it no longer seeks affordable housing contributions, as set out in the fifth reason for refusal. In addition, the four Category B trees referred to in the third reason for refusal have been removed.
3. Furthermore, there is no dispute that the Council cannot demonstrate a five year supply of deliverable housing sites. This means that in accordance with paragraph 49 of the National Planning Policy Framework (the Framework) relevant policies for the supply of housing should not be considered up to date. In such circumstances, or where the development plan is absent or silent, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole, or where specific policies in the Framework indicate development should be restricted.
4. Having regard to all of the above, the main issues are:
 - Whether future occupiers would have satisfactory access to local shops and services;
 - The effect of the proposal on highway safety in the vicinity of the site;

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

² Paragraphs 013-017, 019-023 and 031

- The effect of the proposal on the character and appearance of the surrounding area, with particular reference to the setting of The Old Rectory; and
- Whether the development would make adequate provision for play space and amenity space.

Reasons

Access to services and facilities

5. The village of Brundall Gardens has a range of facilities, including convenience and comparison goods shops, a primary school, doctors, opticians, pharmacy, dentist, hairdressers, pub and church. The appeal site is about 1.75km from the centre of the village, although there are some shops closer on Cucumber Lane and The Street.
6. The most direct route to the village is via Postwick Lane. In contrast to the quiet nature of Mill Lane, Postwick Lane is a principal road, and a bus stop opposite the junction with Mill Lane provides secondary school transport. I also note that the speed limit on Postwick Lane in the vicinity of the junction with Mill Lane has been reduced from 60mph to 30mph since the application was determined. However, the road is narrow and enclosed by woodland along parts of the route, with little or no verge to step onto in the event of passing traffic. Furthermore, there is no dedicated footway or regular street lighting from the appeal site to the junction with West End Gardens, where the railway station can be accessed. As a result, the route would not be satisfactory for all, particularly during the hours of darkness or in bad weather, or for those with pushchairs or accompanying small children.
7. The appellant has proposed an alternative, traffic free route, taking in part of a public footpath (FP3) from Postwick Lane opposite the junction with Mill Lane, a road accessing Brundall Marina and an informal path along the southern side of the railway line. Whilst the route allows access to Brundall Gardens railway station, it is a circuitous route to the village, taking in a bridge over the railway line. Although this may be an option for some, it is not likely to be an attractive option for many, as the private road is unlit and the route includes an underpass beneath a railway bridge in a relatively isolated location and in any case, there is insufficient evidence before me to conclude that the informal path would remain available for public use. Consequently this would not be a realistic alternative to the Postwick Lane route, and whilst the appeal site would just about be within a reasonable walking distance to the nearest shops and facilities, the nature of the route along Postwick Lane as described above means that future occupiers are likely to be reliant on the private car for most journeys.
8. I therefore conclude that future occupiers would not all have satisfactory access to local shops and services.

Highway Safety

9. The proposed visibility splay at the junction of Mill Lane and Postwick Lane would be well below the minimum distance considered acceptable by the Highways Authority (HA) when approaching the site from the west. The speed limit in this location has been reduced from 60mph to 30mph since the application was determined, but the speed limit sign is only just before the

junction and a bend in the road at this point, combined with the row of Conifer trees along northern side of Postwick Lane would further reduce visibility for drivers.

10. The Highways Authority's TRICS assessment indicates there would be approximately 30 additional vehicle trips per day if the appeal was allowed. Whilst a passing place is proposed on Mill Lane, it would be adjacent to the site, and although there are informal passing places located at occasional intervals along Mill Lane north of Holly Lane, there are no such places closer to the junction with Postwick Lane. The additional traffic using Mill Lane would be likely to increase the risk of vehicle and pedestrian conflict at the road junction.
11. The appellant has referred to other appeals for smaller developments where a minor increase in traffic has been found to be acceptable. Nonetheless I have determined the appeal before me on the particular circumstances of the case including local highway conditions.
12. For the above reasons I conclude that the proposal would have an unacceptably adverse effect on highway safety in the vicinity of the appeal site. It would be contrary to Policy TS3 of the Development Management Development Planning Document (DM DPD) (2015). This seeks to prevent development that would give rise to conditions detrimental to highway safety and the convenience of other highway users.

Character and Appearance

13. The appeal site lies outside the settlement boundary of Brundall Village. Policy 1 of the Joint Core Strategy for Broadland, Norwich and South Norfolk (JCS) (2011, with amendments published in 2014) defines the settlement hierarchy and Policy GC2 of the DM DPD seeks to direct housing development to existing settlements. As these policies aim to constrain housing supply, they should be considered relevant policies for the supply of housing, and thus out-of-date.
14. The appeal site lies within the grounds of The Old Rectory, a large detached house set back from Mill Lane. There is an existing vehicular access in the south west corner of the site, which has a frontage along the eastern side of Mill Lane. Mill Lane has sporadic development along either side, including a number of detached dwellings, a residential home for elderly people, and some agricultural buildings. Other residential properties in the vicinity including St Christopher's and The Cottage on the west side of the lane, and on Holly Lane, a small side road south of the appeal site, and separated by a band of woodland.
15. The Council has confirmed that the Old Rectory is not a designated heritage asset and is not locally listed. Nonetheless, it is a large, imposing building set well back from Mill Lane, and traditional in design and materials, with brick elevations, a central entrance door and vertically proportioned windows on either side and set within extensive grounds.
16. The proposed detached dwellings would be built within the grounds of the Old Rectory. The rear boundary of the properties would be about halfway between Mill Lane and the principal elevation of the Old Rectory. The host property would retain its own access and driveway and a separate private rear garden, and would be sufficiently distant from the dwellings to ensure that its dominance in the landscape would not be undermined.

17. The appeal proposal would utilise an existing vehicular access. Although the dwellings might be glimpsed from Mill Lane through the trees, and some might be seen from this site access, the verdant frontage formed of a hedgerow interspersed with mature trees would be largely retained, and so the visual impact of the proposed houses would be limited. Further planting around the site boundaries would soften the appearance of the development and this could be secured by condition.
18. I conclude that the proposal would not harm the character and appearance of the area, and would accord with Policies GC1 and GC2 of the DM (DPD). Whilst there is a conflict with development plan policy given the site location, the Council has just under 4 and a half years housing supply and so full weight cannot be attributed to JCS Policy 1 and Policy GC2 of the Development Management DPD.

Provision of open space

19. Policies ENV3 and RL1 of the DM DPD require developments of 5 or more dwellings to provide play space and open space. The Council has advised there is a deficit of play space and informal open space within the village. No planning obligation has been submitted.
20. However, the Planning Policy Guidance (PPG), updated since the West Berkshire Court of Appeal judgement and the above development plan policies, states that tariff based contributions should not be sought for smaller sites, such as the appeal scheme. As the PPG is more update I have given it greater weight in reaching my decision. I therefore conclude that contributions towards play space and amenity are not required for the development to be acceptable in planning terms.

Balancing and Conclusion

21. I have found that the proposal would not provide satisfactory access for all to local services and facilities, and that there would be an unacceptably adverse impact on highway safety in the vicinity of the site. Balanced against this is the contribution the development would make to the supply of housing, to which I have given moderate weight.
22. I have also found that the proposal would not harm the character and appearance of the area and there is no requirement for a tariff based contribution towards open space provision.
23. Nevertheless, taking all of the above into account, the adverse impacts I have identified would significantly and demonstrably outweigh the benefits of the scheme. Consequently, paragraph 14 of the Framework indicates that permission should not be granted, and viewed in the round the proposal would not represent sustainable development. It is contrary to the development plan and in this instance material considerations do not indicate that planning permission should be granted for development not in accordance with the development plan.
24. For the reasons set out above I conclude that the appeal should be dismissed.

Claire Victory

INSPECTOR