



Appeal Decision

Site visit made on 27 February 2017

by Graham Chamberlain BA MSc MRTPI

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

Decision date: 16th March 2017

Appeal Ref: APP/V2635/W/16/3163709

Adjacent to West View, Narborough Road, Pentney, Kings Lynn PE32 1JD

- 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 Edward Carter against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 16/00727/O, dated 6 April 2016, was refused by notice dated 17 June 2016.
 - The development proposed is the erection of five new dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for future consideration. I have considered the appeal accordingly. Following the Council's determination of the planning application it adopted a new suite of development management policies set out in the Site Allocations and Development Management Policies Plan 2016 (DMP). The appellant has had an opportunity to address this in his submissions.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the countryside.

Background and Planning Policy

4. The appellant has suggested that the DMP does not contain a specific policy or site allocation relating to 'self-building'. As a consequence he is of the view the development plan is silent on this matter and therefore Paragraph 14 of the National Planning Policy Framework (the 'Framework') is engaged, whereby planning permission should be granted unless any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. In support of his proposition, the appellant has referred to Paragraph 159 of the Framework, which requires local planning authorities to prepare Strategic Housing Market Assessments that should identify and address the housing needs of the local population, including self-builders.
 5. In response, the Council have suggested that there are limited numbers currently on the self-build register and given the wide definition of what constitutes a self-
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build plot, the Council does not anticipate any difficulty in addressing the need. I have seen no substantive evidence that would suggest this is not an accurate summary.

6. The DMP has only just been adopted and the housing needs of the district would have been examined as part of its preparation and examination. The absence of a specific self-build policy is an indication that the provision of self-build plots is not currently a significant local issue. Moreover, I am of the view that in considering the term 'silent' it is necessary to assess whether the development plan contains a policy or body of policies relevant to the proposal under consideration and whether these are sufficient to enable the acceptability of the proposal to be judged. 'Sufficiency' for that purpose does not require an allocation or specific policy as general development management policies may suffice to enable a determination as to whether the proposal should be approved or refused, subject to other material considerations.
7. In effect, the key question is whether there is sufficient policy content in the development plan taken as a whole to enable the proposal to be determined as a matter of principle. In this respect the proposal is for housing and the development plan has policies and a strategy relating to housing. Moreover, the proposal is for five houses in the countryside and the development plan has policies specifically relating to housing in the countryside including Policy DM3 of the DMP. As such, the development plan is not silent as there are sufficient policies in place to enable a determination against the development plan to be made. As a consequence, Paragraph 14 of the Framework is not engaged for the reason advanced by the appellant and there is nothing before me to suggest the development plan policies are out of date¹ and it is evidently not absent.

Reasons

8. The appeal site is located in the dispersed rural settlement of Pentney, which is designated as a Smaller Village and Hamlet in the Core Strategy 2011. Consequently, it has no settlement boundary or specific site allocations. Nevertheless, some very limited development is permitted in Pentney subject to Policy DM3. Policy DM3 of the DMP has been recently adopted following an examination. As such, it is consistent with, and a local interpretation of, the Framework. Policy DM3 permits some limited development in Smaller Villages and Hamlets if it would amount to the sensitive infilling of a small gap within an otherwise continuously built up frontage. Small groups of dwellings would only be permitted in exceptional circumstances.
9. The appeal site is reasonably large at approximately 0.5 hectares in size. It encompasses the western section of a larger parcel of undeveloped agricultural land. The appeal site has a road frontage and views into it are filtered by a mature hedge along the street. This tree line and hedging is mirrored on the opposite side of the road and there is a small wood to the north-west. The immediate setting and character is verdant and rural and the appeal site's undeveloped and open character contributes positively to this as well as the street scene.
10. In the vicinity of the appeal site there is a loose scattering of dwellings. To the north is West View, a property set a considerable distance back from the road behind a field. To the north-west is Woodside, which is on the western side of the

¹ It is a point of agreement between the Council and appellant that the Council are now able to demonstrate a five year housing land supply.

road and visually disconnected from the appeal site by woodland. To the south of the appeal site is Holly House but this is on the far side of the road and fronts onto Low Road. Further along Low Road is Tiptree but this property has no visual connection with the appeal site. As such, the appeal site is surrounded on all sides by undeveloped land and is not in a continuous frontage of development.

11. Given the large size of the site and the absence of a built frontage, the appeal site cannot be described as a small gap within an otherwise built up frontage. The development would also undermine the appeal site's positive contribution to the street scene. As such, the appeal scheme would not amount to the type of infilling envisaged in Policy DM3.
12. Instead, it would be viewed as a harmful, sporadic and discordant incursion into the countryside even if traditional forms and vernacular are employed in the final design. The proposal would also result in a hardened access across a grass verge and through a hedgerow. This, along with the physical presence of the dwellings within the site and the associated domestic paraphernalia, would urbanise the site and significantly harm its rural character and that of its surroundings. The retention of the existing frontage hedge would not mitigate this adverse impact as the houses would be visible through this and any screening would be notably diminished in the winter. Moreover, landscaping cannot be used to hide development that is otherwise unacceptable as it may be removed or fail in the future.
13. I therefore conclude that the appeal scheme would significantly harm the character and appearance of the countryside. Such an impact would be contrary to Policies DM15 and DM3 of the DMP, which seek to protect the character of the area and landscape by responding to the local context. It would also be contrary to Policies CS06, CS08 and CS12 of the Core Strategy, which have similar aims and are consistent with the Framework. As such, they can be afforded significant weight.

Other Matters

14. As a material consideration, the appellant considers the proposal is sustainable development when the economic, social and environmental benefits are considered and weighed in an overall planning balance.
15. The appeal scheme would facilitate the delivery of two self-build plots. The provision of self-build plots is supported in the Framework and through the Housing and Planning Act 2016 and the Self Build and Custom Housebuilding Act 2015. However, I have not been presented with substantive evidence to suggest the demand for self-build plots is particularly high in the Borough and that any demand is incapable of being met through existing development management policies. Consequently, I afford this matter only moderate weight as a point in favour of granting planning permission.
16. The two self-build plots would be retained by the appellant for himself and his daughter, who currently reside in Narborough, to erect the houses. This would enable them to downsize whilst remain in a community they have lived in and contributed to. Nevertheless, I have not been provided with evidence to demonstrate that there is a shortage of accommodation in the area, which would otherwise enable this aim to be realised. As such, I afford this very limited weight as a matter in support of the appeal scheme.

17. The construction of the proposed dwelling would provide some economic benefits but these would be modest in scale or for a limited time. The occupants of the appeal scheme may support local services and thus the vitality of the rural community but given the modest scale of the development any contribution is unlikely to be significant. In any event, such a contribution could be made by dwellings constructed in locations where there would not be an inherent harm to the rural character of the area. The same could be said of the general contribution to housing supply the development would facilitate. Thus, these factors accrue only limited weight as benefits.
18. The appellant suggests that the site is well connected to services and facilities. However, these services are dispersed with the nearest notable collection being in Narborough, which is located some distance from the appeal site with access by walking being along country lanes largely devoid of pavements and lighting. Cycling could be an option by this is dependent on mobility and proficiency and is not therefore an alternative to a private car that can be relied on. As a consequence, future occupants would be largely car dependant.
19. The Framework recognises that opportunities to maximise sustainable transport will vary from urban to rural locations. However, when read as a whole, I do not consider the Framework is advocating car dependency in rural areas, even if the journeys would be short². As such, the five dwellings proposed would be better sited closer to local services and facilities so that future occupants had greater choices over their modes of transport. Consequently, the site's location relative to services is not a benefit to which I afford any weight as a matter in favour of the proposal.
20. The appellant has referred to a number of appeal decisions but the precise details have not been provided. The decisions all fall within the remit of other planning authorities where different development plan policies and situations apply. The specific circumstances of the appeal site, alongside the requirements of the development plan, dictates that the appeal scheme falls to be considered on its own merits in this instance. Accordingly, the appeal decisions referred to do not alter my findings. Nor does the approval of 3 dwellings under application 16/00015/O, as these were approved when the Council were unable to demonstrate a five year housing supply and prior to the adoption of the DMP.

Conclusion

21. I have found the appeal scheme to be contrary to the development plan when considered as a whole as it would not amount to infilling and would significantly harm the character and appearance of the countryside. Paragraph 12 of the Framework states that development which conflicts with an up to date development plan should be refused unless there are material considerations which indicate otherwise. The moderate benefits of the appeal scheme, as material considerations, would not outweigh the significant weight I have attached to harmful impacts of the proposal. As such, the proposal is not sustainable development for which the Framework carries a presumption in favour. Accordingly, and having regard to all matters raised, the appeal is dismissed.

Graham Chamberlain
INSPECTOR

² See Paragraphs 17, 29, 30 and 55 of the National Planning Policy Framework in particular.