
Appeal Decision

Site visit made on 2 February 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 22 March 2017

Appeal Ref: APP/F2605/W/16/3163385

Land to south of Ovington Road, Saham Toney, IP25 7HF and to the east of Saham Toney Mill

- 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 & Mrs O'Shea against the decision of Breckland District Council.
 - The application Ref 3PL/2016/1045/O dated 25 August 2016 was refused by notice dated 4 November 2016.
 - The development proposed is outline planning for 4 no. 3 bedroom and 2 no. 4 bedroom dwelling, including means of access.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made in outline. Detail of access was submitted for consideration. All other matters were reserved for future consideration. The appeal is considered on this basis with any plans that show a possible layout being treated as purely indicative.

Main Issues

3. The main issues are the effect of the proposal for 6 dwellings on (a) the character and appearance of the area and (b) protected species.

Reasons

Character and appearance

4. The site is located outside of the development boundary and is in the countryside for the purposes of the application of planning policy. The site is located on Ovington Road and would be formed from a front area of a larger field.
 5. There is development focussed at cross roads of Cley Lane and Ovington Road. There is also development that extends along the north side of the road. By contrast the south side of the road, which includes the appeal site, is more loose and informal in layout on the corner with a low density and low rise form. In addition beyond Mill Cottages and the Toney Hall the area opens out into open countryside typified by fields and blocks of landscaping. The appeal site forms part of this settlement fringe landscape.
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6. The appellants identify that the site falls within the area of '*ST2-Sahem Toney North, West, East*' within the Breckland District Settlement Fringe Study (SFS). This refers to the diversity and variation along the edge of the settlement. It also refers to the '*loose and informal*' character of Saham Toney and its sensitivity to further development. Indeed the SFS is clear that '*Saham Toney is considered to be sensitive to further development which would create a more consolidated settlement form*'.
7. The SFS identifies key gateways into the settlement. One such gateway would be entering the village from the east toward the appeal site. From this approach the appeal site provides setting and relief to the glimpsed views of group of buildings in and around the '*node*' at the crossroads. It is also clear that the function of the landscape is to create a '*distinct rural setting*' to the different settlement areas within Saham Toney. I understand that the appellants consider that the site is contained and adjacent to built development. However, the addition of six dwellings into a space that makes a clear contribution to the edge of settlement landscape that is identified as being sensitive to change would appear intrusive. The effect, which landscaping and hedgerow retention would not change, would be the creation of a form of development harmful to the open rural edge of settlement character of the area.
8. I therefore conclude that the proposal would have a harmful effect on the character and appearance of the area. It would therefore be in conflict with Breckland Core Strategy and Development Control Policies Document (CS) policies CP11, CP14 and DC16 which amongst other things require new development to enhance the character and appearance of an area, contribute to local distinctiveness and protect the form and character of settlements from inappropriate development. The proposal also conflicts with the National Planning Policy Framework (The Framework) which identifies that one of the core principles of planning is to recognise the intrinsic beauty and character of the countryside.

Protected Species

9. The Council's reason for refusal refers to there being insufficient information on protected species to allow the impact of the proposal to be fully assessed. The species particularly referred to are Bats and Great Crested Newts. The Council identify that a Preliminary Ecological Assessment should be undertaken.
10. The land is currently described as 'used for grazing' with existing hedgerow and trees on its boundaries. The specialist comments in the Council's officer report clarify that it is the boundary habitats that have the potential to support protected species. The appellants have submitted a preliminary ecological survey within the grounds of appeal which was not disputed by the Council. This report addresses the boundary habitats and also specifically the potential for Bats and Great Crested Newts. It goes on to make recommendations for clearance works, mitigation and enhancement. Given the content of the report it would be reasonable to secure these as part of the reserved matters or specific conditions had I been minded to allow the appeal.
11. I therefore conclude that the proposal would not have a harmful effect on protected species. It would not be in conflict with CS policy CP10 which seeks to protect open spaces and areas of biodiversity interest from harm.

Other matters

12. Ovington Road is a rural lane and outside the appeal site there are no footways or street lighting. The appellant has pointed out that Saham Toney is a 'Service Centre Village' and that CS policy CP14 supports them as a focus for service provision in rural areas. The site is as accessible to services as other dwellings in the settlement boundary. In the context of the district as a whole; the appeal site is in a relatively sustainable location. The scheme would not be wholly isolated, and as such the site location does not count against it.
13. There is dispute between the parties regarding whether a five year supply of deliverable housing land can be identified in the area. Specifically the appellant considers that the Council are relying on a strategic allocation that is not allocated and would not come forward. I acknowledge that the provision of dwellings is a benefit that weighs in favour of the scheme. However, irrespective of the issue of housing land supply I have found that there would be significant and demonstrable harm to the character and appearance of the area and clear conflict with one of the core planning principles of the Framework. This would outweigh the benefits of the proposal. In reaching this conclusion I have taken account of paragraphs 14 and 47-49 of The Framework.

Conclusion

14. The appeal proposal would provide six dwellings that would represent a benefit and there would be no harm to economic and social aspects of sustainable development from the location or harm to protected species. However, the proposal would not represent a sustainable development when considered against paragraphs 7 and 8 of the Framework which require the economic, social and environmental dimensions of sustainable development to be considered together as it would harm the character and appearance of the area.
15. CS Policies CP11, CP14 and DC16 seek new development reflect local distinctiveness and the existing pattern of development. In this regard they are not out of date and relevant to the consideration of matters of character and appearance. As such I have attached significant weight to the significant and demonstrable harm that the proposal would cause to the character and appearance of the area and the resultant conflict with the development plan. Whilst there are other material considerations that do weigh in favour of the proposal these do not outweigh the clear conflict with the development plan.
16. Turning to consideration of the presumption in favour of sustainable development. In this case, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits such that the proposal would not represent sustainable development.
17. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR