

Appeal Decision

Site visit made on 9 May 2017

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

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

Decision date: 23rd June 2017

Appeal Ref: APP/F2605/W/16/3166279

Opposite Taylor Barn, Brandon Road, Hilborough IP26 5BW

- 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 Thomas Burgess against the decision of Breckland District Council.
 - The application Ref 3PL/2016/0597/F, dated 10 May 2016, was refused by notice dated 29 July 2016.
 - The development proposed is erection of two bedroom bungalow with integral garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

(a) whether the development would provide a suitable location for housing having regard to the accessibility of services and facilities;

(b) the effect of development on highway safety;

(c) the effect of development on the character and appearance of the area with regards to trees; and

(d) the effect of development on biodiversity.

Reasons

Accessibility to service and facilities

3. The appeal site is located outside of any settlement boundary. Housing development beyond settlement boundaries is restricted by Policies CP14 and DC2 of the Breckland Core Strategy and Development Control Policies Development Plan Document 2001-2026 ('the Core Strategy'). Hilborough is a small village with relatively few services and facilities beyond a public house, church and village hall that can be reached from the appeal site via a pavement. There is little evidence of a regular bus service, and the roads beyond the village are national speed limit. The nearest settlements offering a greater range of services and facilities such as Watton are several kilometres away along these roads.
 4. Based on these circumstances, the most likely mode of transport to access the majority of day-to-day services and facilities from the appeal site would be by private motor car. While a single dwelling house is unlikely to generate a large
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number of vehicular movements, such development would encourage unsustainable modes of travel. This would have negative environmental effects in terms of the use of natural resources and negative social effects in terms of accessible local services. While not physically isolated given the proximity of existing development, the proposal would be functionally isolated.

5. Concluding on this main issue, the proposed development would not provide a suitable location for housing having regard to the accessibility of services and facilities. Therefore, it would not accord with Policies CP14 and DC2 of the Core Strategy which restrict housing development to within settlement boundaries unless special circumstances apply. Policy CP11 of the Core Strategy relates to the protection and enhancement of the landscape, which does not appear to be relevant to this main issue. However, this does not diminish the conflict with Policies CP14 and DC2.
6. The development would also conflict with the aims of the National Planning Policy Framework (NPPF), which seeks to avoid new isolated homes in the countryside in favour of development that provides access to local services and encourages a range of transport modes. Policy 5 of Norfolk's 3rd Local Transport Plan does not appear to form part of the development plan. Nevertheless, I note that it seeks to minimise the need to travel and reduce reliance on the private car, which is a relevant consideration in this case.

Highway safety

7. The A1065 Brandon Road is designated by the Highway Authority as Corridor of Movement in Norfolk's route hierarchy whose primary purpose is to carry large volumes of traffic between centres of population. At the time of my site visit, it was busy with a regular flow of traffic including heavy goods vehicles. While it would appear that there have been no accidents in the immediate vicinity of the appeal site, the Highway Authority highlight a number of personal injury accidents within a distance of 850 metres to the site within the past five years.
8. The appeal site access onto the A1065 has satisfactory visibility to the south-west, but visibility is restricted to the north-east by a bend in the road. Although the speed limit past the access is limited to 40mph, and there were audible gaps in traffic at the time of my site visit, turning right out of the site access would present a degree of risk. Vehicles approaching along the A1065 from the north-east would have relatively little time and distance to react to an emerging vehicle. Even at 40mph, the severity of an impact could be significant and, given the busy nature of the road, the probability of an impact is reasonably high.
9. I note that properties already use the site access, although they are limited in number and appear to be long established buildings. Although the proposed development would only likely generate a handful of vehicular movements a day, the limited visibility and the risk of an incident is significant. In conclusion, 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 for all people.

Character and appearance

10. Hilborough is characterised by low density development, often set back from the road with considerable planting. These qualities make a positive contribution to the character and appearance of the area, including Hilborough Conservation Area which covers the appeal site and the wider settlement.
11. The appeal site is secluded from Brandon Road by trees and other boundary vegetation. The site is overgrown with evidence of fly tipping, and does not contribute much to the overall character and appearance of the area other than the greenery provided by the boundary trees and vegetation. The proposed development would have little effect on the character and appearance of the area, including the conservation area, provided that boundary planting is sustained.
12. The arboricultural method statement (AMS) submitted by the appellant reveals that many of the trees along the boundaries of the appeal site are mature specimens in reasonable condition with a remaining life expectancy of at least 20 years. None of these trees are proposed for removal, but the incursion of development into the root protection area is over 5% in most cases and between 19 and 23% in the case of three trees along the south-east site boundary nearest to the road. Although foundations for the dwelling could be designed to limit damage to tree roots, I note from the AMS that further details regarding the foundations would be required from the project arboriculturalist and engineer. This casts some doubt on the effects of construction on the trees and raises the potential of damage or loss.
13. Furthermore, the proximity of the dwelling to the trees along the south-east boundary would likely cause issues in terms of shadowing, restricting garden space and falling debris such as leaves. This would likely increase the pressure to carry out frequent works to the trees or potentially remove specimens altogether. The lessening of boundary planting in terms of trees would make the development more visible and detract from the overall greenery that characterises the area.
14. Concluding on this main issue, the proposed development would result in harm to the character and appearance of the area in terms of its effect on trees. Therefore, it would not accord with Policies CP11 and DC12 of the Core Strategy which seek to protect important natural features including trees. It would also conflict with the NPPF which requires development to conserve the natural environment and respond to local character.

Biodiversity

15. The Council indicate that the appeal site lies within 0.1km of the Breckland Special Protection Area (SPA). The site backs onto open countryside with the SPA to the north. The Proposals Map extract provided by the Council also reveals that the site lies within the 1,500 metre buffer zone around the SPA for stone curlews. The proposal is only for a single dwelling and it is unlikely that on its own the occupants and/or any pets would have a significant effect on the biodiversity of the SPA. However, such an argument could be used for countless similar proposals, but cumulatively, the harm could be significant. No mitigation measures have been put forward to indicate that significant effects would be avoided.

16. Policy CP10 of the Core Strategy states that any development likely to have a significant effect on the SPA will require an appropriate assessment. Such an assessment has not been provided. As I am minded to dismiss the appeal for reasons other than the effect upon the SPA, it is not necessary for me to carry out an appropriate assessment as the competent authority in this instance. If the circumstances leading to a grant of permission had been present, in the absence of secured mitigation I would have been required to give further consideration to the impact upon the SPA.
17. As an undeveloped site next to the countryside and near to the SPA, it is also possible that the site or its immediate surroundings could contain habitats or protected species. The absence of any ecological assessment means that it is not possible to be certain about the impact of development on any potential habitats or species or be clear about any mitigation measures. I note the appellant's statement that he was not asked to provide any ecological assessment before the application was determined by the Council, but this does not diminish the requirement for such assessment. Moreover, it would not be reasonable to impose a post-decision planning condition requiring an assessment, as the effects and mitigation measures need to be established before planning permission is granted.
18. Concluding on this main issue, the absence of ecological assessment means that it is uncertain whether the proposed development would have an acceptable effect on biodiversity. Therefore, it would not accord with Policy CP10 of the Core Strategy which seeks the protection of habitats and species. The development would also conflict with paragraphs 109 and 118 of the NPPF which seek to minimise impacts on biodiversity and avoid or mitigate significant harm.

Other Matters

19. The provision of a single house would result in benefits in terms of boosting housing supply and providing employment and investment into the local economy. It would also address a site that is overgrown and prone to fly tipping, while the house would be of an environmentally conscious design. However, these benefits are modest given the scale of development, and fly tipping could be addressed through other means. Weighing against the development are a number of significant issues relating to accessibility, highway safety, trees and biodiversity.
20. The Council claims that it can now demonstrate a five year supply of housing and that full weight should be given to the policies in the reasons for refusal. However, even if I were to find that relevant policies are out of date, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. In the circumstances, the proposal would not represent sustainable development.

Conclusion

21. For the above reasons, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR