
Appeal Decision

Site visit made on 15 August 2017

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 29 August 2017

Appeal Ref: APP/F2605/W/17/3173320

Land to the west of Walnut Shade, Norwich Road, Scoulton, Norfolk NR9 4NR

- 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 Barry Duffin against the decision of Breckland District Council.
 - The application Ref 3PL/2016/0986/F, dated 10 August 2016, was refused by notice dated 18 November 2016.
 - The development proposed is removal of direct access to Norwich Road from the site and erection of a two bedroom bungalow with vehicular access to the rear of the plot from the adjacent private drive.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Local Highway Authority, Parish Council and some third parties object on highway safety grounds and a previous appeal for a development using the same access as that now proposed was dismissed on those grounds. For these reasons I consider that highway safety should be treated as a main issue in the appeal even though it did not form part of the reason for refusal.

Main Issues

3. The main issues are: (a) whether the proposal would result in a sustainable pattern of development having regard to accessibility to services and facilities; and (b) the effect on highway safety.

Reasons

Sustainability

4. The Council is unable to demonstrate a five-year Housing Land Supply (HLS) as required by paragraph 47 of the National Planning Policy Framework (Framework). The Council has produced a revised Strategic Housing Market Assessment 2017 (SHMA) which indicates a lower level of Objectively Assessed Need (OAN) for housing across the district than that assumed in the adopted Breckland Core Strategy and Development Control Policies Development Plan Document (2009) (CSDCP). As neither the SHMA nor OAN has been tested at a development plan examination the revised need assessment can be afforded limited weight at this stage. However, even using that revised OAN figure, the

Council's best case assessment, as set out in its updated position statement as at 31 March 2017, is that there is a HLS of 4.6 years.

5. The updated position statement shows that the identifiable supply equates to between 2.4 and 2.8 years against the requirement set out in the CSDCP. The difference between these figures reflects the alternative methods for dealing with the identified shortfall of more than 2,400 units. The advice in Planning Practice Guidance is that the Sedgfield methodology should normally be adopted and I do not consider that local circumstances warrant an alternative approach. Accordingly, I find that 2.4 years supply is the more realistic assessment.
6. This assessment indicates a significant level of need for new housing in Breckland. The Council expresses confidence that adequate provision to meet projected needs will be made through the proposed new Local Plan for the period 2011-2036. This has recently been published as a pre-submission draft but, following the close of the consultation period in October, will need to be submitted to the Planning Inspectorate and be subject to an examination in public before it can be adopted. There will, therefore, be significant delay before any new land allocations are in place to help meet the current shortage in the HLS. Substantial weight must, accordingly, be given to that current shortage and the absence of a 5 year supply of deliverable sites.
7. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant development plan policies for the supply of housing should not be considered up-to-date where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
8. Paragraph 14 states that, where relevant policies are out-of-date, planning permission should be granted unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole; or
 - specific policies in the Framework indicate development should be restricted.
9. The site is not subject to any of the designations or policies given in Footnote 9 to the Framework as examples of those that might give such an indication. Accordingly, the appeal proposal falls to be assessed against the tilted balance in favour of development in the first limb of this part of paragraph 14.
10. Scoulton is identified under CSDCP Policy SS 1 as one of the designated 'rural settlements' not considered suitable for growth because of their reliance on higher order settlements for services and facilities. Policy SS 1 states that these settlements do not represent a sustainable option for significant expansion but will provide nominal housing and employment growth where capacity allows. As the proposal is for a single dwelling it would not constitute a significant expansion of the village and would not conflict with Policy SS 1 in this regard.
11. As the site lies outside the settlement boundary a conflict does, however, arise with Policy CP 14 which seeks to limit new market housing to sites inside settlement boundaries of such villages. However, as both SS 1 and CP 14 have a central purpose of steering housing development to certain settlements and

away from others, they are policies for the supply of housing and should be regarded as being out of date. Given the shortfall against the 5 year HLS only limited weight can be given to the proposal's conflict with these policies.

12. Scoulton is a settlement of reasonable size but has no shops or services other than a village hall. The appeal site lies within the village envelope and is enclosed on three sides by residential development. The proposal would not constitute an isolated home in the countryside and no conflict with paragraph 55 of the Framework would arise in that respect. The construction of one dwelling could potentially assist the viability of the village hall but I have seen no evidence that the proposal would support existing services and facilities in other nearby villages as envisaged in paragraph 55. Rather, the future occupiers of the dwelling would mainly be dependent on travelling to Watton for their employment, education and other daily needs. The proposal would not, therefore, meet the paragraph 55 objective that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
13. There is a relatively frequent, weekday bus service to and from Watton. The site is some 100 metres (m) from the nearest bus stops and there are no footways and no street lighting along this section of Norwich Road. The narrow and uneven road verges would be unusable for anyone with a push chair or shopping trolley and would be difficult for others to walk on when wet or in poor weather conditions. Use of these verges or the alternative of walking at the edge of the carriageway would be very intimidating given the close proximity and speed of passing traffic. The nature and speed of traffic along this section of a main road would also act as a disincentive for anyone using a cycle to travel to and from Watton.
14. For these reasons it is unlikely that the future occupiers of the proposed dwelling would choose to make journeys on foot or by cycle. They would, therefore, be dependent upon the use of a private car to meet their shopping, employment and other daily needs. The number of additional journeys from a single dwelling would be relatively small but, as Watton is around 4 miles from the site, the length of those journeys would not be insignificant. Some harm would result from the generation of additional journeys by unsustainable means and the proposal would fail to make full use of public transport, walking or cycling as encouraged in one of the core planning principles set out in paragraph 17 of the Framework. The proposal would, therefore, result in an unsustainable pattern of development.

Highway Safety

15. The proposal would use an existing private access and would result in some 6 additional daily movements into and out of that access. It would add to the number of vehicles turning out of the access onto Norwich Road and of those slowing down or waiting in the highway to turn into the access. Because of its restricted width drivers of vehicles wishing to turn left into the access would need to slow to a very low speed in order to complete that manoeuvre.
16. The amended visibility splays drawing indicates a splay of 2.4 m x 160 m to the north east but the Local Highway Authority's evidence is that the maximum splay that can be achieved in this direction is 2.4m x 57m. This was assessed in a survey carried out in relation to the previous planning appeal and my observations on my site visit support that conclusion. The Highway Authority

states that the maximum visibility splay available to the south west is 2.4m x 73m. The 2.4 x 97m splay to the south west indicated on the appellant's amended drawing is measured to the centre line of the carriageway.

17. Although this method of assessing the available visibility splay is sometimes considered acceptable I agree with the Highway Authority that this would normally be the case only when there is a physical obstruction within the carriageway to prevent overtaking on the approach to the access junction. No such obstruction exists in this section of Norwich Road and none is proposed in the appeal scheme. Overtaking is both possible and likely given that this is part of a long section of straight road. Indeed, I observed a light goods vehicle overtaking another vehicle in close proximity to the proposed access during my site visit.
18. Government safety guidance in the Design Manual for Roads and Bridges (DMRB) is that, on a road subject to a 50 mph speed limit, visibility splays of 2.4m x 160m are required in both directions. No survey has been carried out to provide any measurement of average traffic speeds on this section of Norwich Road and there is, therefore, no evidence that these are lower than the 50 mph limit which is in force. My own assessment made during my site visit is that most vehicles were travelling at speeds close to 50 mph and that a good proportion appeared to be travelling above that limit. I see no justification in this case for accepting a visibility splay which does not meet the standards recommended in DMRB. Accordingly, I find that the proposal would cause unacceptable risks to the safety of the drivers and passengers of vehicles entering and leaving the site and of other road users.
19. A dropped kerb remains at the highway edge. However, as the appeal site previously formed part of the garden of the large dwelling to the rear, there is no evidence that its former use generated any additional movements over and above those which are now accommodated on the private access to Meadsweet Barn. Neither has any evidence been submitted to substantiate the appellant's claim that the appeal site has a lawful use for residential purposes. Hence, it is appropriate that the vehicle movements generated by the new dwelling should be treated as additional to the existing flow in and out of the private access road and I do not accept that the removal of the existing direct access to the site from Norwich Road would, necessarily, result in a highway safety benefit.
20. The Council concluded that there is no conflict with paragraph 32 of the Framework in relation to highway safety. The Highway Authority's objection, dated 20 July 2017, emphasises the reference to the phrase "*on transport grounds*" within the paragraph 32 statement that development should only be prevented where the residual cumulative impacts are severe. It also points out that regard must also be had to that paragraph's requirement that all development should take account of whether safe and suitable access can be achieved for all people.
21. The Highway Authority's interpretation of the 'severity test' set out in paragraph 32 is in line with the High Court judgment in the Mayowa-Emmanuel Case¹. That judgement ruled that that part of paragraph 32 addresses matters of highway capacity and congestion and that the test does not apply to highway safety. Because of the risks to highway safety resulting from the proposed access arrangements, and the absence of a safe pedestrian route to

¹ Mayowa-Emmanuel v Royal Borough of Greenwich [2015] EWHC 4076

and from the site, the appeal proposal would fail to provide safe and suitable access for all. It does, therefore, conflict with paragraph 32 and would result in considerable harm to highway safety.

Other Matters

22. The proposal would contribute to meeting housing requirements in the district. As a single house that contribution would be very small but, in light of the current level of housing need, that social benefit should be given significant weight. There would be benefit to the local economy from the investment and employment generated by the construction works but these potential benefits would also be of a very modest scale and of only moderate weight.
23. I agree that the ground slab of the former building on the site remains visible through the rough vegetation and that the proposal would make use of previously developed land. However, that potential benefit is offset by the harm that would result from the development of a new dwelling in an unsustainable location. Whilst the tidying up of the site and provision of new habitat features would bring some environmental benefit this could be achieved by use of the land as a garden or other similar use and does not require its development as a separate dwelling.
24. Draft Policy PD05B of the emerging Local Plan provides support for the development of self-build dwellings in smaller villages and hamlets subject to certain criteria. As the Plan is at an early stage of preparation very little weight can be attached to that policy. The demand for self and custom build housing is capable of being a material planning consideration due to the requirements of the Self Build and Custom Housebuilding Act 2015. That Act requires local planning authorities to establish local registers of those who wish to acquire land to build their own home and to have regard to the demand for such sites in exercising their planning functions.
25. The Breckland register indicates significant demand for such sites and the contribution of even one site to help meet that demand would be of benefit. However, no agreement or legal undertaking that would ensure that the site would be developed for this purpose has been submitted and I do not see how that outcome could be secured by means of a planning condition that would meet the tests in paragraph 206 of the Framework. I am, therefore, unable to treat this as a deliverable benefit of the proposal or to give this aspect of the appellant's case any weight.
26. I have been referred to an appeal decision concerning a proposal for a single dwelling in Great Ellingham². The Inspector who determined that appeal found that that proposal would generate unsustainable car journeys. However, I note that the site in that case was somewhat closer than the current appeal site to a settlement with a range of local services and facilities and to the nearest town.

Conclusions

27. The proposal would result in an unsustainable pattern of development. It would cause significant harm through the generation of journeys by unsustainable means of transport and considerable harm to highway safety. These adverse impacts would significantly and demonstrably outweigh the benefits identified above. Having regard to the conflict with paragraph 32 and

² APP/F2605/W/3162645 determined 6 March 2017.

to the policies in the Framework as a whole the proposal does not benefit from the tilted balance in favour of development set out in paragraph 14 and would not constitute sustainable development. Some conflict would arise with development plan Policies SS 1 and CP 14, albeit that limited weight can be given to those policies.

28. For the reasons set out above I conclude that the appeal should be dismissed.

Paul Singleton

INSPECTOR