
Appeal Decision

Site visit made on 14 August 2017

by Peter Rose BA MRTPI DMS MCMI

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

Decision date: 4th September 2017

Appeal Ref: APP/F2605/W/17/3173779

Site east of Town Cottage, Town Green, Great Ellingham, Attleborough, NR17 1LP

- 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 Bradley Beales against the decision of Breckland Council.
 - The application Ref: 3PL/2016/1191/F, dated 29 September 2016, was refused by notice dated 9 March 2017.
 - The development proposed is 4 new houses with garages and access drive (as amended to 3 houses).
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Bradley Beales against Breckland Council. This application is the subject of a separate Decision.

Procedural matters

3. The proposal was revised post-submission and the amended description as stated on the Council's decision notice, and confirmed by the appellant's appeal form, is '*3 new dwellings with garages and access*'.
4. The Council has advised of an inaccuracy in Reason 2 of its decision notice. The reference to Policy DC 03 of the *Breckland Council Core Strategy and Development Control Policies Development Plan Document 2001-2026 Adopted December 2009* (the *DPD*) should be to Policy DC 1.
5. I consider the appeal on the above basis.

Main issues

6. The main issues are:
 - (a) whether the proposal would involve an appropriate location for development with particular regard to the approach to settlement expansion expected of the development plan;
 - (b) the effect of the proposed development upon the character and appearance of the appeal site and its surroundings, and;
 - (c) possible significance of other material considerations relevant to the appeal scheme.

Reasons

Settlement expansion

7. The appeal site is a cleared area of land adjacent to Town Cottage. It is irregularly shaped and comprises curtilage/garden land previously serving the adjacent dwelling.
8. Access is via a privately-owned track linking to Glebe Meadow. To the north of the appeal site is open countryside, to the east lie semi-detached houses, and to the south and west are a variety of detached dwellings and farm buildings. The general character of the immediate surroundings is of a loosely built-up residential area but within a wider countryside setting.
9. Policy SS 1 of the *DPD* sets out how the Council sees different parts of the District developing in response to key issues, and how growth will be accommodated up until 2026, as well as priorities for areas that are to be protected from development pressures.
10. Policy SS 1 identifies Great Ellingham to be a Local Service Centre Village where the strategy will be primarily around service protection and development to meet local needs. It also states that a positive housing allocation will not be made for new housing development in Great Ellingham for the remainder of the plan period. Nonetheless, Policy DC 2 seeks, subject to detailed development criteria, to permit new housing development within the defined settlement boundaries, whilst Policy CP 14 also seeks to support village housing growth through development inside the limits of the defined settlement boundary.
11. I recognise the appeal site is relatively accessible to local services¹. Nevertheless, the site lies outside the settlement boundary defined by the *DPD*.
12. I therefore find that the proposed development would be contrary to the spatial strategy set out by Policy SS 1, Policy DC 2 and Policy CP 14 of the *DPD*, and thereby contrary to the planned pattern of sustainable development which it envisages.

Character and appearance

13. The site has a relatively rural character and appearance as a former garden area of some substantial size set adjacent to countryside to the north. The relatively open boundaries to the north and south afford views through the site, thereby establishing a fairly open, undeveloped impression to the site and exposing its surroundings.
14. The site is not in a particularly prominent location within the wider street scene. It is set away from the public highway and the proposed development would, to some degree, be screened from the surrounding area to the east by housing and by existing planting.
15. The design of the dwellings seeks to reflect the setting and would be of a relatively traditional rural style with weathered buff facing brick, black clay pantiles and stained softwood doors and windows. The proposal has also been reduced from four dwellings to three to be more in-keeping with the less formal pattern of development to the west comprising larger properties set in more generous curtilages. The scheme is intended to create a transition between the

¹ Appellant's Appeal Statement dated April 2017, section 6.5.5

contrasting patterns and forms of development either side, both of which are also outside the settlement boundary.

16. Even so, the proposal would result in replacement of a previous residential garden by housing development of a significant built form and scale. Housing to the east and west is physically separated by the appeal site and each is of a contrasting character and appearance. These features underline the significance of the appeal site as a relatively neutral space contributing to and reinforcing the distinctiveness of the wider setting by separating contrasting developments either side and by providing an open character and appearance sympathetic to the wider adjacent countryside.
17. Hence, I consider the erection of three dwellings on the site in the form proposed to be out-of-keeping with the wider, existing pattern of development and would so create an incongruous presence. It would result in a loss of the relative openness, would incur loss of views of countryside, and would replace the distinctiveness of the site and its setting by predominantly built form. Further, Plot 3, which would be located to the north of the site adjacent to the countryside, would protrude well beyond the building line of the existing adjacent development at Glebe Meadow. Plot 3 would comprise the largest property proposed and would appear as a particularly intrusive feature.
18. I therefore find that the proposed development would introduce a discordant, unduly urbanised presence. The proposed scheme would thereby be harmful to local character and appearance contrary to Policy DC 1 and Policy DC 16 of the *DPD*. These seek, amongst other things, to ensure that all new development achieves the highest standards of design, preserves or enhances the existing character of an area, and pays particular regard to reinforcing locally distinctive patterns of development and landscape.
19. The *National Planning Policy Framework* (the *Framework*) also advises that it is proper to seek to promote or reinforce local distinctiveness². A core principle of the *Framework* is also to recognise the intrinsic character and beauty of the countryside³.
20. Notwithstanding that the *Framework* expects planning policies and decisions to encourage the effective use of land⁴, the appeal site comprises garden land in a built-up area and is thereby also excluded from the *Framework's* definition of Previously Developed Land⁵.

Other material considerations

1. Housing land supply

21. The *Framework* seeks for planning to deliver a wide choice of high quality homes and to boost significantly the supply of housing. To this end, it requires a local planning authority to identify and update annually a supply of specific deliverable housing sites sufficient to provide five years' worth of housing relative to its requirements for market and affordable housing, and including an additional buffer of 5% or 20%⁶.

² Paragraph 60

³ Paragraph 17

⁴ Paragraph 111

⁵ See Annex 2

⁶ Paragraph 47

22. The Council considers it had a five-year supply of housing land as of September 2016, but in June 2017 a new Central Norfolk Strategic Housing Market Assessment was published and which provides an updated position on housing need for the Central Norfolk authorities. For Breckland, the data has shown that there was a higher than expected rate of household formation since 2011 and as a consequence the annual housing target has been increased from 598 dwellings per annum to 612 dwellings. Work to finalise a new five-year land supply statement for the period ending March 2017 to take account of the new data is on-going.
23. I also note that the Council acknowledged in June 2017 that it had at that time a demonstrable housing land supply of 4.9 years⁷, and that the appellant's separate detailed evidence suggests this to be significantly less.
24. The appellant raises a number of questions relating to the Council's approach to its assessment of housing land supply. These include general issues of methodology, treatment of data and of the required buffer, and questions around net gains of dwellings and the deliverability of particular sites.
25. I have also had regard to a recent appeal decision relating to Beechwood House, Wretham Road, Great Hockham, Norfolk, IP24 1NY⁸ (the Beechwood House appeal), which found doubts as to the robustness of the Council's claimed five-year housing land supply.
26. In all these circumstances, I share the doubts raised by the Beechwood House decision such that I cannot be satisfied that the authority is currently able to demonstrate a five-year supply of deliverable housing sites.
27. In the absence of a five-year supply of housing land, it follows, by virtue of paragraphs 47 and 49 of the *Framework*, that relevant policies in the development plan for the supply of housing should not be considered up-to-date. Interpretation and weighting of such policies has been further clarified by the Courts⁹. Further, by virtue of being out-of-date, relevant provisions of the presumption in favour of sustainable development under paragraph 14 of the *Framework* are thereby engaged.

2. Economic benefits

28. The economic benefits would include investment and expenditure associated with implementing the development, related employment for the duration of the works, and a subsequent increase in local household expenditure and demand for services from new residents post-occupancy.
29. The economic benefits of the scheme are a matter to which I attach significant weight.

3. Social benefits

30. Social benefits would arise in contributing towards meeting local housing needs and to which I attach significant weight. Although the authority's decision notice is relatively dismissive of an additional three dwellings to its supply, it

⁷ See page 1 of Council's undated Written Representations

⁸ Appeal Ref: APP/F2605/W/16/3164161, decision dated 6 March 2017

⁹ *Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents)* *Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant)* [2017] UKSC 37

would still be a significant contribution given my assessment of the Council's five-year housing land supply, and the *Framework's* commitments to deliver a wide choice of high quality homes and to boost the supply of housing.

4. Other site-specific factors

31. The appellant highlights that land to the east of the site, and to the rear of the adjacent housing, is identified as a preferred residential allocation for housing in an Emerging Breckland Local Plan document¹⁰. Such an allocation can only be afforded very limited, if any, weight given its emerging status within the development plan process¹¹, and I have little relevant background detail before me.
32. Reference has also been made by interested parties to implications for the living conditions of adjacent residents in terms of overlooking, privacy, noise and lighting, and also concerns around safe vehicular access, and regarding wildlife. These, and all other matters raised, are not identified in objection by the local planning authority and I have little reason to conclude any significant harm in those regards. Reference is also made to private rights of access along the adjacent track, but that would be a civil matter between the relevant parties. I also note an archaeological interest in relation to the adjacent land.

5. Other decisions

33. The Courts have held that like cases should be decided in a like manner so that there is consistency in the appellate process¹², and I have had regard to all other decisions to the extent highlighted in the evidence. Whilst the particular circumstances of all cases will be different, and each will be necessarily fact and context sensitive, my decision turns on the site-specific considerations particular to the proposal before me.

6. Sustainable development

34. The *Framework* makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development¹³. The purpose of the planning system is to contribute to the achievement of sustainable development¹⁴. Sustainable development is defined by the *Framework* with reference to the policies in paragraphs 18 to 219 taken as a whole¹⁵.
35. Relative to the particular economic, social and environmental dimensions of sustainable development defined by the *Framework*, the scheme would provide some social and economic benefits. In environmental terms, however, the scheme would carry a very high cost for local character and appearance.
36. For the various reasons described, I find that the proposal would not accord with the development plan as a whole. The Courts have held that, where a proposed scheme conflicts with the development plan, the starting point for analysis should not be that there is a presumption in favour of development as

¹⁰ See Figure 3 of Appeal Statement dated April 2017

¹¹ See paragraph 216 of the *Framework*

¹² See, for example, *North Wiltshire DC v Secretary of State for the Environment* (1993)

¹³ Paragraph 49

¹⁴ Paragraph 6

¹⁵ Paragraph 6

expected in paragraph 14 of the *Framework*¹⁶. Rather, the decision maker's starting point should be that such a scheme would not be sustainable development.

Overall planning balance

37. Notwithstanding that the scheme would be contrary to the development plan and would not thereby be sustainable development, the question which necessarily follows, reflecting both section 38(6) of the Planning and Compulsory Purchase Act, 2004 (the Act) and the Courts' judgements referred to above, is whether, nonetheless, there are material considerations which would warrant a decision in this instance other than in accordance with the development plan.
38. Paragraph 12 of the *Framework* similarly reminds us of the statutory status of the development plan as the starting point for decision-making. Reflecting section 38(6) of the Act, it explains that proposed development which accords with an up-to-date Local Plan should be approved, and that proposed development which conflicts should be refused unless other material considerations indicate otherwise.
39. I regard the Council's inability to demonstrate a five-year housing land supply as a material consideration of significant weight in favour of the scheme. Even so, the Courts have held that, to the extent that any relevant policies may be regarded as policies for the supply of housing and thereby out-of-date, such policies still retain their statutory force, and that a wider view of the development plan has to be taken in accordance with the weighting of the decision-maker¹⁷. This approach is reflected in the weight I attach to the policies as identified, and particularly their continuing relevance in relation to harm arising in connection with character and appearance.
40. Nevertheless, and notwithstanding the relevance of the development plan as above, my assessment is that the adverse impacts of the scheme, particularly in terms of character and appearance, significantly and demonstrably out-weigh the benefits in accordance with the test required by paragraph 14 of the *Framework*. Accordingly, I find that the scheme would also not be sustainable development on that basis.
41. In accordance with section 38(6), as reflected in paragraph 12 of the *Framework*, I conclude that the weight and subsequent balance of other material considerations do not lead me to a decision in this instance other than in accordance with the development plan.

Conclusion

42. For the above reasons, the appeal is dismissed.

Peter Rose
INSPECTOR

¹⁶ East Staffordshire Borough Council and the Secretary of State for Communities and Local Government and Barwood Strategic Land II LLP dated 22 November 2016 [2016] EWHC 2973 (Admin)

¹⁷ Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant) [2017] UKSC 37