
Appeal Decision

Site visit made on 6 November 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 8 February 2018

Appeal Ref: APP/V2635/W/17/3180020

Land south of Chapel Lane, Ringstead, Norfolk PE36 5JX

- 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 Chris Dovell (West Side Property Development Limited) against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 15/01604/FM, dated 6 October 2015, was refused by notice dated 29 March 2017.
 - The development proposed is for 10 dwellings comprising 6 buildings on a brown field site.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 5 December 2017.

Decision

1. The appeal is allowed and planning permission is granted for 10 dwellings comprising 6 buildings on a brown field site at land south of Chapel Lane, Ringstead, Norfolk PE36 5JX in accordance with the terms of the application, Ref 15/01604/FM, dated 6 October 2015, subject to the conditions set out in the Schedule attached to this decision.

Main Issues

2. The main issues in the appeal are whether :-
 - this would be an acceptable location for the amount of housing proposed with regard to local and national planning policy;
 - there would be an adverse effect on the character and appearance of the village;
 - safe and suitable access could be achieved; and
 - there would be an adverse effect on biodiversity.

Reasons

3. The proposal is for 10 dwellings sited either side of a new courtyard access running south from Chapel Lane; an unclassified road served off the High Street in Ringstead. Two semi-detached pairs of units would face Chapel Lane with an entrance between them leading to the other six units laid out symmetrically each side of the courtyard. Chapel Lane currently serves about 8 mainly older dwellings after which it becomes a public right of way. The

appeal site is centrally located within this quite small, rural village. It was once occupied by a haulage yard but that use has long ceased and the land has become overgrown.

Whether an acceptable location with regard to local and national planning policy

4. The development plan for this area comprises the Borough Council's Core Strategy¹ (CS) and Site Allocations and Development Management Policies Plan² (SADMP). Ringstead is a small village with a 2011 census population of 324. The settlement is classed as one of the Smaller Villages and Hamlets (SVH) in the settlement hierarchy set out in CS Policy CS02. Here the strategy in CS Policy CS06 is for more modest levels of development to meet local needs and maintain community vitality where this can be achieved in a sustainable manner, particularly in regard to accessibility and protecting the character of an area.
5. SADMP Policy DM3 allows for sensitive infilling of small gaps in otherwise built-up frontages within SVH which the appellant acknowledges, and I also accept, would not apply to this proposal. Policy DM3 does allow for small groups of dwellings in such settlements in exceptional circumstances where the development is of particularly high quality and would provide significant benefits to the local community.
6. Whether the proposal is a small development remains a matter of judgement. Based on the appellant's estimate that there are currently around 170 households in the village it is considered that the further ten dwellings proposed would comprise a relatively small group of dwellings.
7. The scheme provides a mix of housing sizes and the courtyard arrangement is an appropriate built pattern shown to feature elsewhere in the village. The scale, proportions and materials of the proposed houses would be reasonably in keeping with the character of the original development in the village. The otherwise quite simple contemporary designs would compare as favourably with other new housing in this village, such as the dwellings on the Burnham Road referred to, where a more vernacular approach has been taken. Although this scheme may neither be exceptional nor outstanding I am satisfied it would be of the particularly high design quality required by SADMP Policy DM3.
8. The proposal would provide for two of the ten dwellings to be affordable. This would meet the 20% requirement of CS Policy CS09 for a proposal of this size and in this location. Whilst two affordable dwellings would be a small amount it is nevertheless reasonable provision for the scale of development proposed and would be of significant benefit in relation to the needs of a relatively small village.
9. The Council's decision and the appellant's case both refer to the National Planning Policy Framework (the Framework) which is a material consideration. Paragraph 55 of the Framework states that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are

¹ King's Lynn and West Norfolk Borough Council Local Development Framework – Core Strategy. Adopted Version July 2011.

² King's Lynn and West Norfolk Borough Council Site Allocations and Development Management Policies Plan adopted September 2016.

groups of smaller settlements, development in one village may support services in a village nearby.

10. The appellant accepts Ringstead is a rural community with limited services and facilities. However, this proposal would help support those that exist, such as the nearby public house and general store. Whilst there can be no guarantee that the market units would not become second or holiday homes, the development would still enhance the vitality of the village generally and support the local economy. Ringstead has only a daily bus service to the closest larger centre of Hunstanton and occupiers would rely on short trips by private car to meet some regularly required needs in nearby centres. However, the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. The Council has stated that CS Policy CS11 generally recognises that there will be more reliance on the car in rural areas.
11. Part of the appellant's case is that the proposal benefits from being the development of previously-developed land, the effective use of which is encouraged by the Framework. The glossary in Appendix 2 of the Framework defines previously-developed land as that which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. It excludes land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.
12. Although the site has become overgrown with moss and other vegetation it evidently contains some concrete footings and underground tanks. These remain as evidence of the former haulage yard and buildings shown in the aerial photograph provided of the site in the 1970s. My judgement is the site is previously-developed land and the proposal would benefit from the development of this. The scheme would bear the additional costs of remediating any contamination involved with the previous use.
13. Taking into account all of the above considerations this development would on balance comprise an acceptable location for the modest amount of housing proposed and there would be no material conflict with the aims of CS Policy CS06 and SADMP Policy DM3 or of the Framework.

Character and appearance of the village

14. The site is part of the Ringstead Conservation Area and the entire village falls within the North Norfolk Area of Outstanding Natural Beauty (AONB). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides a statutory duty that special attention be paid to the desirability of preserving or enhancing the character or appearance of this area. The Council considers that with appropriate conditions in place the proposed development would preserve the character of the conservation area and would not harm the historic importance of the local area. I find no reason to disagree.
15. The proposal would integrate well with the built fabric of the village with closely located development to the north and west along Chapel Lane. The site is well screened by vegetation as viewed from the High Street across the open area of paddock to its east and would not be visually prominent in the open landscape. As a relatively modest addition to the built-up part of the existing village the ten houses would not in my judgement be a major development within the

AONB restricted under paragraph 116 of the Framework. As the Council considers might be the case, I am satisfied this proposal would not have a major impact on the wider landscape character of the AONB.

16. I am not persuaded by the Council's case that there would be harm to the form and character of the village due to the development of currently unoccupied land. Neither do I agree that the development is of such disproportionate scale or mass that it would be out of keeping with its surroundings. My view is that the designs and materials proposed, and the scale of the housing and its closely-arranged courtyard plan, would blend in acceptably with the existing built form of this settlement. There would be no adverse effect on the character and appearance of the village and the proposal would satisfy the aims of CS Policy CS08 and SADMP Policy DM15 and those of the Framework requiring good design.

Safe and suitable access

17. Chapel Lane measures around 3m for much of its width widening to about 4m towards the appeal site access and the junction with High Street. The road is unlit without separate footway provision apart from a small length near the High Street junction. It is not a through road for vehicles and serves the existing eight or so houses as well as pedestrians, including those accessing the right of way at the end of the street.
18. The width of Chapel Lane means when two cars meet they occasionally have to stop and one or either reverse. I agree that by adding a further 10 dwellings the proposal could increase weekday movements by around 60 based on TRICS³ data. Although Chapel Lane is subject to a 30 mph speed limit its narrow width would reduce actual vehicle speeds to substantially below this and the local highway authority's estimate of 20 mph would be reasonable. The access road into the site of the 10 dwellings would be a 5.8m wide shared surface with acceptable visibility onto Chapel Lane relative to traffic speeds.
19. The Council's reason for refusal, based on the evidence of the local highway authority, is that the proposal would increase the potential for vehicle collision and pedestrian/vehicular conflict due to the restricted width and poor alignment of Chapel Lane and the lack of adequate pedestrian provision and visibility onto the High Street.
20. Paragraph 32 of the Framework states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. However, this test of severity relates to highway capacity and congestion. The relevant test in paragraph 32 in respect of the adequacy of the lane serving this proposal is whether safe and suitable access to the site can be achieved for all people.
21. To address the highway concerns the proposal provides for off-site improvements. A 1.5m wide footpath would be provided along the appeal site frontage continuing east behind an existing roadside wall along the southern edge of Chapel Lane to connect with the existing footway at the High Street junction. Chapel Lane would be widened from the High Street by removing the narrow grass verge abutting the wall to a width allowing two cars to pass up to a pinch point where this would not be possible. The pinch point would be white

³ Trip Rate Information Computer System

- lined to alert drivers and beyond this, and up to the proposed entrance to the development, the highway surface would be widened to permit two cars to pass.
22. To address the substandard visibility at the junction onto the High Street it is proposed to reposition the white lining and kerbs either side. This maintains good visibility to the critical direction to the right and improves the currently limited visibility to the left to meet the 43m recommended in the Government's *Manual for Street* for the 30mph controlled High Street.
23. These off-site improvements would not alter the highway authority's fundamental concern that the reduced availability to services in this village would limit the opportunity for a modal shift from private car use. However, this needs to be balanced against some services, such as the nearby shop and public house, being within walking distance. The appellant controls land that could provide for a footway and fully widened Chapel Lane. However, my decision is based on the access improvements proposed, having regard also to the existing character and appearance of this part of the conservation area.
24. I am persuaded that the partial widening would mitigate any adverse highway safety impacts of the increased incidence of vehicles meeting along Chapel Lane. The better visibility left at the High Street junction would be an improvement on the existing situation. The new footpath, whilst remaining in private ownership, could be retained and maintained by means of a planning condition and secure improved pedestrian safety. I am not persuaded by the personal safety concerns expressed by the local highway authority in respect to the adjacent wall and mature trees.
25. Although the improvements to Chapel Lane would not substantially improve the free flow of traffic this is less of a concern that the safety of road users which the combined measures proposed would address adequately. Safe and suitable access could be achieved and therefore this proposal would comply with CS Policy CS11, SADMP Policy DM15 and paragraph 32 of the Framework.

Effect on biodiversity

26. The preliminary ecology appraisal⁴ (PEA) of the site was submitted with the appeal and after the Council's decision. The Council appear to accept that mitigation measures can be introduced to prevent adverse impacts upon species as well as measures to enhance the biodiversity of the site. The evidence does not support a conclusion that there would be a materially adverse effect on biodiversity. Subject to a condition requiring suitable ecological mitigation and enhancement based on the PEA the proposal would not conflict with the aims of CS Policy CS12 or with paragraph 118 of the Framework.
27. During the course of the application the Council introduced a Habitats Mitigation Tariff set at £50 per dwelling. Details of this tariff have not been provided and this payment could reasonably have been negotiated as part of the recently signed Section 106 obligation. It would therefore not be reasonable for the absence of this payment to weigh against the proposal.

Other matters

⁴ Torc Ecology Project Ref TE/TD/2017_410 May 2017

28. Further concerns have been raised by interested parties, including the Parish Council, and I have considered those made at both the application and appeal stages. The Council and local highway authority have not questioned the amount of parking provided and I find no reason to find differently. No weight can be given to the restoration of the former haulage use or any other potential use, such as a certified caravan site, and the appeal has been assessed on the merits of the housing proposed.
29. There is no evidence the development could not provide adequate means of foul and surface water drainage. There will inevitably be some disruption arising from the construction but I am not persuaded the completed development would be of material harm to the living conditions of neighbouring occupiers either due to loss of privacy, light or outlook.
30. The Council and appellant have both agreed to the appeal being dealt with by means of written representations. On this basis careful consideration has been given to the evidence provided and all representations made in making a balanced determination of the appeal.

Planning obligation

31. Consideration has been given to the Section 106 planning obligation dated 9 November 2017 providing for two dwellings to be affordable, the construction to adopted standards and future maintenance of the private footpath alongside Chapel Lane and arrangements for sustainable drainage. The obligation meets the three tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the Framework and the benefits provided have been afforded weight in arriving at this decision.

Conditions

32. I have considered the conditions suggested by the Council and the local highway authority against the tests in paragraph 206 of the Framework. Amendments have been made in the interests of succinctness and to reflect the standard model conditions used by the Inspectorate. Condition precedents apply where agreement to fundamental issues are necessary before development can commence.
33. In addition to the standard time limit for commencement (1) a condition specifies the plans the development shall accord with (2). In the interests of character and appearance facing materials must be agreed before development proceeds above slab level (3). The access, parking and turning areas should be laid out, surfaced and drained as proposed before the dwellings are occupied (4). In the interests of biodiversity the ecological mitigation and enhancement shall be agreed before development starts and thereafter carried out (5).
34. Standard conditions are applied to address contamination (6 – 8). In the interests of the satisfactory appearance of the development outstanding hard and soft landscaping details shall be agreed and implemented (9, 10). In the interests of recording any archaeology a standard condition is applied (11). In the interests of highway safety conditions require agreement to and implementation of a Construction Traffic Management Plan and the off-site highway improvements (12, 13). For the same reason occupation is dependent upon first providing the approved visibility splays at the site entrance (14).

To ensure adequate foul and surface water drainage a condition is necessary that arrangements are agreed and put in place prior to occupation (15).

Conclusion

35. The appellant has submitted various other appeal decisions in support of this proposal. None of these are entirely comparable to this case for various reasons and so are afforded limited weight. This proposal has been considered principally on its own, individual merits and the issues are quite finely balanced.
36. Although through CS Policy CS09 no housing is specifically allocated in SVH settlements such as Ringstead there is an allowance made for a modest amount of residential development through SADMP Policy DM3. Whilst the policy is clear that this would be mainly through the infilling of a small gaps within a built-up frontage, small groups of dwellings may exceptionally be appropriate. What defines a small group is a judgement and relative to the size of the surrounding village I consider this scheme would comprise of such.
37. The site was once a haulage yard but this activity has long ceased. It appears not to be the subject of much active use but comprises brown field land that is in the process of becoming overgrown with vegetation. The proposal would provide a use for previously-developed land which has limited alternative functions. It is within the village and, having housing on many of its sides, a residential development here would be appropriate.
38. Although Ringstead has limited services the ten dwellings would support those that exist, which are within walking distance, and generally enhance the vitality of the village. Along with the two affordable units proposed, a reasonable level of provision relative to the size of the scheme and the village, the development would bring significant benefits to the local community. The evidence provided shows the likely clean-up costs involved in developing this site would offer further support to the proposed number of units. I am not persuaded that the massing and scale of the development would be out of keeping with the character of the surrounding village or be disproportionate. The designs proposed would be of a sufficiently high quality to meet the requirements of SADMP Policy DM3.
39. The proposal provides a new footway, some road widening along Chapel Lane and improved visibility at the junction with High Street. I am satisfied that these off-site highway measures would mitigate for the increased traffic flows that would result and that safe and suitable access could therefore be achieved. There would be no material harm to biodiversity which through a condition could potentially be enhanced. The proposal would provide benefits to the overall supply of housing and to the local economy. For the reasons set out above, and having considered all other matters raised, the benefits of the development are considered to outweigh any harm found. Consequently I conclude that the appeal should be allowed.

Jonathan Price

INSPECTOR

Schedule of Conditions
Appeal Ref: APP/V2635/W/17/3180020
Land south of Chapel Lane, Ringstead, Norfolk PE36 5JX

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: design and access statement, rev d; drawing no. 325_00_001, rev c, location plan; drawing no. 325_00_010, rev c, site analysis; drawing no. 325_00_011, rev c, village analysis; drawing no. 325_00_012, rev c, concept diagrams; drawing no. 325_00_013, rev c, final concept diagram; drawing no. 325_00_014, rev b, previous use; drawing no. 325_00_100, rev c, block plan; drawing no. 325_00_101, rev d, ground floor site plan; drawing no. 325_00_102, rev c, first floor site plan; drawing no. 325_00_103, rev c, vehicle access strategy; drawing no. 325_00_105, rev c, landscape overview plan; drawing no. 325_00_111, rev b, hard landscaping; drawing no. 325_00_112, rev b, soft landscaping; drawing no. 325_00_120, rev b, site elevations; drawing no. 325_00_500, rev c, 3d massing views; drawing no. 325_00_900, rev c, 3d visualisation 1; drawing no. 325_00_901, rev c, 3d visualisation 2; drawing no. 325_00_902, rev c, 3d visualisation 3; drawing no. 325_20_200, rev a, plots 1-2 floor plans; drawing no. 325_20_201, rev b, plots 3-4 floor plans; drawing no. 325_20_202, rev c, plots 5-8 floor plan; drawing no. 325_20_204, rev b, plot 9 floor plans; drawing no. 325_20_207, rev b, plot 10 floor plans; drawing no. 325_20_230, rev b, plots 3-4 elevations 1 & 2; drawing no. 325_20_231, rev b, plots 1-4 elevations 3 & 4; drawing no. 325_20_232, rev c, plots 5-8 elevations 1 & 2; drawing no. 325_20_233, rev b, plots 5-8 elevations 3 & 4; drawing no. 325_20_234, rev a, plots 1-2 elevations 1 & 2; drawing no. 325_20_236, rev c, plot 9 elevations 1 & 2; drawing no. 325_20_237, rev b, Plot 9 elevations 3 & 4; drawing no. 325_20_242, rev c, Plot 10 elevations 1 & 2; drawing no. 325_20_243, rev b, Plot 10 elevations 3 & 4.
- 3) No development shall commence above slab level until details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to the occupation of the dwellings hereby permitted the proposed access, on-site car parking and turning areas shall be laid out, surfaced and drained in accordance with the approved plans and retained thereafter for these respective purposes.
- 5) No development shall be carried out until ecological mitigation and enhancement measures based on the preliminary ecology appraisal by Torc Ecology, project ref TE/TD/2017_410 dated May 2017, have been submitted to and approved in writing with the local planning authority.

The development shall be carried out in accordance with these agreed measures.

- 6) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include: a survey of the extent, scale and nature of contamination; the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; ground waters and surface waters; ecological systems; and archaeological sites and ancient monuments.
- 7) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred options, the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 8) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 9) The development shall not commence until details further to the approved plans of both all hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: earthworks showing existing and proposed finished levels or contours; planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment) schedules of plants noting species, plant sizes and proposed numbers and densities where appropriate; hard surfacing materials; refuse or other storage units, street furniture, structures and

other minor artefacts; a scheme for the retention and protection of existing trees and hedging; an implementation programme.

- 10) The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. Any trees or plants that within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species as those originally planted, unless the Local Planning Authority gives written approval to any variation.
- 11) No development shall take place until an archaeological Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions – and the programme and methodology of site investigation and recording; the programme for post investigation assessment; the provision to be made for analysis of the site investigation and recording; the provision to be made for publication and dissemination of the analysis and records of the site investigation; the provision to be made for archive deposition of the analysis and records of the site investigation; the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 12) No development shall commence until a Construction Traffic Management Plan to incorporate details of on-site parking for construction workers, access arrangements for delivery vehicles and wheel cleaning facilities for vehicles leaving the site shall be submitted to and approved in writing by the local planning authority. The Construction Traffic Management Plan shall thereafter be adhered to for the construction period.
- 13) No development shall commence until full details of the off-site highway works in respect of the Chapel Lane footpath and improvements, the site access visibility splay and the improvements to Chapel Lane/High Street junction, as shown in drawing nos. Q551/001 rev C, Q551/002 rev D and Q551/003 rev H, have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the approved highway works have been completed to the satisfaction of the local planning authority as confirmed in writing.
- 14) Prior to the first occupation of the development hereby permitted visibility splays measuring 2.4 metres x 25 metres shall be provided to each side of the site access where it meets the highway. The splays shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway.
- 15) No development shall commence until full details of the foul and surface water drainage arrangements for the site have been submitted to and approved in writing by the local planning authority. The drainage details shall be provided as approved prior to occupation.

---End of Conditions---

