
Appeal Decision

Site visit made on 27 March 2018

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 10th April 2018

Appeal Ref: APP/F2605/W/17/3180607

Land off Rayners Way, Mattishall, Norfolk

- 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 S C Developments against the decision of Breckland Council.
 - The application Ref 3PL/2016/1200/O, dated 4 October 2016, was refused by notice dated 26 January 2017.
 - The development proposed is residential development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline with access to be considered and all other matters reserved. An indicative site layout plan was submitted with the application and I have had regard to this in my determination of the appeal.
3. Following the refusal of consent, the Mattishall Neighbourhood Plan (NP) was 'made' in 2nd November 2017. Although parties have not drawn my attention to specific policies within the plan, a full copy of the plan was supplied as part of the appeal and parties have made general comments on this. Planning law dictates that applications and appeals for planning permission must be determined in accordance with the development plan, which includes the NP. In light of the above, I consider that no party would be prejudiced by my taking account of the relevant policies within the NP in my determination of the appeal.

Main Issues

4. The main issues are the effect of the proposed development upon:
 - (a) The character and appearance of the area;
 - (b) Archaeological remains;
 - (c) Biodiversity;
 - (d) The living conditions of neighbouring occupants at Rayners Way in respect of noise and disturbance.

Reasons

Character and Appearance

5. The appeal site forms a roughly triangular shaped open field. This is located adjacent to Rayners Way and Ivy Way, which are modern cul-de-sac developments and currently form the southern built up edge of the village of Mattishall. The site is grassed and contains ponds as well as clusters of mature trees. It is bounded by mature hedgerows interspersed with trees to the south and western boundaries, with agricultural fields beyond. A public footpath runs through the site, roughly in parallel to the southern boundary, accessed from Welgate Road.
6. Mattishall is defined by Policy SS1 of the Breckland Core Strategy and Development Control Policies Development Plan Document 2009 (CSDCP) as a service centre village. The appeal site is located outside of, but adjacent to, the defined settlement boundary for Mattishall. Policies CP14 and DC2 require that development is located within the settlement boundaries, as part of protecting the character of settlements and the rural area. NP Policy HOU1 states that proposals adjacent to the village will be supported where they are of a scale that is appropriate to the size of the village and they create an attractive and well-landscaped interface with the surrounding countryside.
7. Due to its size, as well as the presence of a number of trees, ponds and soft boundaries, I consider that the appeal site forms part of the transition from the domestic and suburban form of development along Rayners Way and Ivy Way, into the agricultural landscape beyond. I therefore find that the appeal site makes a positive contribution to the rural character of the area.
8. While the development would be of a relatively low density, the loss of this area to built development would therefore intensify and consolidate the built form and would have an urbanising effect. This would erode the break between the settlement and the rural environs, and encroach into the countryside.
9. Based on the findings of the Landscape Sensitivity Area statement, I acknowledge that the vegetation restricts views into the site and as such views would be largely intermittent and glimpsed. While landscaping is a reserved matter, the illustrative layout also denotes retained meadow as well as other landscaping proposals, including the extension of the ponds and reinforcement of site boundaries.
10. In this context, the visual impact of the new houses would therefore be relatively localised. Nevertheless, such impacts would still be experienced from vantage points both from within the settlement and in the countryside, along the public footpaths that run through or close to the site. Furthermore, I consider that it would be likely that there would be clearer views of the development during the winter months when the vegetation is not in leaf.
11. It is on this basis that I consider the development would be materially harmful to the rural character of the area. The development would fail to accord with CSDCP Policies SS1, CP14 and DS2, and NP Policy HOU1. The development would also fail to accord with CSDCP policies CP11 and DC16 which seek to secure high quality design and the protection and enhancement of the landscape and NP Policy HOU4 which states that proposals for new residential

development will be supported where they complement and enhance the historic and rural character of Mattishall and its landscape setting.

12. The proposals would also conflict with the National Planning Policy Framework (the Framework) in respect of recognising the intrinsic character and beauty of the countryside (paragraph 17) in respect of the integration of development into the natural environment (paragraph 61).

Archaeology

13. The field in which the appeal site is located contains extensive visible earthworks. Based upon comments from the County Historic Environment Officer, these include enclosures bounded by ditches, and a scarp that once formed the boundary of a common. The ponds are also believed to be of interest. It is understood that the site has previously been surveyed and work published on this. There is also map based evidence of the earthworks and ponds and a possible connection to the Harlestone Family and their mid-16th century properties and there is potential for below ground remains associated with this.
14. Paragraph 128 of the Framework requires an applicant for planning permission, as a minimum, to consult the relevant Historic Environment Record (HER) and assess the heritage assets using appropriate expertise where necessary. For sites with the potential to include heritage assets with archaeological interest, the applicant should submit an appropriate desk-based assessment and, where necessary, a field evaluation.
15. The appellant's submitted heritage statement recognises the presence of a medieval common edge settlement. However, no detailed analysis of the HER has been undertaken, nor has any analysis of previous studies on the site or any assessment of historic maps or other data.
16. The report states that the appeal site is one of a number of areas identified as having medieval links, including common edge settlement characteristics. This is therefore said to lower the archaeological significance of the site in the local context as it contains features which can be found widely within the local area. It is on this basis that the report states that the archaeology is of low significance and the development is considered to have minimal impact.
17. While Planning Practice Guidance advocates a proportionate response,¹ I agree with the Council that the study is inadequate and does not meet the requirements of the Framework set out above. The conclusions drawn within the heritage statement are no more than assertions which are based on limited evidence. As a starting point, a robust assessment in respect of evidence for the site as contained within the historic environment record is required, and where necessary based upon further survey work. This should then inform a detailed analysis of its significance.
18. From the information I have been provided through consultation comments, I consider that the archaeological potential at the site is great with above and below ground remains found across the majority of the site. Given the nature of the development and the potential scale and scope for remains, I consider that the development would be likely to result in the total loss of the earthworks, as well as any below ground remains. This would be in respect of

¹ Paragraph: 040 Reference ID: 18a-040-20140306

the development of roadways, foundations, ground disturbance and works to the ponds.

19. I accept that layout is a reserved matter and could be informed by further survey work. However, given the nature of the proposals and the potential for remains, it is highly likely that any development proposals in this location would destroy archaeological remains. I do not therefore consider it to be reasonable that the principle of residential development is established with further archaeological investigation work secured by condition.
20. Overall, and without any detailed evidence to the contrary, I consider that the development is likely to cause harm to the significance of known and unknown archaeological remains. The development would therefore conflict with Policy DC17 of the CSDCP which states that sites of archaeological interest will be protected, enhanced and preserved. The development also conflicts with the Framework which seeks to conserve heritage assets in a manner appropriate to their significance (paragraph 17) and gives great weight to the conservation of heritage assets (paragraph 132).

Biodiversity

21. The appeal site is an open grassed field with mature hedgerows, trees and ponds. The site supports a range of flora and fauna which is native and common to the UK.
22. The submitted ecological survey indicates that No 20 has limited potential for bat roosts, but that site is regularly used by a range of bat species for foraging and commuting. As part of the proposals a number of trees are to be removed, however their potential for bat roots is not assessed by the submitted survey.
23. Planning Practice Guidance is clear that information on biodiversity is required to support all stages of the application. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.² In assessing the principle of the erection of 6 dwellings in this location, based upon the information provided in the report, I consider that there is uncertainty surrounding the impacts upon the protected species.
24. I accept that there may be cases whereby it would be appropriate to deal with such matters by condition and that specific design details and protection measures could be incorporated as part of the reserved matters stage. However, given the potential for such species within the site and without any detailed evidence to the contrary, I do not consider that it would be reasonable to impose a condition on this matter.
25. Accordingly, and in adopting the precautionary principle enshrined in the Habitats Regulations, I consider that it needs to be clearly demonstrated why development would not have a detrimental effect on the local habitat at this stage.
26. Without any evidence to the contrary, I therefore conclude that the proposed development would be in conflict with Policy CP10 of the CSDPC which seeks to enhance biodiversity and geodiversity as well as paragraph 118 of the Framework which seeks to conserve biodiversity.

² Paragraph: 016 Reference ID: 8-016-20140612

Living Conditions

27. Access through to the development would require the demolition of No 20 Rayners Way, a 2 storey dwelling. No's 18 and 22 are bungalows and the proposed access would run between these two dwellings, passed their flank elevations and rear gardens into the appeal site.
28. The access road would be a private driveway and as shown on the indicative plan, a landscaping buffer would be created along each side of the driveway in order to protect residential amenity. While there would be some increase in disturbance as the development proposed would be for 6 dwellings, I consider that vehicular movements in respect of access and egress of future occupants would be limited.
29. On balance, I consider that living conditions of occupants at Rayners Way would be preserved. There would be no conflict with CSDPC Policy DC1 which seeks to protect residential amenity.

Planning Balance

30. The Council is currently unable to demonstrate a 5 year housing land supply. As the NP does not allocate land, the Governments Written Ministerial Statement dated 12 December 2016 does not apply.
31. Accordingly paragraph 14 of the Framework is relevant to my determination of the appeal. This requires permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole. Sustainable development is at the heart of the Framework and in order to achieve this, the economic, social and environmental strands are mutually dependant and should not be taken in isolation.
32. The development would give a net increase of 5 dwellings (taking into account the demolition of No 20 Rayners Way) in a village which has good access to services and facilities and as such there would be social and economic benefits in this regard. There would also be no harm to living conditions of neighbouring occupants.
33. However, in environmental terms, I have found harm in respect of the character and appearance of the area. Based upon the limited information provided, I have also identified serious concerns in respect of the total loss of archaeology and in respect of biodiversity. The proposals conflict with the development plan on these matters.
34. In light of my findings, I consider that the harm I have identified in respect of character and appearance, archaeology and biodiversity significantly and demonstrably outweighs the benefits of the scheme.
35. Overall, I conclude that the proposals cannot be considered sustainable development for which the Framework presumes in favour.

Other Matters

36. My attention has been drawn to the approval of a site close to the appeal site, in 2015 (reference 3PL/2015/0498/O) for 50 dwellings to land south of Dareham Road. From the Council's Committee Report, it is clear that the Council found harm in respect of character and appearance and conflict with

the development plan in terms of this and in terms of its location outside of the settlement boundary. However, the report concluded that the benefits of the scheme in respect of affordable housing, a significant contribution to housing land supply, and gains in biodiversity weighed in favour of the development and in the overall planning balance which justified a departure from the development plan at that time.

37. Based on my conclusions above, I do not consider that the approved development is comparable in respect of harm and benefits, nor would it set an irresistible precedent for the scheme before me.

Conclusion

38. For the reasons above, taking into account all other matters raised, I dismiss the appeal.

C Searson

INSPECTOR