
Appeal Decision

Site visit made on 30 July 2019

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2019

Appeal Ref: APP/V2635/W/19/3228998

The Sailings and The Breakers, Main Road, Brancaster Staithe PE31 8BP

- 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 G & Mr A Sharp against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 19/00219/F, dated 4 February 2019, was refused by notice dated 15 April 2019.
 - The development proposed is a new one and a half storey dwelling on former garden land.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: -
 - whether the site would be a suitable location for housing, having regard to the development plan;
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the living conditions of future occupiers of the dwellings under construction, having regard to noise and disturbance.

Reasons

Location of the Development

3. Policy CS01 of the King's Lynn and West Norfolk Borough Council Local Development Framework – Core Strategy (2011) (CS) sets out the spatial strategy for the Borough. The aim is direct appropriate levels of growth to the most sustainable places using the hierarchy of settlements in Policy CS02 of the CS. Within the hierarchy, Brancaster Staithe (with Brancaster and Burnham Deepdale) is defined as a Key Rural Service Centre and the policy supports growth of a scale and nature appropriate to sustain the settlement within the development limits.
4. In rural areas, Policy CS06 encourages most development to be located within these centres and provision is made for at least 2,880 new homes within or adjacent to these settlements. There are also strict controls in relation to the

nature of development beyond settlements. Furthermore, except for allocated sites, Policy DM2 of the Site Allocations and Development Management Policies Plan (2016) (SADMPP) suggests that development in the countryside should be limited to types of development identified as being suitable to rural areas in other policies of the plan, including rural workers' and affordable housing, farm diversification and community facilities.

5. For the purposes of planning policy, the appeal site is situated outside the development limits of Brancaster Staithe as the settlement boundary steps inward towards the rear of the dwellings under construction and those either side. The site is therefore located within the countryside. The appeal scheme is not for any of the types of development in the countryside that are considered acceptable by development plan policies in such locations.
6. In light of this, I conclude that the proposed development would be contrary to the Council's spatial strategy in Policies CS01, CS02 and CS06 of the CS and Policy DM2 of the SADMPP, as it would encompass housing outside the defined settlement limits for Brancaster Staithe. The conflict with the development plan would therefore be an adverse impact associated with the proposed development.
7. I have not found against Policies CS08 of the CS and DM15 of the SADMPP, or Paragraphs 127 and 130 of the Framework, as these policies do not refer to the location of development so are not relevant to this main issue.

Character and appearance

8. The appeal site is located to the southern side of Main Road within the Norfolk Coast Area of Outstanding Natural Beauty (AONB). Whilst there is a clear pattern of frontage development arranged to either side of road, dwellings can also be found to their rear. These are most prevalent between the Jolly Sailors public house and the Village Hall.
9. The majority of dwellings behind the street frontage are within the development limits of the settlement, including instances of development at depth within designed estates. These are visible through gaps in planting and built development, including along access drives. The established planting of boundaries also provides a verdant backdrop to development and a transition to the countryside edge. Taken together these stated features make a significantly positive contribution to the character and appearance of the area.
10. The development limits have been drawn to exclude land such as this to the rear of dwellings. This includes the appeal site which remains distinguishable from the fields beyond due to the enclosure of the southern boundary by mature hedge planting. However, the proposed development would substantially reduce the effect of the verdant backdrop to frontage dwellings in the vicinity of the site that are within the development limits of the settlement. The proposed development would therefore have a significantly detrimental effect on the character of the area.
11. Given that other dwellings behind the frontage are clearly visible in the locality, the perceptibility of the proposed development would not in itself be distinguishable from existing similar development to the east. As such, I agree with the Council that there would not be harm caused to the wider AONB and there would be a neutral effect on the appearance of the area.

12. The appellants consider the proposed development to be infill. However, it is not between existing frontage development. It would therefore more closely fit the description of backland development, which the appellants rely on when referring to other schemes in the settlement. Moreover, the appellants suggest that the Council has supported backland development beyond the defined limits of the settlement, particularly that at Brecklands. As the full circumstances behind these decisions are not before me it is not possible to determine how comparable these are with this appeal.
13. Similarly, the appellants have also referred to other developments beyond the settlement limits including the garages for the dwellings under construction, to the north of the appeal site, and part of Seaglass, to the west. However, these are much closer to the street frontage than the appeal scheme and are related to development that is within the settlement limits. These examples are therefore not comparable to the appeal scheme before me and I have afforded them limited weight in my consideration of this appeal.
14. For the reasons outlined above, I conclude that the proposed development would have an unacceptably harmful effect on the character of the area. Hence, the proposals would not therefore accord with Policies CS06 and CS08 of the CS and Policy DM15 of the SADMPP. Together these policies seek to ensure that new development is of a high quality and responds to and maintains local character, particularly in respect of its layout and the pattern and spacing of development. The proposals would also conflict with Paragraphs 127 and 130 of the Framework which, amongst other things, require that developments take the opportunities available for improving the character and quality of an area, are visually attractive as a result of good layout and maintain a strong sense of place.

Living conditions

15. The access for the proposed development would be taken between the two dwellings under construction at the site frontage, along the access that will serve the rear parking areas and garages of those properties. Vehicles associated with those dwellings and using the access will therefore pass the respective gardens and side elevations of either property.
16. As a result, each property will be subject to some noise and disturbance from the vehicles associated with the other properties utilising the access, including from headlights of vehicles entering and exiting the dwellings. However, the vehicular movements associated with the proposed dwelling would not create additional noise and disturbance that would be unusual or to a harmful level for a residential area.
17. For these reasons, I conclude that the proposed development would not have a harmful effect on the living conditions of the future occupants of the dwellings under construction to either side of the access to the site. Hence, the proposals would accord with Policy DM15 of the SADMPP, which refers to the impact of, amongst other things, noise and light pollution. The proposals would also accord with Paragraph 127(f) of the Framework, which requires that developments create places with a high standard of amenity for existing and future users.

Other Matters

18. The development plan for the area comprises the CS and SADMPP, both which predate the Framework. However, Paragraph 213 of The Framework makes it clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them according to their consistency with the Framework.
19. The Council has referred me to a recent appeal decision for development in the Borough¹ as the same exercise was undertaken in relation to the development plan policies. However, the appellant has had regard to that appeal and suggests that the policies in the development plan are not consistent with the Framework as they restrict development in accordance with defined settlement boundaries.
20. In the context of Policies CS01, CS02 and CS06 of the CS and Policies DM2 of the SADMPP, a settlement boundary policy, in isolation of other considerations, would not be wholly aligned with the more flexible and balanced approach implicit in the objectives outlined in the Framework. However, these policies, together with Policies CS08 of the CS and DM15 of the SADMPP are consistent with other aims in the Framework, such as recognising the intrinsic character and beauty of the countryside. This includes the clear rationale for excluding garden land from the development limits in order to protect the countryside and the character of the area. As I alluded to above, existing properties behind frontage development are largely within the settlement or have been excluded for that reason. In addition, the policies do not set a limit on the level of housing growth in rural areas, instead they seek to direct housing to locations where it is supported by local facilities and services through an established pattern of distribution. Accordingly, I afford the identified conflict with the Framework limited weight.
21. The Council has referred to Policies 1, 2, 3, 4 and 9 of the Brancaster Neighbourhood Plan but has not found against them in their decision, nor have they subsequently sought to identify any conflict with these policies. I have had regard to these policies and they do not significantly change the approach to the development of the appeal site, particularly in respect of the effect of the development upon the character and appearance of the area.
22. The appellants suggest that the development is of a high standard of sustainable design, including climate change measures, but no substantive evidence has been provided to demonstrate this. As such, I have afforded this matter limited weight in my consideration of this appeal.
23. In addition, the appellants highlight that permitted development rights for garden buildings associated with the dwellings under construction have not been restricted by the planning permission². However, the appellant has not provided the details of any proposals that would comply with the limitations under the relevant legislation³. There is therefore nothing before me that would suggest that the appellant would genuinely pursue this option if the appeal failed. As such, this option would not be considered anything more than a

¹ Appeal Reference: APP/V2635/W/16/3166074

² Planning Application Reference 18/01614/F

³ Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

theoretical possibility and I have afforded it limited weight in my consideration of this appeal.

24. In the case of the appeal before me, I have considered the individual planning merits of the appeal scheme and found there not to be harm to the appearance of the area or the living conditions of the future occupants of the dwellings under construction to either side of the access serving the site. However, the absence of harm in respect of these matters and the abovementioned benefits do not lead me to a different conclusion that the appeal should be determined other than in accordance with the development plan.
25. The appellants have referred to the conduct of the Council in the determination of the planning application, including the nature of the advice given and the approach to its decision-making. However, these are not matters for me to consider as part of this appeal.

Planning Balance

26. Paragraph 47 of the Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise.
27. There would be benefits through the construction and provision of a further dwelling in a location accessible to facilities and services, as well as subsequent investment by occupants into the local community. Nevertheless, the scale of the development would determine that these benefits would not be significant in terms of their overall contribution to sustaining facilities and services or enhancing social cohesion.
28. The proposed development would not comply with development plan policy in respect of its location or the effect on the character of the area and I have afforded the conflict of development plan policies with the Framework limited weight. Whilst there would not be harm to the appearance of the area or to the living conditions of neighbouring occupiers, the conflict with the development plan would outweigh the benefits of the proposed development outlined above.
29. Therefore, there are no material considerations that would indicate that the proposals should be determined other than in accordance with the development plan.

Conclusion

30. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Paul Thompson

INSPECTOR