



Appeal Decision

Site visit made on 16 July 2019

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2019

Appeal Ref: APP/E2001/W/19/3228242

Land to the West of Beckside Villas, Back Lane, Danthorpe HU12 9BW

- 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 and Mrs Sam Swyer against the decision of East Riding of Yorkshire Council.
 - The application Ref 18/03751/PLF, dated 9 November 2018, was refused by notice dated 29 March 2019.
 - The development proposed is: Demolition of existing B8 storage building with consent for residential conversion and erection of a replacement house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On 27 July 2019 the Planning Practice Guidance in relation to rural housing was revised. I asked the parties if they wished to make any comments in relation to the revised guidance which they have done, and I have taken those comments into account in my decision.

Main Issues

3. These are whether the proposed dwelling would be in a suitable location with regard to access to shops, services, schools and employment opportunities; the effect of the development on the character and appearance of the area; the effect on the living conditions of the occupiers of existing houses close to the site; and, having regard to the findings on the above matters, the extent to which other material considerations, including any fallback position resulting from planning permissions for other development on the site, should be given weight in the decision.

Reasons

The suitability of the location

4. The appeal site is located in the hamlet of Danthorpe, at the point where it meets another small settlement, Elstronwick. The village of Burton Pidsea lies around 2km away, where there is a garage with shop, a primary school and 2 public houses.
5. The site is within a small settlement, and therefore not isolated in the sense used in the Framework, and as clarified in the Braintree Court of Appeal ruling¹.

¹ Braintree DC v SSCLG, Greyread Ltd, Granville Developments Ltd (2018)

Paragraph 79 of the Framework seeks to avoid isolated new homes except in specific circumstances. However, the fact that a proposed development would not be 'isolated' in the sense of prevailing case law does not dictate that the proposed location is one which will be supported by local and national planning policies. In other words, paragraph 79 of the Framework seeks to avoid new homes in isolated locations, except in specific circumstances, but it does not stipulate that homes that would not be 'isolated' in the narrow sense of the word will necessarily be supported. Notwithstanding the Braintree judgement, it is still necessary to consider whether the location is suitable for a new dwelling having regard to the aims of relevant local and national planning policies.

6. Access to the nearest village with some services by transport modes other than by private car is very limited and in that sense the location could be described as remote from those services. The appellant has offered to provide a vehicle charging point, something which could be secured via a planning condition however that would not guarantee that the occupiers of the proposed dwelling would drive only electric vehicles, which in any event, would be private cars in terms of the mode of transport.
7. The Framework is clear that new housing in rural areas should be located where it will enhance or maintain the vitality of rural communities². As a single dwelling, the proposal would make a small contribution towards supporting the local services in nearby villages, even if access to those services would be likely to be via the private car. In this respect the proposal would be in conformity with the Framework.
8. However, the Framework is also clear that when considering development proposals, account should be taken of the opportunities to promote sustainable transport, having regard to the type of development and its location³. Whilst sustainable transport solutions in rural areas can be different to urban areas⁴, given the lack of accessibility to the site via modes other than the private car, there is also some conflict with the Framework. Even in the context of the rural area within which the site is located the dwelling would be poorly served by public transport and residents would be faced with lengthy journeys to the closest large settlements for a full range of shops and services. The vast majority of those visits are likely to be by car.
9. The Planning Practice Guidance recognises that people living in rural areas can face challenges in terms of housing supply and affordability, and that the location of new housing can help to support rural communities. A wide range of settlements can play a role in delivering sustainable development in rural areas and blanket policies restricting development in some villages should be avoided except where supported by robust evidence⁵.
10. The PPG post-dates the adoption of the East Riding Local Plan Strategy Document⁶ (the ERLP). I note the appellant's comments regarding the conformity of the development plan with paragraph 79 of the Framework, having regard to the Braintree judgement. However, as stated above, that judgement related specifically to the interpretation of the word 'isolated' in

² National Planning Policy Framework February 2019 paragraph 78

³ Ibid paragraph 108

⁴ Ibid paragraph 103

⁵ Planning Practice Guidance paragraph ID: 67-009-20190722 revision date 22 July 2019

⁶ Adopted April 2016

respect of what was then paragraph 55 of the Framework. The ERLP sets out a suite of policies to steer new development to suitable locations. That strategy is based on an understanding of the settlement hierarchy of the district, including the scale of various settlements, the services within them and their relative degree of accessibility. As with any development plan the aims are multi-faceted and include measures to encourage development in suitable locations in respect of transport choices as well as to protect the countryside. The judgement relating to a narrow point of what constitutes an isolated home does not invalidate the broad aims of the development plan which, from the information before me, are in compliance with the Framework. Consequently, I give full weight to the relevant policies of the ERLP.

11. Policies S5 and A1 of the ERLP set the broad locational strategy for the development plan, based upon steering new residential development to towns and villages according to a settlement hierarchy which is derived from the scale of the existing settlements and the level of service provision within them. Part A of Policy S4 of recognises that development outside of identified settlements can help to support the vibrancy of villages and identifies that such development will be supported where it meets three specified criteria and also accords with Parts B and C of the policy.
12. The proposal would not be located within a listed village covered by Part B, nor would it benefit from any of the exceptions listed in section C under which development may be allowed in the countryside. Also, for the reasons set out above, I find that the location would not be suitable for a new dwelling having regard to likely travel patterns, such that the development would fail to comply with the first criterion of Part A of the policy.
13. In determining applications decisions must be made in accordance with the development plan unless material considerations indicate otherwise⁷. The limited contribution which the proposal would make towards supporting local services is, alone, not a sufficient reason to support the approval of the proposal given the clear conflict with development plan policy.
14. I therefore conclude that the proposed dwelling would not be in a suitable location having regard to its access to services and other facilities, and would conflict with Policies S1, S2, S4, S8, and EC4 of the ERLP, and the Framework, which seek to ensure that proposals support development in suitable locations, provide a high level of accessibility and connectivity for people, and limit development in the countryside to certain types, where local character is respected.

The Character and Appearance of the area

15. The site is next to a pair of 2 storey, semi-detached houses and opposite an open field. There is a single storey warehouse building on the site with a semi-circular corrugated asbestos sheet roof. There is no dispute that the site is previously developed land. Alongside the building is a track leading to a small field, used at times as a certified caravan site, and to the other an area of overgrown land and a watercourse, Humbleton Beck. The site of the proposed dwelling is generally flat, whilst the land that would form the garden falls gently towards the beck.

⁷ Planning and Compulsory Purchase Act 2004 section 38 (6)

16. The settlement is characterised by dispersed dwellings and farms, open fields, hedgerows 'front' and 'back' lanes with wide grass verges. A short distance from the property, although not visible from it, is the attractive St Lawrence's Church. Although the settlement lacks a focal point such as a village green, it has a tranquil and settled rural character.
17. There are few features in the area which obviously detract from these qualities, however the warehouse building on the site undoubtedly has a significant detrimental effect. The harm is limited to the immediate surroundings of the site, but is nonetheless very apparent to anyone in the area.
18. The proposed dwelling, although similar in length the building which presently exists, would be significantly taller and wider and given its scale and height and design would be perceived as a prominent feature, even though it would be alongside the existing houses at 1 and 2 Beckside Villas. When approaching the site from Elstronwick, the proposal would be more apparent than the existing structure, however this would mainly be limited to glimpses through the trees alongside the beck, although the visibility would be greater during winter months when the trees are not in leaf.
19. When approaching the site from the East, the site comes into view when approaching Beckside Villas. The proposal would have a front elevation in a similar alignment to the existing houses, would be seen earlier and more clearly when approaching, and therefore would have a significantly greater visual impact than the existing building.
20. Although the proposed dwelling would have a large garden area, the site is currently overgrown and of little intrinsic merit in landscape terms. There is no reason why a well laid out garden, even with some of the normal minor domestic features such as a washing line and garden shed, would cause significant harm to the character and appearance of Danthorpe or Elstronwick.
21. In the previous appeal decision for a live/work unit on the site⁸ the Inspector was concerned that the proposal would reduce the 'visual gap' between Danthorpe and Elstronwick, even though the proposed building would have a similar footprint to the existing storage building. He also considered that the suggested improvement in the appearance of the site would be outweighed by the visual harm caused by an overly prominent and disproportionate sized development. The proposal in this appeal has reduced the scale and massing of the dwelling however it would remain significantly larger than the existing building and inevitably would result in some loss in the perceived gap between the settlements.
22. The existing building is an alien feature which currently has a serious detrimental effect on the character and appearance of the area. I acknowledge that the replacement of the existing building with a well designed dwelling in a vernacular style could be seen as an improvement. However, on balance I give greater weight to the merits of retaining the existing pattern of development and in particular the retention of the perceived break in built form between Danthorpe and Elstronwick.
23. The Council, in its second reason for refusal, refers to Policy EC1 of the ERLP. The policy refers to encouraging economic growth and employment has little

⁸ Ref APP/E2001/W/15/3137435 dated 13 May 2016

relevance to the appeal proposal as there would be a negligible effect on these matters.

24. I therefore conclude that the proposal would give rise to unacceptable harm to the character and appearance of the area and in this respect would conflict with Policies S4, ENV1, and ENV2 of the ERLP, and the Framework, which amongst other things require that new development should respect local character and appearance, achieve a high quality of design, and integrate with the landscape setting.

The effect on the living conditions of the occupiers of existing houses

25. The nearest property to the proposed dwelling is no 2 Beckside Villas. The proposal would extend approximately the same distance beyond the rear elevation of the neighbouring property, and have a height to ridge of approximately 6.1m. Although the existing warehouse building is significantly lower, it presents an incongruous and unattractive feature to the neighbouring occupiers. In comparison, the brick side wall and pitched roof of the proposal, with a few small window openings, would be perceived as an improvement when viewed from the rear facing windows and garden of the adjoining property.
26. The parties differ over what comparisons should be made between the height of the proposed dwelling and that of a replacement storage building, granted planning permission following an appeal in August 2017⁹⁹. The approved building would be higher to the ridge in the part closest to no 2 and would then be reduced in height over the section to the rear, alongside the rear garden of the neighbouring property. The rear section would be approximately 0.6m lower to ridge than the building now proposed.
27. The appeal decision to refuse consent for a live/work unit on the site, dated May 2016 is also relevant. The Inspector who determined that appeal considered that the proposed dwelling would be over dominant and intrusive in relation to the neighbouring property. The dwelling now proposed would be substantially lower than the previous proposal, slightly reduced in length, and the windows facing the neighbouring property could be obscure glazed.
28. The proposed dwelling would be separated from no 2 by the width of the lane. The height would be substantially less than a normal 2 storey dwelling and would contain limited window openings facing the neighbouring property. There is also the possible continued presence of the existing warehouse building, or potentially the new storage building, or a conversion of the building to a dwelling, should that prove to be possible, to be considered. The neighbour supports the proposal.
29. Taking all these factors into account, I conclude that the proposal would not harm the living conditions of the occupier of the neighbouring property. It would therefore comply with Policies ENV1 (B4) of the ERLP and the Framework, which amongst other things seek to protect the amenity of existing and future users.

⁹⁹ Appeal Ref. APP/E2001/W/17/3176305 dated 25 August 2017

Other material considerations including fallback

30. There are 2 potential fallback positions, one arising from the prior approval application for the change of use of the existing warehouse building, granted in October 2018¹⁰, and the other from the replacement B8 storage building granted permission in August 2017.
31. With regard to the approved change of use, the Council accepts that there is a fallback position, but argues that very little weight should be given to it, since it only establishes the principle of the change from storage use to residential.
32. I have considered whether there is a greater than theoretical possibility that the development might take place; secondly should that to be the case I have considered the weight which should be ascribed to the fallback position.
33. Whilst at present there is change of use permission for the existing building, the operations to implement the use would require a further grant of planning permission.
34. The parties disagree on whether it would be possible to convert the building without the necessary works going beyond what could be deemed to be a conversion and not a new building. The existing structure consists of a substantial blockwork sub wall to its sides, and blockwork wall at each end, although a large part of the front elevation consists of the timber doors. The upper walls/roof are formed from curved asbestos sheets which would need replacing. It is therefore likely that the works involved in implementing the change of use would go well beyond simply inserting door and windows into the existing structure.
35. Based on the information before me, I am not able to take a view on whether the works required to carry out the change of use would be so extensive as to constitute an entirely new structure. Whilst there is time for the appellant to seek to resolve these issues, at the present I cannot regard the consent for change of use, in the sense that it can be taken forward as a project, as more than a theoretical possibility. I therefore give it little weight in my decision.
36. There is also a possible fallback position in the planning permission for a new B8 storage building. This would be very different from the residential use which is sought, but it would continue the commercial use of the site and result in some comings and goings by vehicles. It is not suggested that there is any reason not to regard the storage building as a more than theoretical possibility. However, it does not establish the principle of residential use on the site and therefore a continuation of storage use should be regarded as a neutral factor in the planning balance to which I give limited weight.
37. The Council draws my attention to an appeal decision at Ganstead¹¹ and I have visited the location of the site and looked at its relationship to nearby services. Whilst the Inspector's conclusion in relation the suitability of the location and access to services have similarities with the appeal, there are also significant differences between both cases. For example, the site at Ganstead is close to the main urban area of Hull and a short distance from a main road with a bus service. I therefore give this other decision limited weight in my decision.

¹⁰ LPA ref. 18/03002/SRNOT dated 30 October 2018

¹¹ Appeal Ref. APP/E2001/W/18/3213017 dated 10 April 2019

Planning Balance

38. I have found the proposal to be in conflict with policies in the development plan relating to the suitability of the location in terms of access to services, and the Framework due to the lack of opportunities to promote sustainable transport modes. I also, on balance, find the proposal to be harmful to the character and appearance of the area due to the erosion of the perceived gap between Danthorpe and Elstronwick that would result from the siting, scale and massing of the proposed dwelling.
39. However, the proposal would make a small contribution to supporting services in nearby villages, most particularly Burton Pidsea. The proposal would also not cause harm to the living conditions of the occupiers of the closest properties, and arguably would improve the outlook from those dwellings.
40. However, the positive and neutral factors I have identified do not outweigh the conflict with the development plan to which I must give substantial weight in my decision, and I therefore find that planning permission should not be granted.

Conclusion

41. For the above reasons and taking account of all other matters raised, the appeal is dismissed.

Tim Wheeler

INSPECTOR