
Appeal Decision

Site visit made on 20 November 2019

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2019

Appeal Ref: APP/L2630/W/19/3232897

Land to the west of The Cottage, Common Road, Fundenhall NR16 1DR

- 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 Mr Lodge against the decision of South Norfolk District Council.
 - The application Ref 2019/0329, dated 6 February 2019, was refused by notice dated 22 March 2019.
 - The development proposed is described as 'proposed construction of new dwelling and garage on land to the west of The Cottage Common Road Fundenhall.'
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Decision

1. The appeal is dismissed

Main Issue

2. The main issue is whether the appeal site is an appropriate location for new housing with specific regard to the requirements of the development plan, access to services and the Council's housing supply.

Reasons

3. The appeal site is a flat parcel of land immediately west of The Cottage, at the junction of Common Road and New Road. It is bounded by a mix of hedges and mature trees on both road edges and currently open to The Cottage. The appeal site is located outside of a settlement and is therefore, by definition and in development plan terms, in the countryside. The appeal site is also somewhat detached from Fundenhall itself. What there is of the 'core' of the settlement is located some distance to the east. Fundenhall is largely bereft of any services to support incumbent residents. The larger villages of Ashwelthorpe and Tacolneston are located to the north and south respectively. These villages benefit from a limited range of services.
4. Policy 1 of the JCS¹ sets out that development should minimise the need to travel and give priority to low impact modes of travel. Policy 6 further suggests that development should be concentrated close to essential services to encourage walking and cycling as the primary means of travel with public transport for wider access. Policy DM3.10 of the Local Plan² reinforces this stance, stating that all development should support sustainable transport and

¹ Greater Norwich Development Partnership Joint Core Strategy for Broadland, Norwich and South Norfolk 2011, amended 2014

² South Norfolk Local Plan Development Management Policies Document 2015

development objectives, utilise all opportunities to integrate with local sustainable transport networks, be designed to reduce the need to travel and to maximise the use of sustainable forms of transport appropriate to the location.

5. As I have alluded to above, the appeal site is outside of a settlement. One that is in any case small and limited in its service offer. Occupiers of the new dwelling would therefore have to travel to access services in one of the settlements also mentioned above. These are a short distance away but would be accessed by narrow and unlit rural roads without segregated footways. The evidence does not point to a practical public rights of way network. There is suggestion in the evidence of a bus service but no further details as to the location of the stop relative to the proposed dwelling and it only seems to run on one day of the week. It seems to me that the future occupiers of the dwelling would therefore have to travel to access services and based on what I have seen, such journeys would more likely than not be through the use of the private car, the least sustainable travel option.
6. I accept that journeys may be relatively short in the grand scheme and generated by a single dwelling. However, this for me is an argument that could be used to often to justify development in otherwise unacceptable locations. In addition, and considering the breadth of services on offer in the other settlements mentioned, I would anticipate a good proportion of car borne journeys to and from the dwelling would be further afield to access higher education, employment, retail and healthcare opportunities.
7. I agree with the appellant that the appeal site and any subsequent dwelling would not be isolated for the purposes of the Framework. It would be in amongst other dwellings. This does not however automatically make the proposed development acceptable. I am mindful in this case of the 'opening gambit' of what paragraph 79 of the Framework³ seeks to restrict as it is set out by paragraph 78. To promote sustainable development in rural areas, it states that housing should be located where it will enhance or maintain the vitality of rural communities. There is limited evidence before me to suggest that this would be the case, given just how rural and detached the dwelling in this particular case would be from supportive services.
8. Paragraph 78 goes on to say that where there are groups of smaller settlements. Development in one village may support services in a village nearby. Fundenhall does not strike me as being part of a cohesive group of settlements which may have some form of inter reliance on each other such as a sharing of services that would be of benefit to occupiers of each. As well as this, there is no compelling case before me to sufficiently explain how the erection of a single dwelling would support services nearby nor is there anything to suggest that any services may specifically benefit from support such as where their viability or vitality may be under threat.
9. These matters aside, and having considered all matters pertaining to the location of the dwelling in the round, it strikes me that its location would be no more sustainable in the sense of access to services than a site of similar distance from services but that would be truly isolated.

³ The National Planning Policy Framework 2019

10. The proposed development would thus serve to promote unsustainable patterns of development, contrary to the aims of the policies I have cited above. This harm would also result in conflict with the Framework's objectives of the same which I have also highlighted. The appeal site would not therefore be an appropriate location for new housing.
11. I note the Council's reasons for the refusal of planning permission address Policy DM1.3 of the Local Plan which also follows the principles of establishing sustainable patterns of new development. It suggests, amongst other things, that proposals should be located within suitable settlements. It also goes on to say that permission for development outside of settlements may only be granted where other policies allow for it or where there are overriding benefits in terms of economic, social and environmental dimensions as defined. I have not been made aware that the appeal scheme would comply with any stated exceptions for development in the countryside. In addition, and whilst I shall come onto the matter of wider planning benefits later in the context of the Framework, I have not seen a compelling case in the appellant's evidence to suggest that the appeal scheme would necessarily represent one that has the capability to have specific benefits that would override the harm that I have found in the context of the development plan. I cannot therefore see that the proposed development would comply with Policy DM1.3.

The Planning Balance

12. With regard to the matter of the supply of housing sites, the Council explain in their evidence that, against the requirements of the JCS, they can demonstrate over the five years required by the Framework. They state the JCS requirement is however now over five years old and has yet to have been reviewed. A Strategic Housing Market Assessment (SHMA) for Central Norfolk was undertaken in 2017 which concluded, based on an Objectively Assessed Need (which supersedes that underpinned the JCS requirements) a supply of 4.38 years could be demonstrated. Whilst the SHMA seems a more up to date evidence base, the Council acknowledge that it has not been subject to detailed examination and thus greater weight has, in some cases, been given to the JCS housing figures.
13. With the above in mind, and considering specifically the status of the two positions on supply, it seems that there remains some ambiguity as to whether the required five years can be demonstrated. If I were however to take the 'worst case scenario' in that the Council could demonstrate a 4.38 year supply, I would engage the so called 'tilted balance' of paragraph 11 of the Framework.
14. There would be some benefits arising out of the appeal scheme. From an economic stand point it would allow some investment in the construction industry and perhaps expenditure in the local or district economy going forwards. A new house would also boost the Council's supply, adding to choice and mix locally. That said, such benefits would be limited by the scale of the development in the grand scheme. In addition, a single dwelling would, when considering how far below the required five years the Council may still be with it added, not make such a difference to the supply figures that I could attach more than limited weight to it.
15. The appellant advances that the appeal scheme would be a self build project for a member of their family. Whilst I appreciate the need to have regard to this I have not been provided with details as to an entry on the self build

register, what level of demand there is for self build in the area or indeed any mechanisms sufficiently appropriate to ensure that, if a planning permission were to be granted, a self build would be delivered. A condition has been mooted in the evidence but I feel that this would not be appropriate since, in part, it would seek to restrict the act of an individual's choice as to the methods used to build. I cannot see how such a control would be sufficiently land use based and thus sit squarely with the Framework's tests. I therefore ascribe this matter limited weight.

16. These benefits would be set against the clear environmental harm that there would be arising out of the siting of the dwelling in the location proposed. Harm that would include conflict with a number of policies of the development plan which, whilst attracting reduced weight in an under supply situation, would still apply nonetheless.
17. As a consequence of the amount of weight I would attribute to the benefits of the proposed development I do not see them as being sufficient to 'win the day' when placed in the planning balance. To the point that the adverse impacts of granting a planning permission would significantly and demonstrably outweigh them when assessed against the policies in the Framework taken as a whole. As a result, the appeal scheme would not be sustainable development for which the presumption in favour applies.

Other Matters

18. I note the assertions of paragraph 009 of Planning Practice Guidance which states that blanket policies restricting housing development in some types of settlement will need to be supported by robust evidence of their appropriateness. The appellant refers to this position in the context of both the appeal scheme and the comments of some of my colleagues in regard to new rural housing. Whilst it is not immediately clear to me as to which policies the appellant considers as taking a blanket approach it is perhaps important to state that the appeal scheme is not in a settlement in either development plan or other terms and as I have explained, the proposed development would fail to be appropriate for reasons that it would serve to promote unsustainable patterns of new development in any event. In so doing, it would fail to comply with the principles set out by both the development plan and the Framework as I have identified them.
19. The appellant has drawn my attention to a number of recent appeal decisions. In the case of land north of Picton Road, Tharston⁴ for the erection of three dwellings my colleague granted a planning permission recognising that future occupiers would have to travel to access services on which they would rely. However, the decision also points to usable green infrastructure as well as the appeal site being close to more than one bus stop. In addition, the appeal site in this case was within a short distance of a much larger settlement, the range of service offer within which is much broader than in the case before me.
20. Although recognising a similar set of circumstances in the case of an appeal allowed for seven dwellings at 1 Cantley Villas, Station Road, Wymondham⁵, it is important to note that the site in this case was adjacent the settlement boundary of a defined service village which had a broad range of services and

⁴ APP/L2630/W/18/3197272

⁵ APP/L2630/W/15/3003743

more than one sustainable transport option available. Therefore, neither this nor the example cited above changes my conclusions on the main issue.

21. I acknowledge the Framework's stance, at paragraph 103, that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account. Nonetheless, this should not be taken to mean that a site with little to no access to alternatives to the use of the private car should be acceptable as a consequence. Particularly since paragraph 103 also states that the planning system should actively manage patterns of growth to support the objectives of paragraph 102 which includes identifying and pursuing opportunities to promote walking, cycling and public transport use. As I have explained above, the appeal scheme would do very little towards achieving this.
22. In respect of this point, the appellant cites the granting of planning permission for the erection of two dwellings on land to the east of Appleshaw, Mills Lane, Newman's Green, Suffolk⁶. I note my colleague's findings in this respect and whilst I am unsure in the case of this appeal as to the distance between the dwellings and the bus stop, my colleague considered its use a reasonable choice as an alternative to the use of the car. It seems equally clear to me that, in coming to their view, my colleague apportioned different weight to certain considerations which is, in every case, a matter for the decision maker. Ultimately, and in reference to both this case and the others cited by the appellant, each development proposal is considered on its own merits, as I have done in relation to the appeal case before me.
23. The Framework recognises, at paragraph 68, that small and medium sites can make an important contribution to meeting the housing requirement of an area, and are often built out quickly. Be this as it may, simply because a site is small or medium, it is not necessarily elevated to a position of importance over others and paragraph 68 should also not, to my mind, be used to suggest that any small or medium site would be acceptable for development. It must also be acceptable in all other planning terms. As I have explained above, the appeal site would not be.
24. The appeal site is an area of land, according to the appellant, that is part of the garden and wider curtilage to The Cottage. It is advanced that the proposed development would serve to promote the development of under utilised land. However, I would not consider land associated with garden space to be necessarily under utilised in terms of what the Framework is seeking to achieve which is the effective use of land. Specifically, the under utilisation of the land in this case appears to be through the choice of an individual to have a smaller garden space. There does not seem to be anything further that is sufficiently compelling to suggest that, other than the arguments put forward by the appellant, the land in this case is necessarily under utilised for the purposes of the Framework.
25. Returning to the matter of the self build nature of the proposed dwelling, the appellant suggests that the intended occupier already lives at The Cottage and as such the journeys associated with the new dwelling would be already experienced. Be this as it may, and as I have already touched upon, there is no sufficiently robust mechanism to secure the dwelling as a self build and I

⁶ APP/D3505/W/18/3196882

have not seen a suitably compelling case to restrict the occupancy of the dwelling going forwards.

Conclusion

26. For the reasons set out above, the appeal is dismissed.

John Morrison

INSPECTOR