



Appeal Decision

Site visit made on 17 September 2019

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 2nd January 2020

Appeal Ref: APP/V2635/W/19/3232219

Land to the west of Kirklea, 56 Church Road, Emneth PE14 8AA

- 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 David Howard against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 18/01148/O, dated 21 June 2018, was refused by notice dated 4 January 2019.
 - The development proposed is a residential development (7 dwellings).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal seeks outline planning permission, with all matters reserved except access. I have considered the appeal on this basis and have treated any plans in relation to the reserved matters as illustrative.

Main Issues

3. The main issues are:
 - Whether the proposed development would provide a suitable location for housing, having regard to the spatial strategy for the area and its effect on the character and appearance of the area; and
 - The effect of the proposed development on the setting of a nearby listed building.

Reasons

Location of development

4. The majority of the appeal site lies outside the development boundary for the settlement and is consequently categorised as "countryside" according to Policy DM2 of the King's Lynn and West Norfolk Site Allocations and Development Management Policies Plan (2016) "the SADMPP". New development will be restricted in such areas, and will be limited to that identified as suitable in rural areas by other policies of the local plan.
5. These are proposals for the purpose of small scale employment, tourism or community facilities, renewable energy generation, rural workers' housing and affordable housing. It is common ground between the parties that the proposal

would trigger the need for a contribution towards affordable housing provision to accord with development plan policy. Whilst a Planning Obligations Statement indicating consent to enter into such an agreement is supplied with the appeal, no agreement has been provided. Moreover, there is no indication that the proposal as a whole is intended to provide affordable housing or any of the other listed uses. Thus, no evidence is before me to suggest that the proposed dwellings would be for any of the uses set out in Policy DM2 of the SADMPP.

6. Policy CS06 of the King's Lynn and West Norfolk Local Development Framework Core Strategy (2011) ("the CS") concerns development in rural areas. It sets out that the countryside will be protected for its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, and its natural resources. The development of greenfield sites such as the appeal site will be resisted unless essential for agricultural or forestry needs. Development proposals which will be supported are those for farm diversification, the conversion of existing buildings for business and conversion to residential use, in particular circumstances.
7. No evidence is before me to suggest that the proposed dwellings would be essential for agricultural or forestry needs. The scheme does not propose farm diversification or the conversion of buildings. Therefore the scheme does not meet any of the criteria within Policy CS06 of the CS.
8. The proposal would consequently cause harm by the undermining of the Council's spatial strategy.
9. Turning to the effect of the proposal on the character and appearance of the area, this area of the village is characterised by a linear pattern of relatively low density development. This allows for views of the open countryside and natural features beyond, which generally form the backdrop to built form in the settlement. As a result, the area has a spacious and semi-rural appearance.
10. The appeal site is paddock land which lies between the parish church and the open fields which surround the village. A significant level of mature trees and hedgerow form a boundary between the site and the graveyard. These have a variable height and density, so that glimpses to the open appeal site are available from both the highway and the graveyard. Such views would increase in winter due to leaf loss from the significant level of deciduous vegetation within the boundary.
11. The appeal site therefore provides characteristic spaciousness at the edge of the settlement, which contributes positively to its appearance. The development of seven dwellings, regardless of their appearance, landscaping, layout and scale, would be visible through and above the hedgerow boundary from a number of points on the highway and from the graveyard. The urbanising effect of significant levels of built form on the site would inevitably reduce its spacious appearance, with resulting unacceptable harm to the appearance of the countryside.
12. The depth of the projection of built form from village streets into the countryside appears highly variable. There is consequently no sense that the undeveloped nature of the appeal site is sufficiently inconsistent with the prevailing pattern of development to cause harm to the area's appearance.

Therefore I do not concur with the submission that the watercourse along the edge of the site should form the boundary of development in the village.

13. Thus, the proposal would not provide a suitable location for housing, having regard to the spatial strategy for the area and its effect on the character and appearance of the area. As a result, it conflicts with Policy CS06 of the CS, the aims of which are set out above. Further conflict exists with Policies DM1 and DM2 of the SADMPP, which set a presumption in favour of sustainable development and identify suitable types of development within the countryside, respectively. Additional conflict exists with the rural area and natural environment provisions of the National Planning Policy Framework (2019) ("the Framework").

Listed building

14. The site lies behind the Grade I listed Church of St. Edmund and its graveyard. I have a statutory duty, under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the setting of the listed building.
15. Paragraphs 193 and 194 of the Framework advise that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
16. The church's special interest and significance is greatly informed by its architectural interest as a building dating back several centuries, with the survival of key features. Although the intervening hedgerow means that views from the church to the appeal site are restricted, it is still possible to appreciate its countryside setting as the openness of the site can be appreciated through and above the boundary vegetation. The reduction in leaf density of this feature in winter would additionally increase such views. The church's well treed setting and backdrop of open space consequently contribute a sense of tranquillity to its significance, despite the existence of a small number of adjacent individual dwellings. These surroundings additionally suggest the likely agricultural history of the settlement and consequently contribute a rural context to the church's setting.
17. The graveyard forms part of the building's immediate setting, and consists of an older element which surrounds the church and a newer section which extends alongside the appeal site. As a result, much of the graveyard lies behind the church and adjacent to the appeal site. This location away from the highway provides a tranquillity to the setting which is enhanced by the undeveloped nature of the appeal site. Thus, the appeal site in its current form makes an important contribution to the setting and significance of the listed building.
18. Existing and proposed boundary landscaping would provide a variable level of visual screening of the proposed development, dependent on the season. However, any beneficial effect of the proposed landscaping would arise only after a substantial period of time. In any event, the lifespan of built form is such that it has the potential to outlast natural form. These factors reduce the

weight which I attach to the ability of the existing and proposed landscaping to reduce any harm to the church's setting by some degree.

19. Furthermore, seven dwellings would generate a moderate increase in levels of noise in the vicinity due to such domestic activities as vehicle manoeuvres and garden maintenance. Landscaping would reduce such noise by only a minimal degree. There is additionally no substantive evidence before me to suggest that visits to the cemetery and church would generally be made at a time when the development would generate only low levels of noise. The tranquillity of the church's setting would consequently be reduced by a moderate degree.
20. Whilst the layout and design of the proposal are matters reserved for future consideration, seven dwellings at the site would inevitably be visible within the church's setting within some views from the highway and several views from the graveyard. The properties would be significantly more visible than the existing single storey stable building, which has a limited scale and consequently has a neutral effect on the spaciousness of the church's setting.
21. The proposed construction of a number of modern houses at the appeal site would erode the rural openness and tranquillity which it contributes to the church's setting. The proposal would additionally visually compete with the listed building due to its location on land behind it. It would consequently have a negative effect on its significance. It follows that I do not concur with the submission that the proposal would enhance or better reveal the significance of the church within views from land to the north of the village.
22. I acknowledge that the proposed graveyard extension may be capable of allowing for some views over open fields to the north, which would provide a limited degree of openness within the church's setting. However, the proposal would extend the distance between the church and this surrounding openness. Thus, this factor would not acceptably mitigate the identified harm.
23. As a result, the proposed development would have a negative effect on the setting of a nearby listed building. This would cause less than substantial harm to the significance of the building. It therefore conflicts with Policy CS12 of the CS, which states that the Council will preserve the qualities and characteristics of the historic environment. Further conflict exists with Policy DM15 of the SADMPP, which sets out that development must protect and enhance the amenity of the environment, including its heritage and cultural value. Additional conflict exists with the aims of the Framework with regard to the conservation of the historic environment.

Other Matters

24. I have found that the proposal would result in less than substantial harm to the significance of the listed building. Paragraph 196 of the Framework sets out that the harm to the heritage asset should therefore be weighed against any public benefits of the proposal.
25. As no planning obligation concerning the provision of affordable housing has been supplied I cannot be certain that this would form a benefit of the proposal. Furthermore, the Council states that existing allocations and a development scheme¹ allow for substantial housing provision within the village, including affordable housing. There is minimal other evidence to suggest that

¹ Local Planning Authority References: 15/01532/OM and 18/02117/RMM

- the provision of affordable housing would help to meet an identified and outstanding need. As a result of these factors, this is a benefit to which I attach only limited weight.
26. Similarly, there is minimal evidence before me to indicate that the proposal would meet a wider unmet housing need in the borough, and the submission that the Council is currently able to demonstrate a five year housing land supply is unchallenged. Thus, I attach only minimal weight to the appeal site's ability to contribute to such a need in accordance with Paragraph 68 of the Framework.
27. The appellant submits that the gifting of land adjacent to the site to the parish for use as a cemetery extension would form a benefit of the proposal. The parish council confirms that there is a requirement for further burial ground within the village. It is estimated that there is approximately 4-5 years' remaining supply of burial ground.
28. However, there is nothing before me to suggest that there is any lack of suitable alternative burial sites in the village or that the cost of the proposed land or land elsewhere would be prohibitive to the project, such that I should attach weight to this element which would be sufficient to outweigh the identified harm. The current supply of burial ground which remains allows for sufficient time for the identification, procurement and implementation of a suitable additional site elsewhere, such that I do not concur with the submission that there is an urgent need. In any event, I note that an extant grant of planning permission² exists for the change of use of the area of land in question to a cemetery. The cemetery proposal is consequently capable of implementation independently of the appeal proposal, and there is minimal evidence that there would be any difficulty in meeting the cost of the land to allow for the project.
29. Furthermore, as planning is concerned with land use in the public interest, the effect on the value of the appellant's property if he were to sell the cemetery land in the absence of permission for the proposal is a matter which has only minimal relevance to my consideration of the appeal. In light of the above factors, the provision of the additional cemetery land without charge is a benefit to which I attach only limited weight.
30. The appellant contends that the proposal would be a self-build or custom-build development and that this would weigh in its favour. Whilst I acknowledge the appellant's intention in this respect, there is no evidence before me to suggest that the appellant is included within the Council's register in respect of such matters. There is minimal other evidence before me to suggest that the development would be likely to be a self-build. Therefore, in the absence of such evidence, there would be nothing to prevent the scheme from evolving into a different type of development.
31. Moreover, the Council states that the need for self-build or custom-build plots is already being met within the borough, and there is minimal substantive evidence to contradict this submission. Accordingly, I cannot be certain of the likelihood of this element forming a benefit of the proposal or the need for this type of development, and I therefore attach minimal weight to it in determining the appeal.

² LPA Ref: 18/02013/CU

32. Modest benefits would be derived from the construction work of the development for local businesses, the support of occupiers of the development for local services and facilities, the provision of electric vehicle charging points and the ability of occupiers to access some services by means other than the private car.
33. There is insufficient evidence on the matter of any overall biodiversity gains which the proposal might bring about for me to conclude with certainty that this would form a benefit of the proposal.
34. I note that the site was considered as part of a Site Specific Allocation process. However, the site was not subsequently included as an allocation within the adopted SADMPP due to the effect which its development would have on the character of the area and the setting of the church. The site has additionally been promoted in response to a "call for sites" as part of a Local Plan review which is currently under consideration. Nevertheless, neither of these matters provide evidence that the site is included as part of any adopted site allocations. Moreover, I am required to reach conclusions based on the merits of the scheme before me. Thus, these are matters to which I attach only minimal weight in determining the appeal.
35. The appellant submits that the development would have an acceptable effect on flood risk, highway safety and housing density. If I were to accept that this were the case, these would be neutral matters in the overall planning balance.
36. I acknowledge the submission from an interested party concerning the benefits of the proposed development in terms of highway safety for children, however there is minimal evidence before me on this matter, such that I attach only minimal weight to it.
37. I have had regard to other matters raised, including concerns about the proposal's effect on the living conditions of future and neighbouring occupiers, archaeology and landscaping. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.

Conclusion

38. Whilst I acknowledge that the proposal would carry modest public benefits, they do not offset the identified harm, to which I must attach considerable importance and weight. Accordingly, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR