
Appeal Decision

Site visit made on 3 June 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2020

Appeal Ref: APP/K2610/W/19/3242474

Hill House, Hall Lane, Drayton, Norwich NR8 6HH

- 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 B2016 Ltd against the decision of Broadland District Council.
 - The application Ref 20181623, dated 21 September 2018, was refused by notice dated 9 October 2019.
 - The development proposed is the demolition of dwelling and erection of 56 bed nursing care home comprising two separate blocks of accommodation, new vehicular access and associated landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The scheme as it was originally proposed consisted of two blocks of accommodation, hence the description of development above which is taken from the planning application form. It was revised whilst under consideration by the Council to a single building. Indeed, the appeal form refers to the demolition of the dwelling and the erection of a 56 bed nursing care home, vehicular access and associated landscaping. This is the scheme on which the Council based its decision and therefore what I have considered as this appeal.

Application for Costs

3. An application for costs was made by B2016 Ltd against Broadland District Council. This application is the subject of a separate decision.

Main Issues

4. There are two main issues. These are a) the effect of the proposed development on the character and appearance of the area; and b) whether the appeal site is a suitable location for the proposed development with specific regard to the development plan and access to services.

Reasons

Character and Appearance

5. The appeal site is an irregular land parcel to the north of Hall Lane. There is a pronounced slope to the topography which runs downhill from east to west. There is a distinct rurality to the wider area which extends to open fields east

of Reepham Road. To the west and along Hall Lane is the edge of Drayton. The immediate area around the appeal site has a verdant feel to it, with dense pockets of tree planting to the north and south of Hall Lane. A strong open character prevails with the area general devoid of built form save for that associated with four clusters (mainly dwellings and their associated curtilages), two to the north and two to the south of Hall Lane.

6. The appeal site contains a detached building of some substance in use as a single dwelling. The building is orientated to face roughly west and is therefore side onto Hall Lane. Access is via a sweeping driveway running from the southwest corner of the site to the north of the building. The building comprises three distinct sections with alternating roof shapes and heights. The central one is two storeys with rooms in its roof space served by pitched roof dormer windows. There is a two storey section to the Hall Lane side, connected by a reduced height link, which returns as a gable roof at right angles to the central section. To the opposite side is a single storey section with a hipped roof conservatory attached.
7. Save for a detached garage to the north, the remainder of the site is undeveloped, with built form concentrated close to its eastern boundary. Despite some planting around the boundaries of its garden, its broadsides are clearly visible from both Hall Lane and Reepham Road, mainly owing to it being sat on the higher section of the site. Brickyard Farm, the other dwelling to the north of Hall Lane, is a much smaller detached building with a number of off shoots. Its plot is more extensive including a tennis court to the southwest.
8. The proposed development would see a repositioning and reorientation of built form on the site to lie across it, facing south towards Hall Lane. It would be three storeys with rooms in its roof space. These rooms would be served by flat roof dormer windows. It would be roughly rectangular in shape with a double pile gable roof profile to the main section and three narrow gable features to the front elevation. The rear would have a taller and wider gable feature facing what would be a landscaped garden area. Fenestration would be noticeably uniform and regular with a strong vertical emphasis to the elevations. There would be a new vehicular access to Hall Lane, closer to the south eastern corner. This would serve a frontage parking area and an access to the rear, along the eastern boundary.
9. I appreciate that the existing building on the appeal site is not insignificant in size or scale and its land take when the garage is included is substantial. The existing building is in a commanding position in the plot and is subsequently prominent in what is a predominantly rural street scene. That said, the orientation of the proposed building to be broadside onto Hall Lane would increase the prominence further and offer obvious views of what would be a striking building of quite industrial scale and design with overly uniform and rhythmic features. This, as well as the widened entrance and frontage car park would bring a formal and urban character to the area.
10. The appearance of built form on the site would change when viewed from the east along Reepham Road. Specifically, views would be of the narrow side of a building but the overall height, the rear projecting gable element specifically, would draw attention to its scale and design. The total height of the building would not be significantly greater than the existing dwelling but the long and continuous roof line and strong symmetry would emphasise its scale which is

distinctly 'unrural'. The total size of the building would dwarf the others around it. Despite the use of rooms in the roof, due to the numerous dormers and steep matching height gables it could be easily read as a four storey building, particularly when viewed from within the site. When taken together with the parking to the front and other hardstanding it would reduce substantially and noticeably the open, undeveloped and rural countryside qualities of the immediate area. Quite simply, and with the above factors in mind, it would appear out of place and context.

11. For these reasons, the appeal scheme would cause harm to the character and appearance of the area. Such that it would conflict with Policy 2 of the JCS¹, Policy GC4 of the Local Plan², Policy 1A of the DNP³ and the Framework⁴. Amongst other things, these policies seek to ensure that new development is of a high quality, standard and is contextually appropriate, having regard to the character and appearance of an area and is visually attractive, with good architecture which is sympathetic to the character of its setting.
12. I note the Council's reference to Policy 1 of the JCS and EN2 of the Local Plan in regard to this main issue. The sufficiency of the policies I have cited above aside, it seems to me that Policy 1 is more concerned with addressing climate change and protecting environment assets. It mentions the design of development but such as it relates to the most efficient use of resources. I do not find therefore that it is hugely relevant to this main issue. In the case of EN2, this also covers consideration of design, appearance and character but more in a landscape character context. I have found that there would be harm to the character and appearance of the area, but this is mostly concerned with the appearance and size of the building for the site and not directly or indirectly an impact on landscape character per se. I have not therefore referred to it in my findings. Lack of conflict with these policies does not alter my conclusions on this main issue.

Suitable Location

13. The appeal site is located outside of the settlement of Drayton, and as such is in the countryside where development is normally restricted not only in the interests of its specific character but also on the basis that development should be directed to those areas that have services accessible via sustainable means. That is to say they do not rely on the use of the least sustainable travel option in the shape of the private car. The edge of Drayton is along Hall Lane to the west. It is a large settlement with a wide range of services on which incumbent occupants rely for day to day living.
14. Policy H5 of the Local Plan considers residential institutions and explains that such will be considered acceptable in principle within the limits of existing settlements, provided they are accessible by public transport and are within close proximity of community facilities. In addition to meeting these requirements, H5 also considers that they might be acceptable outside of limits but that a local need will have to be demonstrated.

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

² Broadland District Council Development Management Development Plan Document 2015

³ Dayton Neighbourhood Plan 2016

⁴ The National Planning Policy Framework 2019

15. What is meant by local is not defined by the policy wording I have seen. The appellant's evidence points to a national need for the type of specialist care the appeal scheme would provide, particularly the apparent dearth of dedicated facilities for people suffering with Young Onset Dementia (YOD) or those with Complex Behavioural Needs (CBN). An independent report was also commissioned to identify local supply and demand for specialist dementia care in the community which found that, across the East of England region, there are 25 registered mental health facilities, providing only 769 beds. The majority are co- serviced facilities and not dedicated for YOD or CBN.
16. The report identified there were over 36,000 people registered with dementia and an estimate of approximately 1,798 with YOD (calculated as a 5% prevalence rate) living in the East of England region. Along with the fact that, within a 10-mile radius of the appeal site there are currently an estimated 303 people living with YOD. Furthermore, the appeal scheme appears to have the support of Norfolk County Council (NCC) Adult Care Services. With this and the above in mind it seems sufficiently clear that there is a local need for the type of care the facility would offer that is currently not met.
17. It however remains important to consider the sustainability credentials of the site. Specifically, the access both residents and staff would have to facilities. Whilst I note that the type of care offered and the conditions experienced by some of the intended occupants would mean that journeys to and from the site would not be significant, one has to consider visitors to the site as well as ensuring development is spread across the district in as sustainable manner as possible given the requirements of the development plan and the Framework.
18. As I have explained, the appeal site is outside of a settlement and in the countryside. Drayton has a range of services and public transport options to the larger settlements like Taverham, Costessey and Norwich. I note that there are both committed and pending schemes for new residential development of a not insignificant scale along Hall Lane towards the appeal site but as it stands the appeal site itself is spatially detached from the settlement edge and some distance away from the services on offer in Drayton, accessed via an unlit narrow rural road without segregated footways for some part. Whilst public transport is available from within Drayton to other areas, there are no accessible stops in proximity to the appeal site. Further, and referring back to my comments on the planned future growth of Drayton towards the appeal site, it is unclear based on what I have seen that these would make the appeal site inherently more sustainable in terms of how it can be accessed that would make me conclude that the majority of journeys to and from it would be by the use of the private car. As I have said, this is the least sustainable travel option.
19. The proposed development seeks to provide for an extended footway to link up with the existing one along Hall Lane, from the appeal site to where it currently runs out. It appears from the evidence that the appellant is willing to enter into an agreement with NCC (as the Highways Authority) to provide it as works within the existing highway. The footway would be of a not insignificant distance, would not be lit and involve crossing Hall Lane more than once. In that respect it is perhaps less than ideal a solution to connecting the appeal site with Drayton. It would nonetheless provide a genuine and at most times usable alternative to the private car for both staff and local visitors, taking into account what is deemed an acceptable walking distance generally, the location

of the appeal site, the nature of the operations at the facility, the needs of residents and the type of care being provided. I also feel that a footway would take away some of the 'ruralness' of Hall Lane and in so doing, in highway safety terms, subsequently make it more attractive for use by cyclists. This would be a further alternative to access the site by non car means.

20. The Council have set out two conditions in their suggested list to make provision for the footway. They are worded so as to restrict works on site past a prescribed point until the offsite highway works which are shown on a specific plan have been submitted, approved and completed. The completion of the offsite highway works and thus discharge of these conditions would involve the appellant entering into an agreement with NCC under a specific part of the Highways Act. I have given this approach some thought and have had regard to Planning Practice Guidance (PPG).
21. PPG explains that a positively worded condition which requires an applicant to enter into a planning obligation under section 106 of the Town and Country Planning Act 1990 or an agreement under other powers (emphasis added), is unlikely to pass the test of enforceability. A negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency. However, in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk.
22. In the case of the appeal scheme, I remain to be convinced that the situation constitutes exceptional circumstances. Nor is there substantive evidence to suggest the delivery of the development would otherwise be at serious risk if I were to not impose such a condition, taking into account my findings on the first main issue and the fact that there is clearly a workable scheme available and acceptable to NCC.
23. With this in mind, I am not satisfied that the appeal site would be a suitable location for the proposed development. It would serve to promote unsustainable patterns of such that would conflict with the aims of the development plan in this regard, specifically Policy H5, the aims of which I have explained. For the same reasons, the appeal scheme would be contrary to Policy 6 of the JCS, GC4 of the Local Plan and section 9 of the Framework which, amongst other things, seek to ensure that development is concentrated close to essential services and facilities to encourage walking and cycling as the primary means of transport with public transport for wider access, it is accessible to all via sustainable means and opportunities to promote sustainable transport are investigated and pursued.

Other Matters

24. I note the Framework's stance, particularly in paragraph 103, that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, but this is not a justification for the siting of

development in unsustainable locations. Furthermore, it seems eminently possible that the appeal scheme could, theoretically and with the correct agreements in place, be accessible by means other than the private car. This would recognise its rural location but be able to provide a genuine alternative.

25. I have set out above that the appeal scheme would appear to be able to fulfil some of the apparent unmet need in the region for the type of specialist care proposed. Whilst this would therefore carry some weight in the general balance of considerations and accordingly would comply with some of the requirements of the development plan there is limited substantive evidence to suggest that this need has to be met by development at the appeal site of the specific design, scale and siting proposed and that it could not be met by something else, somewhere else.
26. The appellant mentions Brooklands Care Home in their evidence and has provided an aerial photograph of its location. It too appears to be detached from a built up area but is in actual fact quite close to the rear gardens of private dwellings on the edge of what appears to be a large settlement. I am not aware of how accessible the site is or what services are available in the settlement shown. Further, I was not party to the circumstances of any planning permission that was granted for it, if it was erected as new or has grown over time. I am not therefore satisfied its situation is sufficiently similar to the one of the case before me. The same would go for any other facility of a similar ilk to the appeal scheme that may be in a semi rural or rural location. Each development proposal is considered on its own merits. As such my conclusions are unchanged.
27. There are elements of the appeal scheme that would be acceptable. Such as, for example, off street parking would be well provided for, the access is acceptable in visibility and thus highway safety terms and owing to the design and siting of the building, it would be sufficiently far away from neighbours to ensure that there would be no adverse effects on their living conditions. Furthermore, it appears that the scheme would be serviced appropriately with cycle and refuse storage. Accordingly, and in regard to these matters, the scheme would comply with the development plan. However, and in each case, these matters would amount to a lack of harm which by definition is incapable of weighing against harm. They would be neutral in any balance.
28. The appellant previously advanced a Unilateral Undertaking (UU) to secure the provision of a shuttle service for staff and visitors to operate within the local area. I have seen a copy of the UU and what it seeks to achieve, and I agree that such an obligation could, along with the proposed footpath, provide an alternative to the use of the private car to undertake journeys to and from the appeal site. I would not agree that it could be a sufficiently suitable alternative alone since the obligation only refers to one journey in the morning and one in the afternoon. In an of itself this is relatively infrequent. In addition, the UU I have seen is not dated and appears to have some information missing despite being signed. For these reasons I am unable to take the UUs provisions fully into account. Notwithstanding the fact that I acknowledge the concept and accept how it could be made to work. I have not pursued changes to the UU given my findings on the main issues. Whilst it might have gone some way to addressing my conclusions on the second, it would not affect them in regard to the first.

Conclusion

29. I have had regard to the issues that have been raised by third parties but it is for the reasons I have explained that the appeal is dismissed.

John Morrison

INSPECTOR