
Appeal Decision

Site visit made on 21 July 2020

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st August 2020

Appeal Ref: APP/V0510/W/20/3250652

Land opposite Innisfree, Bradley Road, Kirtling CB8 9JB

- 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 and Mrs G Harbinson against the decision of East Cambridgeshire District Council.
 - The application Ref 20/00181/OUT, dated 4 February 2020, was refused by notice dated 27 March 2020.
 - The development proposed is erection of single-storey dwelling (self-build).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs G Harbinson against East Cambridgeshire District Council. This application is the subject of a separate Decision.

Procedural Matters

3. Despite the description of development set out above, I consider the description found on the Appeal Form better reflects the scheme that is before me and that which the Council considered. The development proposed is therefore for 'erection of a single-storey dwelling and garage (self-build)'. I have therefore dealt with the appeal on this basis.
4. Outline planning permission is sought but with all matters reserved for future consideration, except for the access to the site. I have had regard to the drawings that accompanied the planning application (Drawing Ref 4407 01 B) but I have treated these as being indicative when considering the likely impact of the proposal on the matters set out in the main issues below. I also note that the proposal was resubmitted following the refusal of a previous planning application¹ and that the indicative scale is smaller than that refused.
5. During the course of determining this appeal, the appellant for another site in the district, for which I am the appointed Inspector, drew my attention to a linked appeal decision² for two sites in Witchford (the Witchford appeals). This in turn referred to an appeal at Fordham³. I therefore invited the main parties

¹ Planning Reference: 19/00189/FUL.

² Appeal References: APP/V0510/W/18/3213834 & APP/V0510/W/19/3227487.

³ Appeal Reference: APP/V0510/W/19/3227639.

to provide comment in relation to any implications that the Witchford appeals would have for this appeal, particularly in relation to housing land supply.

Main Issues

6. The main issues are: -

- whether the proposal is consistent with policies relating to housing in rural areas, including with regard to accessibility to local shops, services and facilities; and
- the effect of the proposed development on the rural setting, character and appearance of the area.

Reasons

Rural housing

7. The appeal concerns a grass paddock situated to the southern side of Bradley Road. There are dwellings to the north along Mill Road and to the east along Bradley Road.
8. For the purposes of planning policy, the appeal site is situated within the countryside, as defined by Policy GROWTH 2 of the East Cambridgeshire Local Plan (April 2015) (the LP). This policy suggests that the majority of development will be focused on the market towns of Ely, Soham and Littleport, but more limited development will take place in villages. The policy text for Policy GROWTH 2 suggests the overall aim is to focus development within or on the edge of towns and villages, thereby helping to promote easier access to jobs and services, and to minimise unnecessary development of open fields and countryside areas of the district.
9. Moreover, in the countryside, outside defined development envelopes, development is strictly controlled to protect the countryside and the setting of towns and villages. Development is therefore restricted to particular types of development, including affordable housing through exception schemes or community-based development, dwellings for essential rural workers and the extension and replacement of dwellings in the countryside. The policy also outlines that these exceptions may be permitted, providing there is no significant adverse impact on the character of the countryside and that other Local Plan policies are satisfied. The impact on character is referred to in the second main issue.
10. The appeal scheme is not for any of the types of development listed under the policy, so would be contrary to the locational strategy in Policy GROWTH 2 of the LP, as it would encompass housing outside a defined development envelope.
11. Whilst the appeal site is situated within an area of countryside, in terms of whether the proposed dwelling would be 'isolated' in the language of the National Planning Policy Framework (the Framework) and the recent Court of Appeal judgement⁴, it is important to have regard to the site's relationship to existing built development as well as accessibility to services and facilities. Paragraph 78 of the Framework seeks to restrict housing in rural areas to

⁴ *Braintree DC v SSCLG* [2018] EWCA Civ. 610

locations where housing will enhance or maintain the vitality of rural communities.

12. Taking the physical dimension of isolation first, the proposed dwelling would be located fairly close to other dwellings situated to the north and east in Mill Road and Bradley Road, so the proposal could not be said to be isolated from other dwellings. Nonetheless, it would do little more than add to existing development in the open countryside, some distance away from the settlements of Chevely, Cowlinge, Great Bradley, Kirtling, Lidgate and Woodditton. There are very few facilities and services available in the immediate vicinity, except for the Red Lion public house in Kirtling. The reality is therefore that future residents would be obliged to travel further to other settlements, where there are a greater range of facilities and services available, particularly Chevely, which I understand has a public house, post office and grocery shop.
13. In terms of accessibility, the appeal site is poorly located. Paragraph 103 of the Framework suggests that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. There are no shops or community facilities within a reasonable and convenient walking distance of the site. The local road network lacks street lighting and pedestrian footways. Accordingly, the opportunities to walk or cycle to the services and facilities available nearby would not be convenient or realistic ones, particularly after dark or in bad weather.
14. Given the location of the proposed dwelling, future residents would therefore be highly likely to be required to travel regularly by private motorised transport to access education, retail, employment and healthcare. The proposal would not, of itself, generate a large number of traffic movements. Furthermore, a greater dependency on car use is inevitable in more rural locations and there are existing residential properties in the immediate vicinity. However, the cumulative effect of allowing developments in locations such as the proposal would be likely to increase the amount of unsustainable journeys made. I also have limited information before me regarding the bus service to Newmarket that is said to be available from Mill Road but I understand that it is regular but infrequent. I am not therefore able to conclude that this would sufficiently discourage further use of private motorised transport.
15. I have had regard to the approved development of a single dwelling opposite the site⁵. Although that site is adjacent to an existing dwelling and will be situated behind substantial mature planting, like the appeal site, it is also situated in the open countryside, some distance from settlements. Nevertheless, the location of that development, whilst consented by the Council, represents an example of harmful incremental development, which would add to the unsustainable journeys made from this location. For the reasons outlined above, that development should not be used as a precedent to permit further similar harm associated with the appeal proposal.
16. I therefore conclude that the appeal site would not represent an appropriate location for housing, having regard to access to local shops, services and facilities. Hence, the proposal would conflict with Policy GROWTH 2 of the LP and paragraphs 78 and 103 of the Framework.

⁵ Planning Reference: 16/01170/OUT, for a detached dwelling, was subsequently renewed by 19/01715/OUT.

17. I have not found against Policy GROWTH 5 of the LP and paragraph 11 of the Framework, in relation to this main issue, as the Council referred to these in the context of the presumption in favour of sustainable development, which I address within the Planning Balance.

Rural setting, character and appearance

18. The village of Kirtling is small and relatively scattered, comprising a number of small groups of dwellings spread out over a large area, interspersed amongst large undeveloped fields. Moreover, there are houses in Bradley Road immediately opposite the site and to the northwest in Mill Road. There are also some houses and other buildings to the southern side of Bradley Road and south west in Malting End but these are separated from the site by the extensive field that wraps around its south, east and west boundaries. Along with their plot size and shape, the design of dwellings within the area varies greatly, but the established planting of boundaries and space around dwellings provides a transition to the agricultural fields beyond. The appeal site is a relatively flat and roughly rectangular parcel of undeveloped land, elevated slightly above Bradley Road and enclosed by mature planting.
19. Taken together these stated features, particularly the undeveloped nature of the land to the southern side of Bradley Road, including that provided by the site, give rise to a clear and distinct, pattern of development. This makes a significantly positive contribution to the rural setting and therefore the character and appearance of the area.
20. Although the mature planting around the site would reduce the visibility of the proposed development, when this is not in leaf during autumn and winter, there would be a greater degree of visibility. Moreover, the physical presence of the proposal would reduce the undeveloped nature of the land to the south of Bradley Road to an unacceptable degree and draw the existing built developments, to the north and south, closer together. This proposed built incursion would therefore appear discordant when viewed against the established grain of development described above and have a significantly detrimental effect on the rural setting and, therefore, the character of the area.
21. The application drawings indicatively illustrate a modest dwelling that could be constructed of materials traditionally found on rural buildings. Although additional landscaping of the site could be undertaken to bolster trees and hedges and enhance biodiversity, this would not be unique to the development proposed and could be carried out without it, respectively. Nevertheless, I appreciate that the proposed dwelling could be constructed to high environmental standards incorporating renewable energy sources and sustainable construction techniques. Having regard to this and the varied architecture locally, the indicative design of the proposal would not, of itself, offend the appearance of the surrounding area.
22. Despite my finding in relation to the appearance of the proposed development, for the reasons outlined above, I conclude that the proposal would have a significantly detrimental effect on the rural setting and therefore the character of the area. Hence, the proposal would not accord with Policies ENV1 and ENV2 of the LP which require, amongst other things, that development proposals should demonstrate that their location (amongst other things) will create positive, complementary relationships with existing development and will

protect, conserve, and where possible enhance the space between settlements, and their wider landscape setting.

23. In light of the above, the proposal would also not accord with Policy GROWTH 2 of the LP, which seeks to protect the countryside from development that would be harmful to the character of the countryside.

Other Matters

24. The appellants have advanced a case that the proposal would be a self-build project that allows them, as long-term residents, to remain in the area, close to family and friends, in independent accommodation. Paragraph 61 of the Framework requires that planning policies should reflect the needs of people wishing to commission or build their own homes.
25. Whilst there do not appear to be any local policy exceptions with Policy GROWTH 2 of the LP that would apply to the development, I acknowledge that the proposal may help the Council to meet its obligations imposed by the Self-Build and Custom Housebuilding Act 2015⁶ for such development in the District. However, other than question the Council's approach to maintaining their obligations, there is no substantive evidence before me to demonstrate that no land is allocated or consented for self-build dwellings in the locality or that there is a shortage of alternative accommodation that would meet the appellants' needs. I have also not been provided with any evidence to demonstrate that the appellants are at risk of being made homeless from their present accommodation and a legal mechanism, such as a planning obligation, to guarantee that the dwelling would be a self-build project as promoted by the appellants.
26. Consequently, although these matters may not necessarily be determinative, I have only given limited weight to the appellants' personal circumstances due to the lack of substantive evidence to support their case.
27. I note that the proposal could be developed with adequate car parking, garaging and arrangements for foul and surface water disposal, subject to planning conditions. However, consideration of these matters would not lead me to a different conclusion on the main issues.

Planning Balance

28. The Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration.
29. The development plan for the area comprises the LP, which predates the current Framework, as it was examined when the 2012 version of the Framework was in place. However, 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.
30. In the context of Policy GROWTH 2 of the LP, a settlement envelope 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

⁶ As amended by the Housing and Planning Act 2016.

Framework. Moreover, although I have not found the appeal proposal to be isolated, the policy does not include all of the policy exceptions to isolated homes in the countryside referred to within the Framework, particularly in circumstances where the design is of exceptional quality or relates to the subdivision of an existing dwelling. However, the policy is consistent with the aim of the Framework to direct housing to locations where it is supported by local facilities and services through an established pattern of distribution; and contributing to and enhancing the natural and local environment by recognising the intrinsic character and beauty of the countryside. In light of this I have regarded the underlying objectives of the policy, as being generally consistent with the revised Framework.

31. Policies ENV1 and ENV2 are consistent with the Framework in terms of its aim to achieve well designed places. Furthermore, the presumption in favour of sustainable development outlined in Policy GROWTH 5 of the LP, is consistent with the approach outlined in the revised Framework.
32. Overall, whilst there is some inconsistency of Policy GROWTH2 with the Framework, taken as a whole these policies are not to be regarded as out-of-date. I have therefore afforded full weight to the conflict of the proposal with the abovementioned policies, as set out in the main issues.
33. A period of five years has passed since the adoption of the LP. In such circumstances, the Framework suggests that the housing requirement used in assessing a Council's five-year supply of deliverable housing land will be based on the standard method for determining local housing needs for the local planning authority area. Accordingly, the Council issued a new Five Year Housing Land Supply Report⁷ (FYHLSR), which has regard to the latest Housing Delivery Test results⁸, so includes a 20 percent buffer. The FYHLSR identifies that the Council can demonstrate 6.61 years supply of deliverable housing land within East Cambridgeshire.
34. In the Witchford appeals the Council argued that it could demonstrate 3.94 years supply of housing land but the Inspector ultimately relied on the Fordham appeal, where the position was only calculated to be 2.1 years. However, the Fordham appeal decision has since been quashed, specifically in relation to how the Inspector calculated the housing land supply. I am not therefore able to give any weight to the quashed decision or the Witchford appeals in respect of this matter.
35. I note that paragraph 74 of the National Planning Policy Framework (the Framework) states that a five year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan, or in a subsequent annual position statement which has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State. There is no evidence before me to suggest that the supply of housing stated in the FYHLSR has been calculated using this method. However, other than point to the fragility of the situation presented by the Fordham and Witchford appeals, I have not been provided with any evidence by the appellants setting out an alternative calculation for the five-year housing land supply in the district.

⁷ East Cambridgeshire District Council Five Year Housing Land Supply Report 1 April 2019 to 31 March 2024.

⁸ Published in February 2020.

36. I am also mindful that the presence of a five-year supply does not represent a ceiling on the delivery of housing, as the Framework supports the Government's objective to significantly boost the supply of homes. On this basis, I did not reengage with the main parties following receipt of their comments. Clearly should I determine that the Council cannot demonstrate a 5-year housing land supply, paragraph 11 of the Framework and Policy GROWTH 5 of the LP would be engaged.
37. In the context of paragraphs 59 and 68 of the Framework, I note the contribution that would be made to the supply of housing by the appeal proposal, particularly as it could be carried out relatively quickly. The appeal before me would deliver one additional dwelling, which would contribute to the overall housing mix in the District, particularly as it could provide a self-build family home. However, the contribution to the supply of housing would be minor in its extent and would be achieved at the expense of the locational strategy outlined in the LP, so it would only be afforded limited weight.
38. I am also mindful of the emphasis in the Framework, on giving substantial weight to the value of using suitable brownfield land within settlements for homes. In the case of the appeal site, I understand it was previously occupied by a dwelling⁹, which was demolished as part of the proposal to erect 'Innisfree'¹⁰. The site has since been in use as a grass paddock and there no longer appears to be any evidence of the dwelling. The site is therefore excluded from the definition of Previously Developed Land as set out in the Framework¹¹, as the remains of any permanent structure or fixed surface structure have since blended into the landscape. Nevertheless, the Framework is clear that making efficient use of land should include taking into account the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use.
39. Some economic benefits would arise from, for example, employment and procurement of materials during the construction period but this would be short term. Similarly, future occupiers would also contribute to the vitality and viability of local shops, services and facilities, including those in nearby villages, but would be likely to do so using private means of transport. I therefore afford these benefits limited weight.
40. The proposed development would not comply with development plan policy in respect of its location and the harm to the rural setting and character of the area. The proposal would not therefore amount to sustainable development under the terms of the Framework. Overall, the adverse impacts of the proposal are matters of significant weight against the grant of planning permission.
41. Even if I were to conclude there is a shortfall in the five-year housing land supply on the scale suggested in the Fordham and Witchford appeals, the adverse impacts of granting permission identified would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This does not indicate the proposal should be determined other than in accordance with the development plan.

⁹ Known as 'Golden Borders'.

¹⁰ Planning References: E/0469/90/O and E/0965/90/D.

¹¹ Annex 2 of the Framework.

Conclusion

42. 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, I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR