
Appeal Decision

Hearing Held on 26 August 2020

Site visit made on 25 August 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2020

Appeal Ref: APP/K2610/W/20/3245582

Land north of Marsh Road, Halvergate, Norwich NR13 3QB

- 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 Deborah High and Kevin Cossey against the decision of Broadland District Council.
 - The application Ref 20190827, dated 30 April 2019, was refused by notice dated 26 July 2019.
 - The development proposed is described as an outline residential development for up to 7 no. dwellings with all matters reserved except for access.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are two main issues. These are a) whether the appeal site would be a suitable location for new housing having regard to the development plan and sustainable patterns of new development; and b) the effect of the proposed development on the historic environment with specific regard to the setting of a grade II listed building and whether it would preserve or enhance the character or appearance of the Halvergate and Tunstall Conservation Area (HTCA)

Reasons

Suitable Location

3. The appeal site is in the village of Halvergate. Whilst far from a limited population, the settlement does not have a defined limit on the Council's policies map. Policy GC2 of the Local Plan¹ explains that new development will be accommodated within defined settlement limits in accordance with a sustainable approach to the location of new development and to those settlements that are well-linked and well-related to existing development, services, facilities and employment opportunities as per the settlement hierarchy set out by the JCS².
4. Halvergate has some facilities, namely a public house and a restaurant (which it was explained at the hearing is one and the same place), a church and a

¹ Broadland District Council Development Management Development Plan Document 2014

² Greater Norwich Development Partnership Joint Core Strategy for Broadland, Norwich and South Norfolk 2011, amended 2014

village hall. This to me is limited and does not include those facilities on which any future occupiers would rely day to day such as shops, educational and employment opportunities and healthcare. The appellant advanced that the village hosts a number of clubs and groups. These would be of social benefit to existing and future residents but they would not in my view represent services deemed essential to support new housing.

5. Halvergate is served by bus and there is a stop outside the appeal site on Marsh Road. There was some discussion at the hearing as to the frequency and number of services of an average day. There is a request stop service that can be booked in advance and a regular one that links Halvergate with the larger settlements of Cantley and Acle. This service comes through Halvergate before 08:00 and then again at 10:00. There is then a return evening service around 18:00. There was suggestion this service does not run every day and does not return on a Wednesday. There is anecdotal evidence that the earlier morning service is often busy with school pupils.
6. Whilst both Cantley and Acle are large settlements in themselves that have a range of services for incumbent residents, as well as having rail links further afield, it seems to me that the limited nature and relative infrequency of the available bus services to get there would not be sufficient to rely on as a genuine alternative to the private car. Particularly for ad hoc trips, those associated with appointments or places of work. Whilst there was no detailed discussion of public rights of way, it does not appear that there is a usable local network and the roads in and out of the village are narrow, rural and unlit without segregated pavements.
7. I am mindful of paragraph 103 of the Framework³ which, amongst other things, sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Be this as it may, this is not a tacit green light for development in areas that have such poor service provision such that occupiers thereof would effectively be encouraged to travel, contrary to the approach set out by Policy 1 of the JCS. Particularly in those areas where there is evidently little other choice that the use of the private car such as Halvergate.
8. Paragraph 78 of the Framework states, amongst other things and in regard to rural housing, that where there are groups of settlements, development in one village may support the services in a village nearby. It was argued that Halvergate is close to Freethorpe which has a school. Whilst future occupiers may use this school it provides for primary level only. Reedham is slightly further afield and has a shop, a café, another school and a railway station that itself gives access to higher ranked settlements. Whilst I have no doubt that future occupiers of the appeal site may choose to use the services in these settlements, the distances between them is not small and, taking into account my earlier comments, getting to them would likely involve car borne journeys. These journeys would be to and from seven dwellings. Thus, they would be frequent and high in number.
9. Based on what I have seen, Halvergate doesn't seem to bring much to the table in terms of service provision which accordingly limits its contribution to any group. Such that members thereof may have inter reliance and thus be a more cohesive entity. I would therefore struggle to reconcile whether the

³ The National Planning Policy Framework 2019

relationship Halvergate has with other members of a group would be any different to a small and largely unserviced settlement simply being close to a service centre or large town.

10. With the above factors in mind, the appeal site would not be a suitable location for new housing. It would not reduce the need to travel nor encourage such by sustainable means. It would serve to promote unsustainable patterns of development, contrary to the Council's settlement hierarchy and consequently the other policies I have cited above.

The Historic Environment

11. The Red Lion is a grade II listed public house also located on the north side of Marsh Road. It is a detached building of diminutive scale, mainly single storey with a painted exterior and thatched roof to the main body which also includes three narrow pitched roof dormer windows. There are extensions to both sides, one of full two storeys, and a single door roughly central to the front elevation. The building is set considerably back from the road edge, flanked by houses to the east and west.
12. The building is evidently of some age, with simple and traditional proportions which one can be readily appreciate. Owing to the building's architecture and scale, its wide and open frontage, planting to the rear and beyond and the larger open spaces of the appeal site and fields to the north, it retains many features which hark to its historic rural setting and position in something of an otherwise isolated small settlement in the Norfolk countryside. This distinct rural context is further emphasised by the narrowness of Marsh Road itself, a lack of continuous footpaths or street lighting and something of a random scattering of pockets of development punctuated by open spaces that make up the village as an entity. As do the open fields and boundary hedges that either surround development or abut road edges.
13. These features are also defining characteristics of the HTCA. The aforementioned pockets of development are in and around open fields of varying sizes. The village is far from linear in character, identified by space as much as scattered and clustered buildings. There is a key view, which is identified in the HTCA appraisal as important, looking east along Marsh Road which, owing to the height of the land at this point, gives a picturesque scene of the surrounding low lying marsh reclaimed countryside and thus appreciation of the distinct rurality of the village's surroundings. The open and undeveloped nature of the appeal site, as one of the aforementioned open spaces, contributes positively to the character of the HTCA as well as forming the rural setting of the Red Lion.
14. The development of the appeal site would involve a new frontage of houses facing Marsh Road. The number and density of the development would not only reduce the rural feel the site contributes to the village but also introduce a distinctly urban character and almost continuous line of built form between the edge of the village and roughly its centre. The hedge and tree line to the back edge of Marsh Road is proposed for retention and whilst this will offer some screening, it would nonetheless be a screen and still allude to development behind it. Opening up part of the frontage for the access point and associated visibility splay would make sections of the scheme obvious, as would the functioning of the development in terms of comings and goings. This part of the works would also lose some of the verdant and character forming green

cover to the back edge of Marsh Road. The remainder of the site would remain open, but this would be to the rear of a not insignificantly scaled built up area in itself and subsequently reduce the positive influence the space has on existing village character and quality. The loss of much of the rural feel of the site and how it contributes to the character of the village would accordingly and by association impinge on the setting of the Red Lion. As a result of these factors, I would find that the proposed development would harm the HTCA and the setting of a grade II listed building.

15. Given the scale of the proposed development, I would find such harm to be less than substantial. As such, and in accordance with paragraph 196 of the Framework, it should be weighed against the public benefits of the proposed development.
16. The appeal scheme would provide for housing which would add to choice and mix locally, for the benefit of both incumbent residents and those looking to move to the area. It would also look to provide self build units for which there is evidently some local demand. It could generate monies into the economy through supporting employment in the local construction industry. That said, the addition of seven houses would not be significant in the grand scheme and there is no specific details of scale or type in response to a particular end user. There would be an economic benefit, but this would unlikely be to the public but a specific sector of industry. The knock effect of that in terms of taxation and government spending would accordingly be limited in the wider context. Self build units would be useful, particularly where there seems some ambiguity as to whether the Council are delivering on their obligations under the relevant Act. However, these plots should be delivered in the right places that do not, in my view, give rise to other (in this case multiple) planning harms.
17. With the above in mind, I am unconvinced that the public benefits of the proposed development would be sufficient to overcome what would be multiple harms to the historic environment alone. As such, the appeal scheme would be detrimental to the setting of a grade II listed building in the manner I have explained as well as failing to either preserve or enhance the character or appearance of the HTCA. This would conflict with the aims of section 16 of the Framework and Policies 2 of the JCS and EN2 of the Local Plan. Amongst other things, these policies seek to ensure that new development should be of a high quality and contextually appropriate design and appearance that respects local distinctiveness, landscape character and the historic environment.

Other Matters

18. Following review of the written evidence and discussion at the hearing there remained disagreement between the Council and the appellant as to whether the former can demonstrate the supply of housing sites as it is required by the Framework. Were the Council to be in an undersupply situation, I would normally then treat the most important policies as per paragraph 11 (d) and then consider, as per 11 (d) (ii), whether the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is the so called 'tilted balance' approach.
19. I am however reminded of paragraph 11 (d) (i) which explains that, if again in an undersupply situation, a planning permission should be granted unless the

application of particular policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. This provision refers to footnote 6 which includes such areas. One being designated heritage assets. Those are, in this particular case, the Red Lion and the HTCA. Both to which I have found that the appeal scheme would cause harm and, in my view as a consequence, provide clear reasons for refusing the proposed development. With that in mind, and should I be considering the appeal scheme under paragraph 11 of the Framework, it would not be sustainable development for which the presumption in favour applies.

20. There was concern expressed at the hearing that if development in Halvergate is too severely restricted going forwards then it could stagnate as a settlement. I am not so sure about this. The settlement is reasonably large and given the number of social groups that seem to operate within it, it seems there is an active community feel. I am also mindful of exception policies that allow building conversions and affordable housing in lower ranked settlements and some development in the countryside in some cases. There was also discussion at the hearing of some 'cluster' policies of the emerging local plan which might support development in a group of villages that includes Halvergate.
21. By securing it through either a legal agreement or the imposition of conditions, the appellant has offered the establishment of a car share club. I note that such arrangements can be considered a sustainable transport mode as explained by the Framework's glossary. Whilst advanced as a benefit of the proposed development I would see this more as a means to offset an impact and consider its contribution accordingly.
22. As laudable an offer though this is, and appreciating it would go some way to reducing the potential number of car borne journeys to and from the proposed development, one could not insist future residents sign up to it and it would be a personal decision. Given how poorly the settlement is served in terms of access to services it strikes me that future occupiers would be more inclined to transport themselves to where they need to go. Particularly in terms of the variety of locations where they may work or need to visit. I am also aware that there is already an existing similar scheme in operation in the village which somewhat limits the positive weight I would attach to the establishment of a second one. The appellant's offer does not therefore lead me to allowing the appeal.
23. A number of appeal decisions have been brought to my attention whereby my colleagues have considered the matter of sustainability, taking into account the length and frequency of car borne journeys. In a number of ways, some of which I have set out below, these cases were different to the circumstances of the one before me. They do not therefore lead me to allowing this appeal.
24. In the case of a scheme for seven dwellings at Spooner Row in Wymondham⁴, it seems it was common ground that the appeal site in that case was a relatively sustainable location where the site was also in walking distance to a school with a number of sustainable travel options available. For a development of two dwellings in Bradenham⁵, my colleague noted that the area was fairly remote from services albeit I see that the scale of the scheme in that

⁴ APP/L2630/W/15/3003743

⁵ APP/F2605/W/16/3148954

case is fundamentally different to the one before me. It was a decision that found some harm in other areas but that, in the opinion of my colleague, was such that it was outweighed by the provision of new housing in an undersupply situation. An allowed appeal for a single dwelling in Besthorpe⁶ related to the sub division of an existing dwelling. It seems there was a footpath link to a bus stop which had regular services to the larger settlement of Attleborough. This appeal was also allowed following my colleague balancing any harm, and its associated levels, against the benefits of the provision of the dwelling in this case.

25. Three dwellings were allowed in 2018 on land north of Picton Road in Tharston⁷. Here, my colleague noted that the appeal site was very close to the edge of a significant service settlement. The scale of the development was small in the grand scheme and there was a locally available public rights of way network and green infrastructure which, in my colleague's view, offered sustainable connectivity with said settlement. The appeal site was also close to more than one bus stop which themselves allowed access to larger centres.
26. The decision to allow a scheme for the erection of two dwellings at Newman's Green⁸, my colleague recognised that the appeal site in that case was disconnected from services and there were limited options to use public transport. I note this was again a smaller scale development to the case before me. I note my colleague recognised occupiers would be reliant on the use of the private car for journeys and that that this would result in conflict with the development plan. Whilst the appeal scheme in this case was not taken in an undersupply situation, my colleague appeared to take a balanced view, apportioning weight as was their role as a decision maker to the provision of housing, the scale of the appeal scheme, the number and frequency of car borne journeys against the harm and policy conflict, as well as the assertions of the Framework on the matter of transport solutions varying between urban and rural areas.
27. A scheme for the provision of 52 dwellings was heard at inquiry in July 2019 for land off St Mary's Road in Long Stratton⁹. Whilst I note this case was dismissed, the scale, circumstances and benefits associated with it were fundamentally different to the case before me. It was also on the edge of Long Stratton, agreed by the main parties in the case to be a sustainable location.
28. I have alluded to policies of the emerging local plan above and there was much discussion at the hearing around the 'cluster' approach of one such policy. This is to say that a policy may allow development in areas where there are groups of villages, including Halvergate. Be this as it may, the Council confirmed the emerging local plan is still some way of adoption and there remain outstanding objections to a number of policies. Further, the cluster policy discussed, whilst allowing limited development in clusters that includes Halvergate, does not necessarily mean that open market housing development would be supported in Halvergate itself. Indeed, this may be an arguable 'direction of travel' for the Council's future policy but as I have said it remains emerging, some way off adoption and ultimately is not the adopted development plan before me at the time I make this decision which carries the greater weight.

⁶ APP/F2605/W/18/3198911

⁷ APP/L2630/W/18/3197272

⁸ APP/D3505/W/18/3196882

⁹ APP/L2630/W/18/3215019

29. Policy GC2 of the Local Plan, as well as directing new development to within settlement limits, sets out that development may be permissible outside of them which does not result in any significant adverse impact where it accords with a specific allocation and/or policy of the development plan. I have found that the appeal scheme would give rise to harm in terms of its principle as well as multiple harms to the historic environment. Taken together, and considering their implications, I feel these harms would be wide ranging and far reaching and consequently significant. In addition, I am not aware of any other policies of the development plan to which the appeal scheme would comply, noting that the test in the case of GC2 is dependent not only on policy compliance but also a lack of significant impact.
30. The appellant's evidence addresses the matter of isolation and specifically that the dwellings in this case would not be so for the purposes of the Framework and paragraph 79. It seemed sufficiently clear to me from the evidence, and indeed as it was confirmed at the hearing, that the Council did not consider the appeal scheme to represent isolated homes in the countryside. The exception criteria of paragraph 79 do not therefore apply to the appeal scheme.

Conclusion

31. Whilst taking account of other matters that have been raised, it is for the reasons I have set out above that the appeal is dismissed.

John Morrison

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Jason Parker BSc (Hon) Dip MRTPI	Parker Planning Services
Mr Magnus Magnusson Ba MSc MRTPI	Parker Planning Services

FOR THE LOCAL PLANNING AUTHORITY:

Mr Christopher Rickman BSc (Hons)	Broadland District Council
Mr Simon Marjoram BA (Hons), Dip, MSc, MRTPI	South Norfolk Council
Mr Chris Bennett BSc MSc, PGDipTP, PGCertUD, RTPI, IHBC	South Norfolk Council
Mr John Shaw BA (Hons)	Norfolk County Council

INTERESTED PARTIES:

Mr Charles Reader	Halvergate Parish Council
Ms Edith Wilkin	Local Resident