



Appeal Decision

Site visit made on 2 September 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2020

Appeal Ref: APP/Y2620/W/20/3252915

Land off The Street, Hindolveston NR20 5AW

- 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 B Macann against the decision of North Norfolk District Council.
 - The application Ref PO/19/1751, dated 4 October 2019, was refused by notice dated 1 May 2020.
 - The development proposed is described as the erection of 2 no dwellings with associated 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 with regard to the development plan and sustainable patterns of development; and b) the effect of the proposed development on the character and appearance of the area.

Reasons

Suitable Location

3. The appeal site is in the village of Hindolveston, a roughly linear rural settlement arranged around The Street. Policy SS1 of the Core Strategy¹ sets out the Council's settlement hierarchy. In so doing it seeks to direct new housing development first to the principal and secondary settlements, then to service villages. More limited development is permitted in some coastal settlements. Hindolveston is not listed in the settlement hierarchy and as such is classed as countryside where new development is restricted to certain types. This approach is in accordance with the commitment to encourage sustainable patterns of development. I.e. sending it to those areas that have a ready access to a range of services on which occupiers would rely for day to day living and thus reduce the need to travel.
4. Hindolveston, as I have said, is a rural settlement. The appellant's evidence suggests there is a village hall, open play space, a pavilion, church, mobile library and mobile post office. However, these are identified as being available

¹ North Norfolk Local Development Framework Core Strategy (Incorporating Development Control Policies) 2008

in the village and the surrounding area (emphasis added) so I am unsure exactly what of these facilities are within the village itself. In any case, they are limited in their range and scope, lacking a shop, education and employment opportunities and healthcare. The appellant notes a number of social based clubs that operate locally which whilst beneficial in this respect would not be the type of services that would in my view be needed to support to new residential development.

5. Buses pass through the village, with stops along The Street and thus a short walk from the appeal site. There are four services. The No 24 runs between Fakenham and Norwich, once a week on a Monday. The No 98 is a Foulsham to Fakenham service and also runs once per week on a Thursday. The Nos 302 and 308 are school pick up services, serving Swanton Novers, Melton Constable, Briston, Hindolveston, Wood Norton, Guist and Fakenham.
6. The appellant has provided the numbers and routes of the services I have listed above and the school routes aside which I would naturally assume are on a return basis, there is no indication of whether the 24 and 98 that run on a Monday and Thursday respectively do include returns. In any event, one bus service on only two days of the week would, in my view, be insufficient to rely on for day to day use as a genuine alternative to the use of the private car, particularly for ad hoc visits, appointments and employment. I have not been advised of any usable local public rights of way network around the village. Hindolveston is linked to other settlements by narrow, unlit rural roads without segregated pavements.
7. Access to and from the proposed development would therefore rely almost wholly on the use of the private car. This is the least sustainable transport option. Journeys might not be over a substantial distance, but neither would they be short. Given the lack of alternatives, they would be frequent and high in number despite the limited scale of the proposed development. In essence, the appeal site would be no more locationally sustainable than one that would be the same distance away from a larger settlement, but considerably more remote and alone than Hindolveston.
8. Paragraph 103 of the Framework² sets out, amongst other things, that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Be this as it may, it does not follow that development in areas that have such poor service provision that occupiers thereof would effectively be encouraged to travel should be permitted. In any event, it would be contrary to the approach set out by the Core Strategy which highlights, amongst other things, that new market housing in the countryside be restricted in order to prevent dispersed dwellings that will lead to a dependency on travel by car to reach basic services, and ensure a more sustainable pattern of development.
9. With the above in mind, the principle of the proposed development would not be acceptable, and the appeal site would not be suitable for new housing. It would encourage unsustainable patterns of new development, contrary to Policies SS1 and SS2 of the Core Strategy. As well as the aims I have set out above, these policies seek to ensure that new development is delivered in the right places for its type and function and is restricted in certain areas to support the objective for sustainable patterns of development.

² The National Planning Policy Framework 2019

Character and Appearance

10. The appeal site is a flat land parcel laid mainly to grass and there are a number of semi mature trees grouped roughly in its centre. It is an irregular shape of undeveloped land that directly abuts the northern side of The Street. It is part of a larger field that extends further north. It terminates roughly level with the furthest north extent of existing backland development at Broughton Close, housing around which sits behind frontage development between 101 and 111 The Street. The site is a gap, between the aforementioned development and Manton Grange to the east. There are some larger detached houses in substantial plots opposite the site.
11. The appeal scheme seeks outline planning permission with only access to be considered. Layout and design are not fixed but the indicative plan shows a multi tier arrangement which would appear to be unavoidable given the overall width of the site and the fixing of the point of access. Should such a layout come forward at detailed stage, I do not feel it would be contrary to the grain of development locally. It would appear similar to the arrangement that forms Broughton Close. In landscape terms it would be contained close to The Street and terminate no further north than the extremities of existing development. Consequently, it would not unduly encroach into the open countryside to the north. As I have alluded to above, the appeal site is something of an undeveloped gap in an otherwise built up street scene. Its development would not, taking into account my other findings on this main issue, therefore lead to harm. It seems eminently possible, with this in mind, that matters covered by those reserved could result in a scheme designed to complement the existing architecture, scale and general layout.
12. I therefore disagree with the Council in regard to their findings on this main issue. The proposed development would not harm the character and appearance of the area and consequently comply with Policy EN4 of the Core Strategy which states, amongst other things, that new development should be of a high quality and reinforce local distinctiveness. It should also be suitably designed for its context and relate sympathetically to the surrounding area.

Other Matters

13. The Council explain they are able to demonstrate a supply of housing sites in excess of the five years required by the Framework. 5.73 years according to their most recent statement which was published in 2019. The appellant questions this although does not give an evidenced counter argument. There would therefore be no specific reason I should doubt the Council's position. That said, I am not clear, based on what I have seen, that the evidence informing the Council's current supply of sites has been tested.
14. If I were to find that the Council were in an undersupply position against the requirements of the Framework, I would consider the appeal scheme in light of the so called tilted balance of paragraph 11. This may lead me to considering important policies out of date albeit the environmental harm that I have found in regard to the appeal scheme would stand and given it relates to the principle of development this harm would be far reaching and long lasting, contrary to the objectives of the Framework as I have identified them above. I would therefore ascribe the harm itself substantial weight.

15. There would be benefits to the proposed development. The provision of new houses for one. These would add to choice and mix locally, increasing social cohesion and community as well as counting towards the Council's supply. As a small site it could also be built out fairly quickly. At only two dwellings however, such a contribution in these areas would be limited. Economically, the appeal scheme would support employment and thus expenditure from the construction industry. But, again, the scale of the proposed development would equally limit this benefit. As would the fact that, employment wise, it would be short lived. Future occupiers may use services in the village and others locally, but this could not be guaranteed. In any case, I have not been advised that any local services are necessarily under threat such that the scale of the appeal scheme would make a significant enough difference to their long term viability.
16. With these factors in mind, and if I were to be determining the proposed development in an undersupply situation, I would find that 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. The appeal scheme would not therefore, in this situation, be sustainable development for which the presumption in favour applies.
17. The appellant suggests in their evidence that policies SS1 and SS2 of the Core Strategy are out of date. I disagree. Whilst the detail of wording may slightly differ and some more exceptions to general rules may apply, their aims are supported by the Framework's objectives to encourage sustainable patterns of development and limiting it where that could not be achieved. In essence, they share the same general direction of travel. There is also a suggestion that the Framework's approach should supersede that of the policies of the development plan. However, the development plan has primacy for decision making purposes all things being equal. This would remain the case even in the event weight may be reduced to policies considered out of date in some situations.
18. Paragraph 78 of the Framework sets out, 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. Be this as it may, I am not advised as to specifically what group of settlements Hindolveston belongs and moreover what it would bring to the table in terms of service provision, such that it would form a cohesive inter reliant group of any kind. I am also not clear on precisely what services nearby the proposed development would support, or if indeed they would be in need of such. Briston and Melton Constable are mentioned albeit together they are a service village in their own right, where there would be an incumbent population there to support their services. They would also be areas where development would be directed as part of the Council's spatial strategy in any event.
19. Paragraph 79 of the Framework and the decision of the High Court in the Braintree case³ is also addressed in the appellant's evidence. I note the findings of this judgement which set out, amongst other things, what was meant by isolated for the purposes of the Framework. The Council do not seem to be of the view that the appeal site or subsequently the proposed development would constitute isolated homes. Taking this and the above into

³ Braintree DC v SSCLG [2018] EWCA Civ. 610 Case No: C1/2017/3292

account, I do not feel that the outcome of the Braintree case necessarily renders the approach of the Core Strategy out of date. Clearly some rural housing is supported and paragraph 79 gives some direction as to where this might be the case. Since the appeal scheme would not represent isolated homes however, the criteria of paragraph 79 do not apply to the case before me.

20. Paragraph 84 of the Framework explains that decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. This is duly noted. However, and for the reasons I have explained, the appeal scheme does not constitute such a situation. In addition, I have not seen a sufficiently convincing case that the development of the appeal site would necessarily meet local business or community needs. In any event, I am mindful that paragraph 84 goes on to say that development should, amongst other things, exploit any opportunities to make a location more sustainable. Again, and for the reasons I have explained above, the appeal site would not sit squarely with this provision.
21. A number of appeal decisions have been brought to my attention. For the reasons I have set out below, I do not consider them to be sufficiently similar to the appeal scheme before me such that I would be minded to allow the appeal. Each development proposal is considered on its own merits, with regard to its own individual context. In addition, the apportionment of weight in any balanced decision is a matter of the decision maker in each case.
22. In the case of a scheme for seven dwellings at Spooner Row in Wymondham⁴, it was common ground that the site was a relatively sustainable location, in walking distance to a school and 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. 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.
23. 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.
24. 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 large settlement. The scale of the development was small in this context 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.

⁴ APP/L2630/W/15/3003743

⁵ APP/F2605/W/16/3148954

⁶ APP/F2605/W/18/3198911

⁷ APP/L2630/W/18/3197272

25. In 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 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 and the number and frequency of car borne journeys against the harm, its levels and policy conflict, as well as the assertions of the Framework on the matter of transport solutions varying between urban and rural areas.

Conclusion

26. I have found that there would not be any harm arising out of the second main issue. Being a lack of harm however, this would not be capable of weighing against it. It would be neutral in any balance. With this and my findings on the principle of the proposed development in mind, the appeal is dismissed.

John Morrison

INSPECTOR

⁸ APP/D3505/W/18/3196882