
Appeal Decision

Site visit made on 8 September 2020

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2020

Appeal Ref: APP/F2605/W/20/3249678

Land located to the north of Meadow Lane, Carbrooke

- 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 Tony Doyle, Strategic Land Solutions against the decision of Breckland District Council.
 - The application Ref 3PL/2019/0919/O, dated 26 July 2019, was refused by notice dated 24 September 2019.
 - The development proposed is described as "erection of two family homes and double garages, provision of metalled access road".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Outline planning permission is sought with the matters of scale and access to be determined at this stage. I have had regard to the scale and access details provided and I have determined the appeal on that basis. I have treated all other submitted information as indicative.
3. Since the decision to refuse planning permission was made, the Council has adopted The Breckland Local Plan 2019 (LP), such that the policies of the plan cited on the decision notice are no longer part of the development plan and have no weight. The Council has confirmed which new policies correspond with and replace the policies which the application was determined against. The appellant has had the opportunity to comment on the implications of the LP to the appeal. Against this background no injustice has been caused to either appeal party. I have therefore had regard to the most up to date development plan policies in my determination of this appeal.
4. The appellant has submitted a Preliminary Ecological Appraisal (PEA) dated November 2019 as part of the appeal. The Council and other interested parties have had the opportunity to comment on this document. Therefore, no party will be prejudiced by my taking this evidence into consideration during the determination of this appeal.
5. An amended plan has been submitted with the appeal: Red Line Boundary & Site Location Plan Drawing No SLS/350A/15/0001 Rev.2. This plan reduces the site area. The Council has had the opportunity to comment on this revised plan. Having regard to the Wheatcroft¹ principles, I am satisfied that the plan

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

does not materially alter the substance of the scheme. Moreover, interested parties have had the opportunity to comment on it as part of these appeal proceedings. My decision has therefore been taken on the basis of this updated plan.

Main Issues

6. The main issues are the effect of the proposed development on (i) the character and appearance of the area; (ii) whether or not the proposed development would make adequate provision for affordable housing; and (iii) ecology.

Reasons

Character and appearance

7. The appeal site is the corner of an arable field, accessed from Meadow Lane. Meadow Lane is a private single-track lane, hard surfaced at its junction with Church Street, and then gravel surfaced for a short distance, where it serves a small cluster of about nine dwellings, some recently permitted and under construction and several of which are accessed via a track running northwards from the lane rather than from along the lane itself. The lane continues to the appeal site as an unsurfaced grassy track used by agricultural vehicles for access to the field; there is a ditch running along its southern side, adjacent to mature hedgerow, behind which is the Millennium Green playing fields. A mature hedgerow flanks the northern side of the track and turns the corner at the field entrance, forming the eastern boundary of the site. The wider field and other agricultural land lie to the west and north.
8. Policy GEN 05 of the LP states that outside of defined settlement boundaries development will be restricted to recognise the intrinsic character and beauty of the countryside. Carbrooke is identified as one of a number of 'villages with boundaries' by LP Policy GEN 03. The site is situated outside of the defined settlement boundary. In planning policy terms, it is therefore within the countryside. I have not been made aware that the proposal would accord with any of the exceptions set out in the LP policies referred to under Policy GEN 05. There is, therefore, conflict with the development plan in this regard. However, the Council has not raised concern with the location of the proposed development in this respect or sought to demonstrate any harm that would arise from this conflict.
9. The proposal would result in the provision of two, two storey dwellings, with a minimum of four bedrooms in each and each with a detached double garage. The revised site area would be capable of containing the scale of development proposed. However, the proposal would result in a fundamental alteration to the site's agricultural character. New built form would be introduced into an undeveloped area of countryside. The appellant's Landscape and Visual Impact Review, dated 12 September 2019, considers that the site cannot be viewed from any public vantage point and, therefore, there would be no harmful landscape and visual impacts associated with the proposed development. It is further stated that the development would be screened by new native hedgerow.
10. The plans indicate the north, south and west boundaries to be planted with native hedge. Landscaping is not a matter to be determined at this stage but

could be provided as part of a reserved matters application. However, the purpose of planting and landscaping is to integrate development into its surroundings; it is not a means of hiding development that is otherwise unacceptable.

11. That the site is not readily visible from public viewpoints, strengthens my opinion that its development would be an unacceptable advance into the countryside, largely disconnected from the prevailing pattern of development. This is the case notwithstanding the existence of built form to the eastern boundary.
12. Whilst there is some evidence on historic maps that Meadow Lane once extended beyond the appeal site, on the ground this is no longer the case. Meadow Lane, such as it is, terminates at the field entrance. The appeal proposal would not continue frontage development along this lane, rather it would extend the lane to serve new residential development. This would be an obvious and unwarranted encroachment into open agricultural land. Further, the proposal would not make use of underutilised land; the site and the wider field were in active arable usage at the time of my visit.
13. The development would not be isolated; recent permissions, some of which were under construction at the time of my visit, also extend development outside of the settlement boundary. However, unlike the appeal site, those developments are contained within the confines of existing parcels of land, bounded by mature hedgerow and situated adjacent to the settlement boundary. These and other recent developments off the lane, have already had a suburbanising effect on its character, increasing its use as a domestic access. The appeal proposal would require additional formalisation of the lane, in terms of surfacing, including some widening and the introduction of gabions to support the ditch from collapsing, in combination with the extension of its length. Whilst the access details are considered acceptable in terms of highway safety, the required alterations would further diminish the rural character of the immediate area.
14. Consequently, the proposed development would unacceptably harm the character and appearance of the area. It would conflict with Policies COM 01, Gen 02 and ENV 05 of the LP and paragraph 170 of the National Planning Policy Framework 2019 (the Framework). Together and amongst other matters, these policies seek high quality design which contribute to and enhance the natural and local environment.

Affordable housing

15. The Written Ministerial Statement of November 2014 dealt with the matter of thresholds beneath which affordable housing contributions should not be sought from small scale and self-build development. However, this statement of national planning policy has been overtaken by the threshold specified in paragraph 63 of the Framework. This states that affordable housing should not be sought for schemes that are not major developments, defined under Annex 2 of the Framework as schemes for 10 or more homes or where the site area is greater than 0.5 ha.
16. There is no dispute that the application site area measured 0.7 ha. The Council considered that the proposal therefore triggered the requirement for the provision of affordable housing and no mechanism for its delivery had been

provided. Policy HOU 07 requires that development proposals capable of delivering 10 or more units or where the site has an area of 0.5 ha or more will be expected to deliver a proportion of the development as affordable housing on site. Point 3 of Policy HOU 07 states that 25% of qualifying developments should be affordable.

17. However, as referred to earlier in my decision, the appellant has submitted a revised site plan with the appeal whereby the size of the site has been reduced to less than 0.5 ha. The Council have not raised any objection in relation to this amendment and instead have sought to continue to rely on its officer report and reasons for refusal.
18. The reduction in the size of the site could be considered a deliberate attempt to avoid a contribution towards affordable housing. However, in the absence of any objection to the reduced site area and because its reduction would not alter the scale of development proposed or the description of development, I consider the exclusion of part of the original site area to be acceptable.
19. Therefore, as the appeal site area is less than 0.5 ha, the proposal would not represent major development and the requirement for the provision of affordable housing is not engaged. As such, I conclude that there is no conflict with LP Policy HOU 07 or the Framework in respect of the provision of affordable housing.

Ecology

20. The Council's third reason for refusal was concerned with insufficient information having been submitted in relation to ecology. The appellant has submitted a PEA as part of the appeal, in order to address this concern. The Council has had an opportunity to comment on this evidence but has not done so.
21. The PEA identified that the appeal site had some potential to support hedgehog, brown hare and toads. Whilst the site itself was unsuitable for badger setts due to the open, flat nature of the arable land, badgers were confirmed as passing through the site for foraging, with the hedgerow on the eastern boundary likely to be the edge of their territory. No further surveys were considered necessary. The assessment concludes the potential impacts can be adequately mitigated and recommends measures to both maintain and enhance biodiversity.
22. I have no reason to disagree with the conclusion and recommendations of the PEA. Conditions could be imposed, should the appeal be allowed, to ensure the mitigation and enhancement measures recommended in the PEA are secured.
23. As such, I conclude that the proposal would not be harmful in respect of ecology. Thus, it would not conflict with LP Policy ENV 02 which seeks to protect and enhance the biodiversity of the district. The proposal would also comply with the Framework in this respect.

Other Matters

24. While I have considered local concerns about flooding and drainage, and acknowledge the detrimental effects of recent flooding, I have no technical evidence to demonstrate that the proposal would result in any increased flood

risk to Meadow Lane. The Council has not raised objection in respect of this matter, and it does not alter my decision.

25. Concern has been raised whether the proposal would have a harmful effect on the living conditions of the future occupiers of the dwelling adjacent to the eastern boundary of the site, in respect of privacy, daylight and sunlight. I am satisfied that these matters could be addressed at reserved matters stage, if the development was otherwise acceptable.
26. The appellant has referred me to two appeal decisions which he considers offer support to the proposal. Both of these appeals are within different authority areas and inevitably involve different site circumstances. They do not lead me to a different conclusion, as I have made my decision based on the merits of the case before me. I note the points raised in respect of how the Inspector's in those cases dealt with the matter of five-year housing land supply and take these points into consideration in the planning balance.

Planning Balance

27. The parties are in dispute over whether the Council can demonstrate a five-year supply of deliverable housing sites. The appellant has made an assessment and states that a five-year supply can only be justified if completion rates are not taken into consideration. It is also suggested that the current Covid-19 pandemic has had a significant impact on the delivery of dwellings and will likely continue to do so into 2021. The appellant does not state what he considers the shortfall to be in terms of number of years of supply. However, whilst the pandemic is ongoing, its full economic effects remain uncertain. If I were to agree with the appellant's assessment then paragraph 11 d) of the Framework would be engaged and consideration must be had as to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
28. The proposal would make a small contribution to the supply of housing by the delivery of two dwellings. The proposal would boost the supply of housing as required by the Framework and would be able to be delivered quickly. The proposal would have economic benefits by way of the support for construction jobs during the build and indirect jobs at that stage in associated industries. These benefits would be modest commensurate with the scale of development proposed.
29. There would be the support for services by future occupiers. The services that exist in the village are very limited but other services and facilities are a short car journey away. However, the extent to which two further dwellings would enhance or maintain the vitality of the village as contemplated in the Framework is likely to be minimal. The weight I afford this factor is modest.
30. Other issues where no material harm has been identified would be neutral in the planning balance. However, I have found the proposal would result in unacceptable harm to the character and appearance of the area contrary to a number of LP policies. The Framework states permission should be refused for development of poor design that fails to improve the character and quality of an area. Also, it seeks to ensure development recognises the intrinsic character and beauty of the countryside. Given these provisions, I attach significant

weight to the harm that would be caused to the rural nature of the site and its surroundings.

31. Therefore, even if the Council is unable to demonstrate a deliverable five-year housing land supply as suggested by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the modest benefits when assessed against the policies in the Framework as a whole. The proposal would be contrary to the development plan and this conflict is not outweighed by other material considerations, including the provisions of the Framework.

Conclusion

32. For the reasons given above the appeal is dismissed.

S Tudhope
Inspector