



Appeal Decision

Site visit made on 10 November 2020

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 12th January 2021

Appeal Ref: APP/F2605/W/20/3257672

1 & 2 Sunnyside, London Street, Whissonsett NR20 5ST

- 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 Mrs T Rand and Mr P Lowe against the decision of Breckland Council.
 - The application Ref 3PL/2020/0107/F, dated 30 January 2020, was refused by notice dated 10 March 2020.
 - The development proposed is two new 3 bedroom dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellants have requested that I accept drawing numbers 2018/321: BW02 dated May 2020 and 2018/321: P06D (Revision C) dated March 2020 in my determination of the appeal. The drawings amend the depiction of a section of boundary wall and of visibility from the site's proposed access.
3. In considering whether to accept the amended drawings I have had regard to the "Wheatcroft Principles". Whilst the amended drawings show the minor reduction in height of a boundary wall which is owned by another party, they appear to be aware of this proposal. Some additional limited vegetation clearance is also shown. The development is otherwise unaltered. The alterations are therefore not substantial, and the development is not so changed that to accept the revised drawings would deprive those who should have been consulted of the opportunity of such consultation. Accordingly, I have formally considered the two additional drawings in my determination of the appeal.

Main Issues

4. The main issues are:
 - Whether the appeal site provides a suitable location for the development, having regard to the spatial strategy for the area; and
 - The effect of the proposed development on highway safety.

Reasons

Location of development

5. Policy HOU 05 of the Breckland Local Plan (2019) (the LP) concerns development in small villages and hamlets outside settlement boundaries. The majority of the appeal site lies outside the settlement boundary. Policy HOU 05 states that development at such locations will be limited, apart from where it would comply with other policies within the development plan and if a number of criteria are satisfied.
6. The first of these requires development to comprise sensitive infilling and rounding off of a cluster of dwellings with access to an existing highway. The policy's supporting text defines infill as building taking place on a vacant plot in an otherwise built-up street frontage. It further sets out that to be considered infill, a development will generally have built development along the road on either side of the site.
7. The proposed dwellings would lie towards the end of a relatively large linear rear garden which is associated with the host dwellings. As the host dwellings form part of an uninterrupted built-up street frontage at this point, the appeal site does not comprise a vacant plot. Furthermore, the development would lie significantly far back within the host site, and not on the street frontage. The proposal consequently does not form infilling for the purposes of Policy HOU 05.
8. Thus, the proposal would not provide a suitable location for the development, having regard to the spatial strategy for the area. It would therefore result in limited harm in achieving the strategy. It consequently conflicts with Policy HOU 05 of the LP, the aims of which are set out above.

Highway Safety

9. The appeal proposes that a visibility splay looking to the right from the development's access onto London Street would be provided by a reduction in the height of a boundary wall. Whilst the resulting visibility would not achieve the recommended distance, the local highway authority (LHA) considers that there is merit in the scheme because it would improve visibility for motorists leaving other existing dwellings. As a result, the LHA requested the provision of a planning obligation which would secure the long-term maintenance of the wall in order to safeguard the improved visibility. The suggested obligation is not provided with the appeal.
10. The LHA consequently proposes a pre-commencement condition in the event of a grant of permission for the proposal. This would seek to provide a visibility splay across the whole of the roadside frontage to the host dwellings. The splay would be maintained free from obstruction above the necessary height.
11. The suggested condition seeks to allow for the long-term provision of the lowered boundary wall, which is not owned by the appellants. However, the condition refers only to land within the control of the appellants, and therefore it would not achieve this aim.
12. Furthermore, the Planning Practice Guidance (PPG) indicates that conditions requiring works on land that is not controlled by the applicant, or that require the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. As a result, it would not be appropriate for the condition to be amended to include the boundary wall.

13. Thus, the appeal does not demonstrate that the scheme would provide the necessary visibility splays from the site entrance. As a result, the proposed development would have an unacceptably harmful effect on highway safety. It consequently conflicts with Policies COM 01 (m) and TR 02 of the LP, which state that development should not compromise highway safety and that it should provide safe access for all users. Further conflict exists with the transport aims of the National Planning Policy Framework (2019) (the Framework).

Other Matters

14. The appellants submit that development plan policies are inconsistent with national policy. However, distinctive local policies which promote appropriate development need not necessarily be inconsistent with national policy because they adopt a particular approach which is not specifically referred to in the Framework or the PPG. In particular, there is nothing in the Framework to indicate that policies which seek to guide the location of development are no longer a suitable policy response. Therefore I do not identify any inconsistency in this regard.
15. Other schemes¹ in the vicinity were assessed against a different policy background in view of their date. Therefore different considerations applied at the time, and consequently I attach only minimal weight to the relevance of these matters in determining the appeal.
16. I note the appellants' concerns regarding the Council's approach, however, these are not matters for this appeal, which I have determined on its planning merits.

Planning Balance and Conclusion

17. The appellants contend that the Council cannot demonstrate a five year housing land supply (5YHLS), suggesting that a 4.8 year supply exists. If I were to accept this, paragraph 11 of the Framework sets out that it is then necessary to grant permission for development proposals, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
18. There would be a social benefit from the provision of the dwellings, which as a small development would be likely to be built-out relatively quickly, as set out within paragraph 68 of the Framework. Economic benefits would arise from the construction work and from the occupation of the new houses. These matters would form modest benefits as a result of the limited scale of the development.
19. There is nothing before me to suggest that the proposal would cause unacceptable harm in terms of the materials and density of the development and its effect on living conditions and the natural environment. However, these are neutral matters which do not attract weight.
20. Against this, the proposal would cause limited harm in achieving the spatial strategy for the area, and unacceptable harm to highway safety. As a result of

¹ Local Planning Authority Refs: 3PL/2018/0235/F and 3PL/2019/0408/F

this, the environmental aspect of sustainable development would not be achieved.

21. Accordingly, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Therefore the proposal would not be a sustainable form of development when considered against the Framework taken as a whole. The conflict with the development plan is not outweighed by other considerations, including the Framework.
22. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR