
Appeal Decision

Site visit made on 19 January 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2021

Appeal Ref: APP/V2635/W/20/3261098

The Pines, Wormegay Road, Blackborough End, King's Lynn, Norfolk PE32 1SG

- 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 Mr & Mrs M Jenkinson against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 20/00537/F, dated 31 March 2020, was refused by notice dated 11 June 2020.
 - The development proposed is construction of single storey dwelling and new access to existing dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Despite the description of development set out above, as part of the planning application, the application drawings for the proposed development were updated to omit the new access. Both the existing and proposed dwellings would therefore be served from the existing access, as shown on Drawing Ref 1081-05A. I have therefore determined the appeal on this basis.
3. The text of Policy CS02 of the adopted version of the Council's Core Strategy¹ (CS) does not include Blackborough End as a Smaller Village and Hamlet. However, in their evidence, the main parties have both stated that it is categorised as a settlement of this order. I have therefore determined the appeal on this basis.
4. The 2020 Housing Delivery Test (HDT) results were published on 19 January 2021. In light of this, the main parties were invited to comment on its implications for the appeal. In determining the appeal, I have had regard to the responses received.

Main Issues

5. The main issues are: -
 - whether the proposal is consistent with development plan policy in respect of housing in rural areas; and

¹ King's Lynn and West Norfolk Borough Council Local Development Framework – Core Strategy (2011).

- the effect of the proposed development on the character and appearance of the area.

Reasons

Rural housing

6. The appeal concerns part of the extensive rear garden of an existing detached single-storey dwelling situated to the southern side of Wormegay Road.
7. The aim of the Council's spatial strategy, set out in Policies CS01, CS02 and CS06 of the CS, is to direct appropriate levels of growth to the most sustainable places using a hierarchy of settlements. Within the hierarchy, based on the number of services available, Blackborough End is defined as a Smaller Village and Hamlet (see above) and does not have a settlement boundary. Policy DM2 of the SADMPP² contains strict controls in relation to the nature of development beyond settlement boundaries. Moreover, except for allocated sites, development is limited to those types identified as being suitable to rural areas in other policies of the plan, including rural workers' and affordable housing, farm diversification and community facilities.
8. The appeal scheme is not for any of these types of development and would be situated to the rear of the existing dwelling, so it would not comprise infilling of a small gap within an otherwise continuously built up frontage, as permitted by Policy DM3 of the SADMPP. It would more closely fit the description of backland development.
9. I have been referred to Policies LP04 and LP26 of the Council's emerging Local Plan (ELP), which would bring about a settlement boundary for Blackborough End. The ELP is not at an advanced stage of preparation. Emerging policies and site allocations are not therefore matters that have a significant bearing on my consideration of the merits of this appeal, particularly as there may be unresolved objections to contend with. Although I have had regard to the policies, in accordance with the requirements of Paragraph 48 of the Framework, the ELP has attracted very limited weight in my consideration of the merits of the appeal. In any event, Policy LP04 of the ELP requires development to be situated within the settlement boundary for the village, which appears to cut across the garden of the existing property. The proposal would not therefore be situated within the boundary and, for similar reasons to those outlined above, it would also not equate to infill development as required by Policy LP26 of the ELP.
10. In light of the above, I conclude that the proposal would be contrary to the Council's spatial strategy, as it would constitute development beyond a settlement boundary, and it would not amount to infill development. Hence, the proposal would conflict with Policy CS06 of the CS and Policies DM2 and DM3 of the SADMPP.

Character and appearance

11. The village of Blackborough End is principally focused around four roads, Sandy Lane and East Winch Road to the north, Wormegay Road to the east, and Setch Road to the west. The plot size, shape and design of dwellings varies greatly and there are instances of development at depth, including at Mill Lane and to

² Site Allocations and Development Management Policies Plan (2016).

the west of that, served from Setch Road. Dwellings can also be found behind others, many of which are visible through gaps in planting and built development, including along access drives. Nevertheless, the overall pattern is of frontage development to either side of the roads in the village, particularly to its northern and eastern extremities. The largely undeveloped spacious rear gardens of dwellings, particularly those to the southern side of Wormegay Road, and the established planting of boundaries also provide a verdant backdrop to development, which distinguishes it from the undeveloped open agricultural fields beyond.

12. Taken together these stated features, particularly the frontage form and spacious and landscaped backdrop of the dwellings to the south of Wormegay Road, create a clear and distinct pattern to development that makes a significantly positive contribution to the character and appearance of the area.
13. I appreciate that the design of the proposed development would not, of itself, offend the appearance of the surrounding area and it could be built to a high standard, including environmental construction techniques. Nevertheless, the physical presence of the proposal would substantially reduce the effect of the largely undeveloped qualities and verdant backdrop of the frontage dwellings in the vicinity of the site to the south of Wormegay Road. Although additional planting of the site could be undertaken to bolster existing mature tree and hedge planting around the site, this would be unlikely to reduce the visibility of the proposed development. Moreover, the proposal would be likely to be visible down the proposed access and across from Mill Lane, particularly when planting is not in leaf during autumn and winter. 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 character and appearance of the area.
14. For the above reasons, I conclude that the proposal would have a significantly detrimental effect on the character and appearance of the area. Hence, the proposal would not accord with the design aims of Policies CS06 and CS08 of the CS, Policy DM15 of the SADMPP and paragraphs 127 and 130 of the National Planning Policy Framework (the Framework).

Planning Balance

15. The Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise, which includes the Framework.
16. The development plan for the area comprises the CS and SADMPP. While these both predate the current Framework, it is clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to its publication. Due weight should be given to policies according to their consistency with the Framework.
17. In the context of Policies CS01, CS02 and CS06 of the CS and Policies DM2 of the SADMPP, a settlement boundary 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 Framework. However, these policies, together with Policies CS08 of the CS and DM15 of the SADMPP are consistent with other aims in the Framework, such as recognising the intrinsic character and beauty of the countryside. There is therefore still a clear rationale for

development boundaries in order to protect the countryside while focusing growth within locations where it is supported by local facilities and services through an established pattern of distribution. In light of this I have regarded the underlying objectives of these policies, as being generally consistent with the current Framework.

18. Overall, whilst there is some inconsistency with the Framework of the approach to development boundaries set out in the development plan, taken as a whole these policies are not to be regarded as out-of-date. I have therefore afforded significant weight to the conflict of the proposal with the abovementioned policies, as set out in the main issues.
19. The 2020 HDT results indicate that delivery in the Borough over the previous three years is 94% of the housing required. When applying paragraph 73 of the Framework, an action plan is therefore required and a 5% buffer applies. However, the Council has been able to demonstrate that it has increased its delivery from the 2019 HDT results (83%) and, as a consequence of this improved performance, the supply of deliverable housing land within the Borough is now significantly in excess of five-years, which the appellant has not disputed.
20. In light of these considerations paragraph 11 of the Framework is not engaged.
21. Although the Council's under delivery of housing is not significant, it adds some weight to the contribution that could be made by new housing. The appeal scheme would deliver a four-bedroom dwelling, which would contribute to the overall housing mix and supply in the Borough. Nevertheless, given the scale of the proposal, this contribution would be minor in its extent, so it would only be afforded limited weight.
22. I acknowledge that the Framework seeks to restrict housing in rural areas to locations where it will enhance or maintain the vitality of rural communities, including circumstances where groups of smaller settlements support one another; and the opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
23. The proposal would not be 'isolated' in the language of the Framework and the Court of Appeal judgement³, as it would be behind existing frontage development in Wormegay Road. However, there are no local shops, facilities and services available within a reasonable and convenient walking distance of the site. Future residents would therefore be obliged to travel further to other settlements, including Middleton, where there are a greater range of shops, facilities, and services available. I am mindful that a greater dependency on car use is inevitable in more rural locations, the occupants of existing dwellings in Blackborough End would be likely to already make such journeys and the proposal would not, of itself, generate a large number of traffic movements. Nonetheless, the contribution that could be made by future occupiers to the vitality and viability of local shops, services and facilities would be likely to be limited in scale and kind, so I afford these benefits modest weight.
24. The Framework also gives substantial weight to the value of using suitable brownfield land within settlements for homes. Although I recognise that the proposal could be said to make more efficient use of the site, which the

³ *Braintree DC v SSCLG* [2018] EWCA Civ. 610

appellant has deemed surplus to requirements, as the site is within an existing residential garden it would not meet the Framework's definition of Previously Developed Land. Even if this were the case, the Framework is clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character and the importance of securing well-designed, attractive and healthy places.

25. There is agreement between the main parties that the proposal would be compliant with the policies of the development plan relevant to highway safety and living conditions. In particular, in terms of the latter, the existing and proposed dwellings would be set in spacious grounds and there would be surveillance between them. However, these matters would neither weigh in favour or against the appeal scheme. In terms of harm, the proposed development would not comply with development plan policy in respect of housing in rural areas and the harm to character and appearance.
26. Overall, I find that the adverse impacts of the proposal are matters of significant and overriding weight against the grant of planning permission. The proposal would also not amount to sustainable development under the terms of the Framework.

Conclusion

27. 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