



Appeal Decision

Site visit made on 22 December 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2021

Appeal Ref: APP/F2605/W/20/3258027

Land South of Church Lane, Weasenham All Saints PE32 2SS

- 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 Mrs A Coke against the decision of Breckland District Council.
 - The application Ref 3PL/2019/0595/O, dated 22 May 2019, was refused by notice dated 19 May 2020.
 - The development proposed is described as the "erection of 6 dwellings, including 3 for affordable housing".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development in the banner above is taken from the application form. However, I note from the Council's decision notice, the appeal form and from the appellant's written statement that the development proposes two affordable units. I have considered the proposal on that basis.
3. The planning application was submitted in outline form with only access for consideration. Matters relating to appearance, landscaping, layout, and scale are reserved for future determination and I have considered the appeal on that basis. The appellant has provided an indicative layout which I have treated as illustrative for the purposes of this appeal.

Main Issues

4. The main issues in this appeal are:
 - the effect of the development on the character and appearance of the area,
 - the effect of the development on the setting of designated heritage assets and,
 - whether the site is an appropriate location for the development with particular regard to local and national policy.

Reasons

Character and Appearance

5. The appeal site forms a parcel of uncultivated agricultural land which sits to the west and north of a small group of existing dwellings. The area is rural in character and has a verdant and distinct open and pastoral quality that is reinforced by the presence of mature landscaping within this countryside setting. Although the site is

- close to a scattering of dwellings at this part of Weasenham, it nonetheless better relates to its rural surroundings to which it makes a positive contribution.
6. As the proposal would be developed in the vicinity of other dwellings, it would not result in isolated dwellings in the countryside. Nevertheless, the development would be remote from services and facilities and in that sense, would result in sporadic development within the countryside. The proposal would erode the site's openness through its suburbanisation, thereby harming the rural qualities of the area. This harm would be clearly visible from Dodma Lane, Church Lane and surrounding properties. Moreover, whilst there are large residential curtilages close to the appeal building, the proposed development would still enclose what is a substantial area of open and flat land that relates noticeably and thus contributes positively to the local, largely uninterrupted, agrarian landscape.
 7. Furthermore, I am not persuaded that the presence of other existing dwellings would reduce the harm I have identified or should be seen as precedent for additional residential development on the appeal site. Whatever its final form, the introduction of six dwellings along with other domestic features such as garaging, large areas of manicured lawns and driveways, along with fencing, domestic cultivation, and items such as garden furniture, lighting and washing lines for each new dwelling would emphasise how the scheme would jar with its surroundings. In this case therefore, the appeal scheme would have a harmful effect on the character of the landscape.
 8. Thus, the development would result in harm to the character and appearance of the area. It would be in conflict with Policy ENV 05 of the Breckland District Council Local Plan 2019 (LP) and paragraph 170 of the National Planning Policy Framework (the Framework) which seek, amongst other things, to ensure that developments contribute to and where possible enhance the local environment.

Designated Heritage Assets

9. All Saints Church is a Grade II* listed building and contained within its grounds is the Jackson family tomb which is a Grade II listed building. Although the Jackson family tomb is not specifically mentioned within the Council's reason for refusal, section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to pay special attention to the desirability of preserving a building or its setting or any features of special architectural or historic interest which it possesses. Therefore, in undertaking this duty, I have based my assessment on the evidence presented before me and the observations I made during my site visit. This includes both the church and the Jackson family tomb as designated heritage assets.
10. The church sits within a grassed area of land that forms the cemetery and contains various headstones of people that have been buried within the grounds of the asset, along with the Jackson family tomb. On the opposite side of Church Lane is a small group of four dwellings with the remainder of the land surrounding the church comprising open fields and agricultural land, which includes the appeal site to the west. The Framework states that the significance of an asset derives not only from its physical presence, but also from its setting and defines this as the surroundings in which the heritage asset is experienced.
11. Although the listing for the church places it from 1905/6, it contains earlier medieval elements, with its scale and form reflecting the assets status and origins. Its historical significance is greatly derived from its setting within a largely open and rural context, which includes the cemetery. During my visit I was able to experience the tranquillity of the church, its cemetery and tomb, which add to the

assets significance which is of a high order and reflected in their listing as Grade II* and Grade II assets.

12. Views of the church and its cemetery are clearly visible from Church Lane. However, one can also see glimpses of the cemetery and the assets from the appeal site, especially the church, through gaps in the vegetation. Although the appeal site does not have a direct visual relationship with the assets as a result of Church Lane and the intervening landscaping, this is not a determinative factor in whether the appeal site forms part of the asset's setting. Moreover, experience in terms of setting has a much broader definition than just views or landscape value.
13. The lack of development between the appeal site and the heritage assets reflects their historical association and I am not persuaded that it has materially changed over time to the extent that it no longer retains an important spatial relationship with the assets. Therefore, one can still appreciate the setting of the assets from within the appeal site and to that end, while I accept that development has occurred on the opposite side of Church Lane, the remaining land has historically been rural and part of the wider countryside.
14. Notwithstanding the presence of the belt of trees between the church and the appeal site, the introduction of dwellings on the site would nonetheless alter the way that the church and its cemetery is experienced. Although the layout of the proposed dwellings has been amended, the development would nonetheless be a distracting intrusion that would erode the openness and tranquillity that forms an essential part of the significance of both the church and tomb, as designated heritage assets.
15. I am conscious that paragraph 184 of the Framework states that heritage assets are an irreplaceable resource to be conserved in a manner appropriate to their significance. Furthermore, paragraph 193 of the Framework also requires that great weight should be given to the conservation of assets, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. The more important an asset, the greater weight should be afforded the assets conservation. This weighs heavily against the proposal.
16. Thus, the development would result in material harm to the setting of designated heritage assets. However, as this harm would be less than substantial, the Framework requires at paragraph 196 that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
17. Although the harm is less than substantial it should not be treated as a less than substantial objection to the proposal. The development would secure six dwellings, two of which would be affordable dwellings. Thus, there would be social and economic benefits arising from the development. However, given the scale of the development proposed and that I have not been presented with a suitable mechanism to secure the affordable dwellings, I am not persuaded overall that these matters represent any more than a limited benefit which would be insufficient to outweigh the otherwise identified harm, nor the great weight that the Framework requires at paragraph 193 to be given to the conservation of heritage assets.
18. The development would fail to preserve or enhance the setting, and thereby the significance of, the designated heritage assets. It would be in conflict with LP Policy ENV 07 and paragraphs 193 and 196 of the Framework which seek, amongst other things, to ensure that developments maintain and enhance the historic

environment, protect the setting of listed buildings and have regard to the character of its setting.

Location

19. The appeal site lies beyond the settlement boundary of Weasenham and is therefore defined as being within the countryside. LP Policy GEN 01 sets out Breckland's approach to sustainable development and LP Policy GEN 05 states that outside of defined settlement boundaries, development is restricted to recognise the intrinsic character and beauty of the countryside and will only be acceptable where it is compliant with all policies within the development plan. In this instance, the Council refer to LP Policy HOU 04 which states that appropriate development will be allowed immediately adjacent to the settlement boundary of the rural villages identified and subject to the criteria as set out therein.
20. In addition, LP Policy HOU 04 states that developments that would lead to significantly more than a 5% increase of dwellings in the settlement will not be permitted. The Council has identified that, within its settlement boundary, Weasenham has a total of 134 dwellings and a 5% increase would be a total of seven dwellings. The Council state that in November 2019 five permissions were granted and with the six dwellings proposed, the development would significantly exceed the 5% growth target. From the evidence provided I have no reason to disagree with that assessment.
21. Moreover, the 7% windfall allowance for rural areas stated at paragraph 3.10 of the LP has been identified as consistent with the approach within LP Policy HOU 04. Therefore, in accordance with paragraph 78 of the Framework, this allows for development within rural areas and immediately adjacent to settlement boundaries, up to the cumulative limit for each village. Furthermore, paragraph 3.20 of the LP states that the detailed methodology regarding the 5% calculation within LP Policy HOU 04 is provided at Appendix 5 of the LP. I have not been provided with any substantive evidence to demonstrate that this figure is arbitrary. Additionally, notwithstanding this, the appeal site is not located immediately adjacent to the settlement boundary of Weasenham and I have found that the development would result in harm to the setting of nearby listed buildings. As such, it would still be in conflict with LP Policy HOU 04 for these reasons.
22. The appellant also argues that as the appeal site is within the settlement of Weasenham All Saints, the Council should have referred to LP Policy HOU 05. However, LP Policy HOU 02 identifies the village of Weasenham under the heading "*Villages with Boundaries*" and does not refer to either Weasenham St Peter or Weasenham All Saints. Moreover, the policies map from the LP clearly identifies what the Council consider to be, for the purposes of planning policy, the extent of the settlement boundary for Weasenham as a whole, which does not include the appeal site. Thus, I agree with the Council that Weasenham All Saints and Weasenham St Peter, together constitute the village of Weasenham for the purposes of identifying those settlements within the "*Tier of Hierarchy*" under LP Policy HOU 02. It is therefore a village with a boundary and I am satisfied that the Council has referred correctly to LP Policy HOU 04.
23. However, even if I was to agree that the development should be considered under LP Policy HOU 05, as the site is not a vacant plot on an otherwise built-up street frontage and does not have built development along the road on either side of the site, it would not represent an infill site as defined at paragraphs 3.26 and 3.27 of the LP. Furthermore, the proposal does not represent the rounding off of a cluster of dwellings as defined at paragraph 3.28 of the LP, as the perimeter of the site is

not already built up and the development would not complete an incomplete group of buildings on land which is already partially developed.

24. Thus, for the reasons above, I conclude that the appeal site would not be an appropriate location for housing. It would therefore be in conflict with LP Policies GEN 01, GEN 05, HOU 02 and HOU 04 and paragraph 170 of the Framework, which seek collectively, amongst other things, to ensure that development is sensitive to, and protective of, the rural Breckland landscape.

Other Matters

25. The appellant argues that, with reference to the Corbett¹ case, a development that is in conflict with an "*element or elements*" of the development plan should not result in a conflict with the development plan when taken as a whole. The Council should have taken into account the material planning considerations within the Framework in its balancing exercise which would weigh in favour of the development. However, paragraphs 12 and 15 of the Framework make it clear that the presumption in favour of sustainable development does not change the statutory status of the development as the starting point for decision making, and that the planning system should be genuinely plan-led.
26. Moreover, the social and economic benefits associated with the development would not only flow from dwellings in this location, they would apply equally to new dwellings within or immediately adjacent to a settlement boundary and thus, are not related to this specific site or development. Consequently, the suggested benefits from a windfall site do not outweigh the harm to the aims of adopted policy which seek to restrict development to within and adjacent to identified settlements.
27. I note that representations were made by local residents, some of whom raise additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

Planning Balance and Conclusion

28. The appellant questions the ability of the Council to fully demonstrate a five year supply of housing, taking into account the effects of the Covid-19 pandemic. However, given my findings in regard to the harm to the setting of designated heritage assets and pursuant to footnote 6, the Framework provides a clear reason for refusing the development proposed and the presumption in favour of sustainable development does not apply.
29. Thus, for the reasons given above, I conclude that there are no material considerations of such weight as to indicate that a decision be taken other than in accordance with the development plan. As I have found significant, substantial conflict with the development plan, the appeal is therefore be dismissed.

Graham Wyatt

INSPECTOR

¹ Cornwall Council v Corbett [2020] EWCA Civ 508