



Appeal Decision

Site visit made on 8 September 2020

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 12th March 2021

Appeal Ref: APP/F2605/W/20/3254239

Land north of Blackthorn Road, Attleborough

- 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, Mr & Mrs D. & C. & H. King, Saffell, and Pattinson against the decision of Breckland Council.
 - The application Ref 3PL/2019/0275/O, dated 4 March 2019, was refused by notice dated 17 January 2020.
 - The development proposed is the development of up to 80 dwellings with associated infrastructure including green space, swale and noise attenuation barrier.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal seeks outline planning permission, with all matters reserved. I have considered the appeal on this basis and have treated any plans in relation to the reserved matters as illustrative.

Main Issues

3. The main issues are:
 - Whether the appeal site would be a suitable location for the scheme, having regard to the proposal's effect on the character and appearance of the area; and
 - Whether the proposal makes adequate provision for any additional need for affordable housing, open space, healthcare, education, library and green infrastructure facilities arising from the development.

Reasons

Character and appearance

4. The appeal site comprises a series of medium-scale open pasture fields which form a strip of land between the A11 dual carriageway and a residential estate. The site is bounded to the west by Crowshall Lane. Whilst it is a built-up area, the estate has a relatively spacious appearance due to its areas of open space and natural form. The site lies outside the designated settlement boundary for the settlement and is not subject to any formal landscape designation.

5. The site forms a buffer of green space between the settlement edge and the dual carriageway. The pastureland provides an open and rural edge to the town, which contributes positively to its appearance and provides a sense of spaciousness which reflects the appearance of the adjacent residential estate, despite the enclosure of the area by the A11. Furthermore, the mature trees and hedgerow fronting onto the road and within the site provide a positive natural landscape feature, which makes an important contribution to the area's appearance.
6. The topography of the appeal site and land in the vicinity is relatively flat, so that whilst glimpses of the landscape beyond are possible through the appeal site, these are not extensive. Longer-range views of the site itself are restricted by the prevalence of built and natural form in the area. Therefore the adjacent Blackthorn Road and A11 offer the main public views of the site. Glimpses of the site are possible through the mature hedgerow alongside the A11, however motorists and their passengers on this road would be travelling at speed and so these glimpses would be fleeting. Views available to motorists on Blackthorn Road are more extensive, however these are also seen in transit.
7. As a result, residents, pedestrians, cyclists and equestrians on Blackthorn Road and Crowshall Lane are visual receptors of the highest sensitivity. The most extensive uninterrupted views of the site from Blackthorn Road are those over the lower hedgerow at its south western boundary. The hedgerow boundary passing east along Blackthorn Road contains a higher number of mature trees, and visibility into the site is more restricted as a result. Gaps in the vegetation around the property "Hazeldale" allow for further uninterrupted views. Furthermore, leaf loss in winter would decrease the density of the vegetation, which would increase the availability of views of the site.
8. The site's open pastureland appearance is therefore highly evident to those visual receptors identified above. The site consequently contributes substantial visual amenity for those passing through or resident in the area.
9. Policy ENV05 of the Breckland Local Plan (2019) (the BLP) sets out that "development proposals will have regard to the findings of the Council's Landscape Character Assessment (LCA) and Settlement Fringe Landscape Assessment" (the SFLA).
10. The LCA (2007) is a district-wide document. It describes, evaluates and sets a strategy for individual landscape character areas within the district. It concentrates on the rural landscapes of Breckland and excludes detailed urban-rural fringe considerations within the main settlements. These are undertaken as part of a separate study, which is the SFLA (2007).
11. The appeal site lies at the edge of a settlement which is considered within the SFLA. The SFLA provides a more detailed assessment of the site and its surroundings than the LCA, and therefore it has more relevance to the main issues of the appeal. The local character area incorporates elements such as small to medium scale arable and pastoral fields defined by mixed native hedgerows. As such, the appeal site is considered by the SFLA to be broadly representative of the wider character area.
12. The SFLA's overall judgment of the sensitivity of a landscape to change combines landscape character and visual sensitivity judgments. The SFLA judges the sensitivity to change of the wider landscape area within which the

- site lies to be moderate overall. However, the localised areas of surviving pasture within the A11 are deemed to have a "moderate-high" sensitivity. As an area of surviving pasture within the A11, the appeal site corresponds with this definition.
13. The appellants' Landscape and Visual Assessment (LVA) states that it concurs with the SFLA's conclusion that the overall sensitivity judgment is "moderate". This finding contributes to the LVA's conclusion that "the site is in an area with a moderate capacity to accommodate development".
 14. A moderate sensitivity is defined within the SFLA as a landscape which is "moderately valued", in "moderate/good condition" and contains "landscape characteristics/elements that are likely to be replaceable to some extent".
 15. A high-moderate sensitivity is defined as a landscape which is "valued", in "moderate or good condition" and where "the proposed change would result in a noticeable alteration to the character of the settlement fringe and its landscape setting".
 16. Thus, the SFLA distinguishes the site and nearby pasture fields from their surroundings, and ascribes to them a higher landscape value than that identified by the LVA. The findings of the appellants' LVA consequently do not reflect the SFLA's sensitivity judgment of the appeal site.
 17. I have found that the pastureland of the appeal site provides an open and rural edge to the town, which contributes positively to its appearance. The visual amenity value attached to the appeal site's open space is reflected by the objections of the town council and interested parties to the appeal proposal. The pastureland of the appeal site is consequently important to the identity and setting of the town.
 18. The scheme would fundamentally alter the landscape of the site from open pastureland to a residential estate of significant built form, domestic gardens and surfaced roads. It would consequently have a significant effect on the landscape by the encroachment of built form into an area which provides important separation between Attleborough and the A11.
 19. The proposal would have a moderate effect on the views and visual amenity experienced by receptors, as the site does not comprise a large area and the main public views of the site are those available from immediately adjacent roads.
 20. As a result, the scheme would compromise the reason why the landscape is valued. Thus, I concur with the SFLA's finding that the appeal site has a "moderate-high" sensitivity to change, in accordance with its definition of that category.
 21. The close proximity of the proposed substantial residential development and nearby consented schemes to the A11 road would result in an unbroken urban edge to the settlement at this point, which would fail to reflect the town's rural setting. Landscaping within the development would have a managed and domestic appearance which would not compensate for the loss of the spacious and rural setting provided by the site.
 22. The pastureland appearance of the site would be lost and therefore the retention of some of the existing boundary treatments to reflect the layout of

former fields within the development would fail to overcome my concerns. Whilst intervening boundary treatments would offer some screening of the development in views available from the vicinity, it would be prominent due to its scale. Furthermore, the proposed acoustic barrier would lie at the rear of the site within views from Blackthorn Road and therefore aspects of its design could not overcome the visual harm caused by the urbanising effect of several houses. The effect on the character and appearance of the area would be one of substantial harm.

23. Thus, the appeal site would not be a suitable location for the scheme, having regard to the proposal's effect on the character and appearance of the area. As the scheme conflicts with development plan policy which seeks to achieve a particular distribution of development across the area, it additionally results in harm in achieving the planned strategy. It therefore conflicts with Policy GEN05 of the BLP, which sets out that development outside settlement boundaries is restricted in order to recognise the intrinsic character and beauty of the countryside. Further conflict exists with Policy ENV05 of the BLP, which states that development should recognise this intrinsic character and beauty.

Planning obligation

24. The parties have completed a Section 106 Agreement in conjunction with Norfolk County Council which includes a number of obligations which would come into effect if planning permission is granted. I have considered these in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended). They relate to the following matters.
25. Affordable Housing: Policy HOU07 of the BLP states that 25% of qualifying developments should be affordable housing. The Agreement provides for this proportion of the total number of dwellings to be affordable. I consider that this obligation passes the statutory tests.
26. Open space: Having regard to Policy ENV 04 of the BLP, I consider that the provisions of the Agreement in respect of open space are necessary to make the development acceptable in planning terms.
27. Healthcare: the submitted evidence does not confirm how the calculation of spare capacity for local primary healthcare services has been arrived at. As a result, it has not been demonstrated that this obligation is necessary.
28. Education: I accept that the submitted evidence demonstrates that there would be a lack of capacity at early education level as a result of the cumulative effect of this and other developments. Nevertheless, no lack of capacity would result from the development at primary level. Thus, it has not been demonstrated that the entirety of this obligation is necessary.
29. Library: there is minimal information before me on the capacity of existing facilities to meet additional demand from the development. Furthermore, although the figure requested relates to less than half of the approximate number of dwellings proposed, the reason for this is unclear. Therefore it has not been demonstrated that this obligation is necessary, or that it is directly related to the development proposed.
30. Green Infrastructure: there is minimal evidence before me concerning existing green infrastructure facilities and their ability or otherwise to meet additional

demand, or details of how the amount needed has been calculated. Thus, it has not been demonstrated that this obligation is necessary.

31. The planning obligation has been executed. As a result, it can only be varied by following the procedures set out in Section 106A of the Town and Country Planning Act 1990. Thus, even if I were to make amendments to any of the obligations, these would not be effective.

Other Matters

32. My attention has been drawn to other schemes in the vicinity of the appeal site¹. Both of these were determined in a situation where the local planning authority could not demonstrate a five-year supply of deliverable housing sites, engaging the provisions of paragraph 11d) of the National Planning Policy Framework (2019) (the Framework). The authority currently considers that it can demonstrate such a supply. There is no indication that any planned partial review of the Local Plan in accordance with Policy INF03 of the BLP has reached a contradictory view, and minimal other evidence on the matter. Thus, I have no evidential basis on which to take a different view to the authority.
33. Furthermore, the appeal decision concerned did not have regard to the findings of the SFLA, to which I have attached weight. Moreover, even if the other developments and circumstances were similar, they would not inevitably provide an example that should be followed even if harm results. Accordingly, the other developments do not alter my conclusions as to the unacceptability of the current scheme.
34. The Covid-19 pandemic is likely to have implications for the housebuilding industry, as with other sectors of the economy. Whilst the pandemic is currently ongoing, its full economic effects remain unknown and therefore I attach minimal weight to the submission that the issue lends weight to a grant of permission even where harm has been identified to result.
35. Policies COM01, COM02, ENV07, GEN02, HOU06 and HOU10 of the BLP and Policy ESD.P3 of the Attleborough Neighbourhood Plan (2016-2036) concern design, healthy lifestyles and heritage assets. Whilst I have not identified that the proposal would result in any significant conflict with these policies, its compliance with each of them is a neutral matter which does not provide support for the appeal.
36. Although officer recommendations were to grant permission in this case, planning authorities are not bound to accept the recommendations of their officers and therefore councillors were entitled to reach an alternative view to officers on the main issue. As such, I attach only minimal weight to this matter in determining the appeal.

Planning Balance and Conclusion

37. The proposed development would contribute to the supply of homes in a location with good access to services and facilities and would increase the supply of affordable housing. Biodiversity enhancements are argued. Together these would comprise moderate benefits of the scheme.

¹ Local Planning Authority Ref: 3PL/2014/1264/F and Appeal Decision APP/F2605/W/3131981

38. The evidence before me does not suggest that the volume of surface water flooding which is attributable to the site causes any unacceptable harm. Thus, if the proposed drainage strategy were to result in a reduction in surface water flooding in the vicinity, this would form only a modest benefit of the scheme.
39. Whilst the planning obligation in respect of open space is necessary, the obligation simply fulfils policy expectations and consequently attracts no positive weight in support of the proposal.
40. The provision of safe and accessible green infrastructure such as walking and cycling routes can positively contribute to healthy communities. Thus, if the scheme were to allow for new public access to the site as countryside, this may form a benefit. However, as a residential estate the scheme would generally provide surfaced routes through a built environment, which would not provide green infrastructure. Thus, I attach only minimal weight to the submission that the provision of public access to land where none is currently recorded would form a benefit of the scheme.
41. The moderate benefits identified do not outweigh the substantial harm which I have identified above. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR