



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: 29th March 2021

Appeal Ref: APP/F2605/W/20/3256146

Land east of Yaxham Road, south of Dumpling Green, Dereham, Norfolk

- 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 Hopkins Homes Limited against the decision of Breckland Council.
 - The application Ref 3PL/2010/1361/F, dated 21 December 2010, was refused by notice dated 21 January 2020.
 - The development proposed is the erection of 255 residential dwellings with associated open space.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has requested that I accept amendments of July 2020 to drawing numbers DUM1- 003, 010, 015-026.01, 029-031, 035, 036, 041, 042 and 045 in my determination of the appeal. The amendments comprise the addition or removal of chimneys to some dwellings, amendments to house type references and plot numbers, and an extension to the site's "red line" boundary.
3. In considering whether to accept the amended drawings I have had regard to the "Wheatcroft Principles". The revised drawings alter minor design elements or administrative matters, and extend the site's boundary to include part of an agricultural/utilities access track. 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 additional drawings in my determination of the appeal.

Main Issues

4. The main issues are:
 - Whether the appeal site would provide a suitable location for the scheme, having regard to its effect on the character and appearance of the area; and
 - Whether the proposal makes adequate provision for any additional need for a number of matters arising from the development.

Reasons

Character and appearance

5. The majority of the appeal site comprises a series of open arable fields which adjoin Dumpling Green, a residential drive and public footpath which forms the edge of development in this area of Dereham. The site lies outside the designated settlement boundary and is not subject to any formal landscape designation.
6. Glimpses of the site are possible through gaps in the substantial mature hedgerow which forms its boundary with Yaxham Road. More frequent views are available through the less extensive hedgerow adjacent to Dumpling Green. In both cases these views would increase during winter months due to leaf loss.
7. Residential development extends along the opposite side of Yaxham Road and the fields, hedgerow and mature trees of the site provide a contrasting open and rural edge to the town. This spacious pattern of development reflects the edge of settlement location and consequently makes an important contribution to the area's appearance.
8. 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).
9. 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).
10. 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 appeal site lies within areas DE3 (Northall Green Open Arable Plateau) and DE4 (Old Hall Tributary Farmland).
11. The overall sensitivity to change of Area DE3 is considered to be moderate-high. A high-moderate sensitivity is defined within the SFLA 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".
12. The overall sensitivity to change of Area DE4 is judged to be moderate. 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". Whilst the assessment finds that "sensitivity to change would be locally higher where a more intact land cover persists, e.g. the small-scale pastoral fields associated with the tributaries near Yaxham", the description is locationally imprecise and consequently it has not been proven that the locally higher sensitivity to change referred to is intended to include the appeal site.
13. The development of a substantial number of dwellings would be visible from a number of points on surrounding highways, as set out above, and properties.

Highway alterations to accommodate the proposed development would include the provision of a roundabout and two road accesses within the tree belt on Yaxham Road. The accesses would increase the visibility of the site from this road.

14. The urbanising effect of significant levels of built form and road provision at the site would inevitably reduce its spacious appearance, with resulting harm to the character and appearance of the area. This harm would be moderate due to the mitigating effect of the retention of trees and hedgerow and the potential for planting within the development. My assessment of the level of harm is supported by the parties' view that the proposal would have an overall moderate adverse impact on landscape, and a minor adverse-moderate adverse visual impact. The scheme would additionally result in harm in achieving the planned spatial strategy for the area, which clearly sets out the way in which development in the area is to be managed.
15. As a result, the proposal does not provide a suitable location for the scheme, having regard to its effect on the character and appearance of the area. It consequently conflicts with Policy GEN05 of the BLP, which states that development is restricted outside the defined settlement boundaries in order to recognise the intrinsic character and beauty of the countryside. Further conflict exists with Policy ENV05 of the BLP, which sets out that development will be expected to contribute to and where possible enhance the local environment by recognising the intrinsic character and beauty of the countryside.

Planning obligation

16. The appellant has supplied a signed and dated unilateral undertaking under section 106 of the Town and Country Planning Act 1990. It includes a number of obligations which are proposed to 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.
17. Affordable housing: Policy HOU07 of the BLP states that 25% of qualifying developments should be affordable housing. Whilst 18% of the development would comprise affordable housing and therefore the proposal does not fully accord with the policy, the parties concur that this is acceptable in light of a valuation assessment on the viability of the scheme. Furthermore, the obligation contains a review mechanism to ensure that any increase in viability is captured as an additional contribution. I consider that this obligation passes the statutory tests.
18. Open space: Whilst there is local policy support for a contribution towards the maintenance of open space at the site, from the information submitted with the appeal I am not content that all the monies set out have been proven to be fairly and reasonably related in scale and kind to the development. Thus, there is a tension with the tests in Regulation 122 of the Communities Infrastructure Levy Regulations 2010. I am therefore unable to take the undertaking into account in determining this appeal.
19. NHS: A sum of £92,575.00 would contribute to improved facilities and infrastructure at the closest medical centre or other healthcare facility. Given the scale of the proposed development and the evidence before me, I consider that this obligation passes the statutory tests.

20. Green infrastructure: £30.00 per dwelling is proposed to contribute to the improvement of local public rights of way. However, the monies set out have not been proven by the evidence before me to be fairly and reasonably related in scale and kind to the development. I am therefore unable to take the undertaking into account in determining this appeal.
21. Libraries: £75.00 per dwelling would contribute towards the provision of equipment and furniture at the town's library. Nevertheless, on the evidence before me it has not been demonstrated in terms of existing capacity that the obligation is necessary. I am therefore unable to take the undertaking into account in determining this appeal.
22. Travel Plan: The evidence before me suggests that such a document would be necessary because it would be directly related to the proposed development and the requirement for a contribution is supported by guidance. I consider that this obligation passes the statutory tests.
23. Education: £897,408.00 would fund the improvement and expansion of local infant and junior schools. Up-to-date evidence is provided of the likely capacity of local schools to accommodate pupils from the development and the cost of necessary improvements resulting from the development. I consider that this obligation passes the statutory tests.
24. Highways: £500,000.00 would fund improvements to the railway bridge on Westfield Lane. However, the monies set out have not been proven by the evidence before me to be fairly and reasonably related in scale and kind to the development. Furthermore, the highway authority considers that a new bridge would be provided whereas the appellant states that the obligation would contribute to footway alterations. Therefore I cannot be certain that the intended purpose of the obligation is necessary to make the development acceptable in planning terms. I am therefore unable to take the undertaking into account in determining the appeal.
25. Council Monitoring Fee: £2000.00 would contribute towards the Council's administrative costs relating to the undertakings. Whilst there is some support in guidance for a fee for these matters, the amount is based on £500.00 each relating to a total of four obligations. However, I have determined that I am unable to take two of these (relating to green infrastructure and library contributions) into account. Furthermore, one of the remaining two fees of £500.00 relates to the provision of fire hydrants, which would be dealt with separately by the imposition of a condition and to which no undertaking relates. Thus, the total amount of this obligation would not be fairly and reasonably related in scale and kind to the development. I am therefore unable to take the undertaking into account in determining the appeal.

Other Matters

26. The appeal site lies close to the Badley Moor Site of Special Scientific Interest (SSSI). This is part of the Norfolk Valley Fens Special Area of Conservation (SAC). SACs are designated European sites by the Conservation of Habitats and Species Regulations 2017. However, it is not necessary for me to consider the proposal's effect on the European site further as the scheme is unacceptable for other reasons.

27. Although officer recommendations were to grant permission in this case, I am not bound to concur with this or previous assessments by the Council under differing local policy provisions and housing land supply situations, as I am required to form my own conclusions on the acceptability or otherwise of the scheme. As such, I attach only minimal weight to this matter in determining the appeal.
28. I have had regard to other matters raised, including concerns about the proposal's effect on highway safety and flooding. However, as I am dismissing the appeal on the main issues for the reasons given herein, I have not pursued these matters further.

Planning Balance and Conclusion

29. I have minimal evidence to suggest that the appellant's reservations about the Council's ability to demonstrate a National Planning Policy Framework-compliant five year supply of deliverable housing sites are founded. These submissions therefore do not alter my conclusion on the current appeal.
30. 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. Nevertheless, the proposal as it stands would not provide a fully policy-compliant level of affordable housing. This reduces its ability to contribute to any shortfall in the supply of this type of housing in the area, and consequently I attach only limited weight to this benefit of the scheme.
31. Some improvements to provision for pedestrians on highways in the area would occur, although I have found above that I am unable to take the undertaking which seeks to secure improvements to footway provision on the railway bridge into account, and therefore this element would not form a benefit of the scheme.
32. Local finance considerations are advanced in support of the proposal. Economic benefits would arise from the construction work and from the occupation of the new houses.
33. The scheme's levels of open space would exceed policy requirements, however full details of the layout and equipment of these are not before me. The site's southernmost field would form "informal public open space", which would be an area of grassland and a Neighbourhood Equipped Area of Play (NEAP). Whilst a NEAP would provide play opportunities for older children, there is minimal further information on provision for younger children or adults at the development's areas of open space. Furthermore, the evidence does not suggest that the remaining open space areas within the development and on its northern edge would form appropriate areas for active leisure use. As a result, and given the scale of the development proposed and the likely demand, I am not sufficiently convinced of the ability of the proposed open spaces to meet play and leisure needs to attach any more than limited weight to the ability of the proposal to enable and support healthy lifestyles as a benefit.
34. A biodiversity net gain of 17% is argued, however only minimal calculations supporting this figure have been presented. As a result, I attach only minimal weight to this as a benefit.

35. Together the above considerations would comprise moderate benefits of the scheme. Although the planning obligations in respect of healthcare and education are necessary, as with the proposal's remaining compliance with policy elsewhere they simply fulfil policy expectations. As a result, they attract no positive weight in support of the proposal.
36. 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.
37. The benefits identified do not outweigh the harm which I have identified. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR