



Appeal Decision

Hearing Held on 20 April 2021

Site Visit made on 21 April 2021

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: Friday, 04 June 2021

Appeal Ref: APP/K2610/W/20/3255135

Land East of Oak Deane, Green Lane, Horsford, Norwich NR10 3ED

- 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 Graham Able against the decision of Broadland District Council.
 - The application Ref: 20191728, dated 1 November 2019, was refused by notice dated 26 March 2020.
 - The development proposed is Erection of x6 No. Bungalows with associated garages, parking and gardens.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of x6 No. Bungalows with associated garages, parking and gardens at land east of Oak Deane, Green Lane, Horsford, Norwich NR10 3ED in accordance with the terms of the application, Ref: 20191728, dated 1 November 2019, subject to the schedule of conditions to this decision.

Preliminary Matters

2. A planning obligation in the form of a unilateral undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended) was submitted at the hearing. The obligation included an out of date schedule of financial contributions and omitted to include a plan. A replacement planning obligation dated 27 April 2021 was provided after the hearing but prior to the hearing being closed in writing. At the hearing, the Council confirmed their satisfaction to the UU subject to the aforementioned matters being resolved. The hearing was adjourned to allow the appellant to remedy these defects. The hearing was subsequently closed in writing on the 27 April 2021. I deal with the provisions of the planning obligation below.

Main Issues

3. The main issues are:-
 - i) whether the appeal site would be an appropriate location for the proposed development having regard to policies for the location of new housing and its accessibility to services and facilities; and
 - ii) the effect of the development on the character and appearance of the countryside and surrounding area.

Reasons

Settlement strategy

4. The development plan for the area comprises the Joint Core Strategy for Broadland, Norwich and South Norfolk (JCS) which was adopted in 2011 and with amendments in 2014, the Broadland Development Management Development Plan Document (DMDPD) adopted 2015 and the Horsford Neighbourhood Plan (HNP) adopted 2018.
5. The appeal site is located outside of the defined settlement boundary for Horsford. Policy GC2 of the DMDPD seeks to focus new development within settlement limits as defined by the policies map. Whilst it is permissive of exceptional development outside of settlement limits subject to there being no significant adverse impact, it has not been put to me that the proposed development would accord with any specific allocation and/or policy of the development plan. Therefore, to allow new development in this location would conflict with the requirements of DMDPD Policy GC2.
6. However, the JCS identifies the growth targets for the district and sets out the strategy for achieving these targets by way of defining a settlement hierarchy which seeks to focus residential development in settlements which are well-linked and well-related to existing development, services, facilities and employment opportunities. Horsford is defined as a 'Service Village' with a good level of services and facilities, including a primary school, convenience store, medical centre, veterinary practice, village hall, church and a number of take-away food establishments which are located within a mile of the appeal site. In addition, a regular bus service to Norwich City Centre operates a regular service six days per week with a separate weekday school service to a nearby secondary school with sixth form. At the hearing, I was advised about the location of the bus stop at some 0.3 miles distance away.
7. At the time of my site visit, I observed Green Lane to be a narrow, single track, rural lane with limited streetlighting. Vehicular traffic along its length was very light, albeit the route was being frequently used by persons on foot. In the absence of a footway, pedestrians are presently required to walk within the highway. The proposed development would include the provision of a length of pedestrian footway to adjoin the existing footway at the entrance of the Kings Meadow development. It would be capable of use by future occupants of the proposed dwellings and other pedestrians passing along Green Lane. From the point where it would adjoin the existing footway, pedestrian access would continue along well-established and street-lit footways into the village.
8. Whilst the majority of the pedestrian route would be alongside a B-road that carries a large volume of traffic, including heavy goods vehicles, the speed of vehicles travelling along its length is restricted to 30mph. Albeit Horsford is an elongated village with services and facilities spread throughout and notwithstanding the location of the appeal site towards the periphery of Horsford, in my view, the nature of the route and the distances involved would be likely to encourage future occupants to access services and facilities on foot. Furthermore, they could be reached easily and quickly on a bicycle. Taken together with the good range of services and facilities that exist together with good public transport links, I find that the appeal site offers a genuine choice of sustainable transport modes and as such accords with the aims of paragraph 103 of the National Planning Policy Framework (the Framework).

9. For similar reasons, it would broadly accord with the strategic aims of JCS Policy 1 insofar as it requires development to minimise the need to travel and give priority to low impact modes of travel to address climate change and promote sustainability.
10. Although the emerging GNLP is at a stage which attracts limited weight, it is still a material consideration in the determination of this appeal and provides an indication of the likely future direction of the development plan. Importantly, the evidence suggests that provision will be made for some development outside of settlement boundaries. Indeed, this approach would be broadly consistent with the Framework's aim to enhance or maintain the vitality of rural communities in acknowledgement that a development in a smaller settlement may support services in other nearby rural settlements.
11. Nonetheless, for the reasons given above, the proposal does not accord with Policy GC2 of the DMDPD and the proposal would be in conflict with the identified strategy for growth for the district.
12. The Council's reason for refusal also cites conflict with Policy 1 of the JCS, Policy GC1 of the DMDPD and Policy HBE2 of the HNP. However, I do not share this view. Aside of its position outside of the settlement boundary, the appeal site is situated within an accessible location and is well-connected and related to existing development, services and facilities within Horsford and given the proximity of a bus link it is also well-related to employment opportunities further afield. Furthermore, Policy GC1 sets out the approach to the presumption in favour of sustainable development in a manner that is consistent with paragraph 11 of the Framework.

Character and appearance

13. The appeal site is a rectangular parcel of grassland that had mostly been cleared at the time of my site visit. It is situated beyond the end dwelling of a ribbon pattern of development fronting Green Lane. Whilst some views into the appeal site are possible, the site is largely contained by mature vegetation, occasional trees and neighbouring dwellings and their rear gardens. Consequently, the appeal site is relatively well enclosed and secluded from the open agricultural land and countryside that lies beyond it.
14. It is evident that the site's character is informed by the countryside given its proximity close to open agricultural lands and woodland. However, it is also located adjacent to an existing linear pattern of dwellings and its rear boundary is shared with a substantial development of two storey dwellings that are at various stages of construction. Although the site is presently undeveloped, it is not intrinsically open and is heavily influenced by built form to two of its boundaries. As a result, the appeal site makes a modest contribution to the rural character of the surrounding area.
15. The proposed development would in effect 'round off' development on this side of Green Lane, between the existing built form, including dwellings under construction and the highway. Where the proposed dwellings would abut the adjoining agricultural field, they would project no further eastwards than the existing rear boundary line of dwellings being constructed within the Kings Meadow development, which already form an abrupt and hard edge to the village.

16. Although the appeal scheme proposes improvements to the highway, the inclusion of passing bays and a TROD footpath are not uncommon features seen along rural highways and in my view are appropriate for the rural setting of Green Lane. Given the small scale of the proposal and the consequent limited number of additional vehicles passing along the highway, I am not of the view that harm will be caused to the character and rural nature of Green Lane.
17. Notwithstanding the single storey height of the proposed dwellings, they would remain partially visible between gaps in the vegetation and through the proposed shared driveway access point, in views from the east and for those passing along Green Lane. Nevertheless, this would be seen against the backdrop of built form. Whilst there would inevitably be an element of change in terms of there being built form where previously there was none, taking account of the above, there would be no adverse harm on the character and appearance of the area as regards the countryside, when the proposed dwellings and infrastructure are taken into account.
18. The proposed dwellings would be positioned relatively close to each other and would occupy smaller plot sizes than neighbouring dwellings Oakdeane and Firbank. However, by reason of the new development within the Kings Meadow development I find there is no overall prevailing character of built form and densities along Green Lane. Moreover, they would be immediately adjacent to the significant extension to the village, which is already under construction and their design and layout would not be unacceptable in this regard.
19. Accordingly, I conclude that the proposal would not have an unacceptable effect on the character and appearance of the countryside and surrounding area. It would accord with the provisions of Policy GC4 of the DMDPD, Policy 2 of the JSC and Policy HBE3 of the HNP. Among other things, these policies require high quality development that creates a strong sense of place and has adequate regard to the character and appearance of the area.

Planning Obligation

20. The UU secures the payment of a financial contribution towards the provision of off-site open space and recreation. This accords with the policy requirements of Policies EN3 and RL1 of the DMDPD for the provision of open space, green infrastructure and formal recreation space for developments of five dwellings or more.
21. In my view, the obligations provided would comply with paragraph 56 of the Framework and the statutory tests contained in Regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010. I therefore take account of these obligations in my decision.

Other Matters

22. I have considered the various matters raised, including in the numerous letters of objection to the scheme, many of which relate to the main issues above. I note that the Council have rejected a similar scheme at the appeal site, nevertheless, I am required to determine the appeal before me on its own merits.
23. My attention has been drawn to the effect of the proposed development on wildlife. However, notwithstanding the presence of a number of County Wildlife

Sites nearby, there is little evidence before me to demonstrate that the appeal site should fall to be considered as such. The majority of the site had been cleared of vegetation at the time of my site visit and based on the available evidence, including the Preliminary Ecological Appraisal, and my own observations, I am not persuaded that the site contains wildlife habitats or native plant species that would justify a refusal of planning permission.

24. Reference has been made to the volume of traffic generated by the proposed development including construction vehicles. I am not persuaded on the evidence before me that a scheme of this scale would lead to significant impacts on the local transport network in terms of capacity, congestion, parking within the highway (passing bays) or on highway safety. Notwithstanding that Green Lane is a single carriageway, it is relatively straight and the provision of the visibility splays in accordance with Highway Authority requirements would enable clear views of oncoming traffic for users egressing the appeal site. The provision of a footpath would allow a safe route and refuge from passing vehicular traffic. Accordingly, I am not satisfied that the proposal would compromise pedestrian and highway safety nor dissuade individuals from using the route for exercise and recreational purposes.
25. In relation to issues of safety arising from the recently constructed roundabout and pedestrian refuges, concerns were raised regarding the judgement of the local highway authority (HA). There is little evidence before me to substantiate this view and I have seen nothing to lead me to disagree with the view of the HA that the provision of off-site highway improvement works in the form of passing bays and a pedestrian footpath would overcome the concerns regarding the narrowness of the lane and safe pedestrian connectivity.
26. I have had regard to resident's concerns regarding their private water pipe. However, there is no clear evidence regarding the location of the route of the pipework and, even if it were to be located underneath the proposed passing bays and/or footpath, I am not satisfied that any damage would occur. The requirement to obtain a permit and/or close part of a highway in order to carry out maintenance and repair work to the pipe does not justify a refusal of the proposed scheme.
27. In order to safeguard the living conditions of neighbouring occupiers from noise and disturbance during the construction process, it is appropriate to control the hours of construction by way of an appropriately worded condition.
28. Reference has been made to a similar scheme at Pyeburn Lane, Horsford¹. I have little information relating to the particular circumstances of this development and whether the circumstances are therefore comparable to the appeal proposal. Furthermore, in that appeal, the Inspector took the view that the landscape was not dominated by housing. This differs significantly to the appeal case before me. As such, a comparison is of limited relevance in this instance and I have considered the appeal before me on its individual planning merits.

Conditions

29. A draft list of conditions was provided within the Statement of Common Ground and discussed at the hearing. I have considered these against the advice in the

¹ APP/K2610/W/18/3218798

Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency or clarity and added others. Where new conditions have been added or appear as pre-commencement conditions, I have sought the comments of the parties.

30. In addition to the standard time condition relating to the commencement of development, a condition specifying the plans and documents is necessary as it provides clarity.
31. Conditions concerning the construction of the widened highway (parking bays), the pedestrian footway, the shared access and the provision of parking, turning space and visibility splays is needed in the interest of highway safety.
32. A condition requiring the protection of trees and hedges together with the implementation of landscape management and replanting are required in the interests of the character and appearance of the area.
33. To protect the living conditions of neighbouring occupiers, a condition restricting construction and delivery working hours is necessary.

Planning Balance and Conclusion

34. Pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, a determination must be made in accordance with the development plan unless material considerations indicate otherwise. I have identified conflict with Policy GC2 of the DMDPD. However, this is a restrictive policy that provides support to development within the countryside only in very exceptional circumstances. The Framework is less restrictive in its approach and sets out that housing should be located where it will enhance or maintain the vitality of rural communities and that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. As such, I find that DMDPD Policy GC2 is not wholly consistent with the Framework in terms of its approach to rural housing. Therefore, this limits the weight to be applied to the proposed scheme's conflict with that Policy.
35. Moreover, given the appeal site's accessible location in proximity to a range of services, facilities and public transport links, where genuine choice regarding the use of sustainable transport modes exists, the proposal would not undermine the aims of the spatial strategy of the JCS regarding directing new residential growth to locations that are well-linked and related to existing development, services, facilities and employment opportunities.
36. The proposed development would not cause adverse harm to the character and appearance of the countryside and the surrounding area and therefore this would be a neutral matter weighing neither for nor against the proposal.
37. Overall, taking everything into account, any harm caused as a consequence of the conflict with the development plan would be minor.
38. In terms of the proposed scheme's benefits, it would contribute six additional dwellings towards the supply of housing. They would be constructed as single storey dwellings for which it was accepted at the hearing that there is a local need for this type of dwelling which is not being met by other new development nearby. The scheme would promote the effective use of land and it would be capable of being built out quickly. Jobs would be created during the construction phase and future occupants of the proposed dwellings would

provide support to the local economy. There would be limited biodiversity and highway benefits. Taken as a whole, the benefits of the appeal scheme are considerable material considerations that would outweigh the minor conflict with policies of the development plan.

39. Accordingly, there are material considerations that indicate that the proposal should be determined otherwise than in accordance with the development plan.
40. At the hearing, there was discussion concerning whether the Council were able to demonstrate a five-year supply of housing land. However, it has not been necessary to consider this matter any further as the material considerations weighing in favour of the proposal justify a decision otherwise than in accordance with the development plan. In the event that the Council were unable to demonstrate a five-year supply of land for housing, as the appellant alleges, then the weight to be given to the scheme's benefits in respect of the provision of six additional dwellings would be increased.
41. Therefore, for the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

E Brownless

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jason Parker	Director & Head of Planning, Parker Planning Services
Magnus Magnusson	Senior Planning Policy Specialist, Parker Planning Services
Thomas Wheatley	Planner, Parker Planning Services

FOR THE LOCAL PLANNING AUTHORITY:

Julie Fox	Senior Planning Officer, Broadland District Council
Paul Harris	Place Shaping Manager, Broadland District Council

INTERESTED PARTIES:

Katrina Johnson	Horsford Parish Council
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DOCUMENTS SUBMITTED AT THE HEARING

- 1 Notification of appeal dated 1 March 2021
- 2 List of Persons notified of appeal
- 3 Notification of hearing dated 29 March 2021
- 4 Appeal Decision APP/K2610/W/19/3239986 Land to the east of Memorial Hall, Brundall, Norfolk
- 5 FOI request dated 16 April 2021
- 6 Horsford Settlement Boundary Plan, Site Allocations DPD 2016
- 7 Planning Practice Guidance – extracts on demonstrating a five-year supply of deliverable housing sites

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 7015-LP01; 7015-P01; 7015-P02; 7015-P03; 7015-P04; 7015-P05; 7015-SL01 Rev H; Arboricultural Impact Assessment (17 October 2019); Amended Arboricultural Impact Assessment (20 January 2020); Preliminary Ecological Appraisal (August 2019).
- 3) No dwelling shall be occupied until the vehicular access has been constructed and thereafter it shall be retained at the position shown on the approved plans in accordance with the highway specification (Dwg. No. TRAD 5). Surface water drainage shall be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
- 4) No dwelling shall be occupied until visibility splays shall have been provided in accordance with approved plan 7015-SL01 Rev H. The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway.
- 5) No dwelling shall be occupied until the access and space for vehicles to be parked and for vehicles to turn have been laid out, demarcated, levelled and surfaced in accordance with the approved plans and that space shall thereafter be kept available at all times for those purposes.
- 6) No dwelling shall be occupied until the off-site highway improvement works shall have been constructed in accordance with a detailed scheme to be submitted to and approved in writing by the local planning authority, such details to include:
 - i) local carriageway widening (Passing Bays) to 5m width,
 - ii) footway link from the development site to the existing footway facilities on Green Lane.

The approved works shall be completed in accordance with the local planning authority's written approval and have been certified in writing as complete on behalf of the local planning authority in consultation with the local highway authority.
- 7) No development shall commence until tree and hedge protection measures detailed within the Arboricultural Impact Assessment (17 October 2019) and amended Arboricultural Impact Assessment (20 January 2020) shall have been carried out and the development hereby permitted shall be carried out in accordance with the approved protection measures. Any tree or hedge that shall be damaged during construction shall be notified to the local planning authority and a scheme for a replacement shall be submitted to and approved in writing by the local planning authority.
- 8) No dwelling shall be occupied until the landscape management and replanting works shall have been carried out in accordance with

section 6 of the Arboricultural Impact Assessment
(17 October 2019) and amended Arboricultural Impact Assessment
(20 January 2020).

- 9) No machinery or plant shall be operated, no construction carried out
and no deliveries taken or dispatched from the site except during the
following hours:

07:30 -18:00 Mondays to Fridays

08:00 – 13:00 Saturdays

Not at any time on Sundays, Bank or Public Holidays

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