

Appeal Decision

Site visit made on 11 May 2021

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Appeal Ref: APP/L2630/W/20/3263144

41 Rectory Lane, Mulbarton NR14 8AG

- 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 John Thompson against the decision of South Norfolk Council.
 - The application Ref 2019/2458, dated 20 November 2019, was refused by notice dated 15 May 2020.
 - The development proposed is a detached two storey residential house adjacent to 41 Rectory Lane.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is for outline planning permission with all matters reserved for subsequent consideration. Drawings have been provided which show the layout of and access for the proposed dwelling as well as its appearance. Given that these are reserved matters I have treated these drawings as indicative only, although I note that the proposal relies on an existing access to the site.

Main Issue

3. The Council's decision notice includes two reasons for refusal. These are addressed together in the following single main issue: having regard to local and national policies, the suitability of the location for the proposed dwelling, including whether its occupants would have adequate access to services and facilities without undue reliance on private vehicle use; and, related to this, the effect on highway safety.

Reasons

4. The appeal site is part of the garden of No 41 Rectory Lane, a detached two storey dwelling that is located to the east of the main part of the village of Mulbarton and outside the settlement boundary. Open fields lie to the north and west of the appeal site on the same side of Rectory Lane, while residential development within the settlement boundary fronts onto the south side of the road.

5. Policy DM1.3 of the South Norfolk Local Plan Development Management Policies Document (2015) (DMPD) concerns the sustainable location of new development. It says that permission for development outside settlement boundaries will only be granted where specific policies allow or there are overriding benefits.
6. Policies 1 and 6 of the Joint Core Strategy for Broadland, Norwich and South Norfolk 2014 (amended) (JCS) and Policy DM3.10(1) of the DMPD all include the requirement that development should minimise the need to travel and give priority to sustainable travel modes. Policy TRA1 of the Mulbarton Neighbourhood Plan (2016) (NP) says that development should provide safe and convenient pedestrian access and connections to the existing pedestrian network.
7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is a material consideration in planning decisions¹ and should be taken into account in dealing with applications². The Framework says that policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account³.
8. The nearest footpath to the appeal site is some 370 metres to the west, enabling access to services and facilities within the village. The section of Rectory Lane between the site and this footpath, with the exception of the frontage dwellings to the south side, has the appearance of a rural lane. This is evident from the lack of footpaths and lighting, and the narrow width of the road which in some places is not sufficient for two vehicles easily to pass each other. Despite this, Rectory Lane is heavily used by traffic as it is part of a cross country route and is the main link between the village and the A140.
9. I acknowledge that the appeal site is close to the settlement boundary and to the properties within it on the south side of the road. Moreover, the distance between the site and the footpath providing access to the village is not significant in terms of walking; and a journey into the village could be undertaken by cycle. No doubt journeys on foot and cycle are already undertaken by local residents, and I observed dog walkers and other pedestrians on the road during the site inspection. Nonetheless, given the road conditions described it is reasonable to assume that most of the journeys from the site towards the village will be by private vehicle, as well as some being undertaken on foot or cycle. I note the Highway Authority's (HA) estimate that the proposed dwelling is likely to generate six vehicular movements per weekday.
10. I agree with the HA's observation that the current form and condition of Rectory Lane means that some degree of vehicle and potentially pedestrian conflict occurs. However, I also give substantive weight to its view that an increase in vehicle movements on the narrow lane from the appeal site, with pedestrians and cyclists also using the carriageway, is likely to cause additional

¹ Paragraph 2.

² Paragraph 212.

³ Paragraph 9.

conflict and result in danger and inconvenience to all highway users. I accept also that any such conflict would be particularly likely with regard to more vulnerable users of the road, including wheelchair users and those pushing a children's buggy. Therefore, for these reasons, the additional vehicle and pedestrian movements from the appeal site would result in material harm.

11. The appellant contends that the site should have been included in the settlement boundary and is not 'edge sprawl' as referred to in the NP. However, the fact is that it is not within the defined area and, in any case, this does not address the highway safety concerns raised in the particular circumstances of this case. I acknowledge that land directly adjacent to the site is to be considered for development through the Greater Norwich Local Plan. However, as the plan has yet to be examined it can be given only limited weight⁴.
12. I am unaware of the circumstances in which the properties within the settlement boundary to the south side of the road were developed or the HA's position with regard to such development along Rectory Lane; or the road conditions and traffic levels at that time. Moreover, the appeal proposal must be considered on the basis of the circumstances pertaining at the current time. Reference is made to approval of a dwelling at 24 Rectory Lane⁵, which the appellant contends is similar to the appeal proposal. However, as the Council notes, that proposal was for an infill plot within a continuous line of dwellings and is closer to the village and footpath. As such, it is not directly comparable to the current proposal.
13. Accordingly, for the above reasons, I conclude that the location would not be suitable for the proposed dwelling, particularly due to the unacceptably harmful effect it would have on highway safety. Consequently, it would not be a sustainable form of development in this location and, as such, it is contrary to Policies DM1.3 and DM3.10(1) of the DMPD, Policies 1 and 6 of the JCS and Policy TRA1 of the NP, all as described above.

Other Matters

14. I have had regard to the representations made by interested parties. I have no evidence to substantiate any concerns relating to surface water drainage or possible loss of trees in relation to the appeal site. Other matters raised relate to those already addressed under the main issue.
15. The Framework requires that plans and decisions should apply a presumption in favour of sustainable development⁶. In the circumstances of this appeal where there are relevant development plan policies, this requires an assessment of whether the policies which are most important for determining the application are out-of-date. The Council indicates that it can demonstrate a 6.16 year supply of housing land. Consequently, the presumption is not engaged as a result of housing under-supply in accordance with footnote 7 to paragraph 11.

⁴ In accordance with paragraph 48 of the Framework.

⁵ Ref 2018/1175.

⁶ Paragraph 11.

16. The most important policies are included in the DMPD, the JCS and the NP, all of which pre-date the current Framework. However, the Framework is clear that existing policies should not be considered out-of-date simply because they were adopted prior to the Framework's publication. Due weight should be given to them according to their degree of consistency with the Framework⁷.
17. Policy DM1.3 of the DMPD sets out how sustainable growth should be located. However, the limited circumstances in which new development in the countryside beyond settlements is permissible under part 2) reflects a more restrictive approach than that in the Framework, which applies prescribed limitations to isolated development only⁸. Consequently, this part of the policy is not wholly consistent with the Framework. Policies DM3.10 of the DMPD and 1 and 6 of the JCS, which address climate change and promote sustainability, including sustainable transport, are consistent with the Framework's objectives.
18. Nonetheless, part of Policy DM1.3, which is most important for determining the application, is out-of-date for the purposes of this appeal. Consequently, despite the Council being able to demonstrate a five year housing land supply, the presumption in favour of sustainable development is engaged. This requires that permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole⁹.
19. The Framework indicates that where the presumption applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan, as is the case here, is likely to significantly and demonstrably outweigh the benefits, subject to four criteria¹⁰. As the NP in this case was made (adopted) and became part of the development plan in February 2016, the circumstances here fail to meet the first criterion that the NP became part of the development plan two years or less before the date on which this decision is made. Consequently, paragraph 14 is not engaged.
20. I have found that the appeal site would not be a suitable location for the proposed dwelling, particularly due to the unacceptably harmful effect the proposal would have on highway safety. As such, as well as it being contrary to the development plan, the proposal is contrary to the Framework, which requires that development should create places that are safe, which minimise the scope for conflicts between pedestrians, cyclists and vehicles¹¹. I give significant weight to the conflict with the Framework's objectives and requirements in this regard.
21. Conversely, in terms of benefits, the proposal would provide an additional dwelling, thereby boosting the supply of homes where the Framework does not place a ceiling on provision despite the existence of a five year supply. Moreover, the type of dwelling would meet a local identified need in the Mulbarton NP.

⁷ Paragraph 213.

⁸ Paragraph 79.

⁹ Paragraph 11(d)(ii).

¹⁰ Paragraph 14.

¹¹ Paragraph 110(c).

22. Nonetheless, in the particular circumstances of this case, the benefits set out by the appellant are not of sufficient weight to overcome the extent of the conflict with the Framework's objective to avoid an unacceptable impact from development on highway safety. Therefore, I conclude that the adverse impacts of granting permission significantly and demonstrably outweigh the benefits, and so the presumption in favour of sustainable development does not apply.
23. I note that the HA raises additional concerns about the ability to provide the requisite visibility splays to the existing access. Given that the appeal fails with regard to the conclusion on the main issue, and recognising that access is reserved for subsequent consideration, I have not considered this matter further as part of the appeal.

Conclusion

24. I have found that the location in this case would not be suitable for the proposed dwelling, particularly due to the unacceptably harmful effect it would have on highway safety. As such, the proposal is contrary to the development plan and to the Framework. The presumption in favour of sustainable development does not apply and there are no other material considerations that outweigh the conflict with the development plan. Accordingly, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR