

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/U2615/W/20/3262225

**Greenfields Nursery, Cherry Lane, Browston, Belton with Browston
NR31 9DN**

- 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 Adam Darling against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/19/0714/F, dated 4 December 2019, was refused by notice dated 24 August 2020.
 - The development proposed is low-carbon dwelling and detached garage together with associated works and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted two additional plans in support of the appeal, showing the site layout in more detail. It appears that these plans have not been seen by other parties and they have not had a chance to comment on them. Consequently, in the interests of fairness I have determined the appeal on the basis of the original plans submitted with the application.
3. The Council's decision notice includes a reason for refusal concerning whether the proposed dwelling complies with paragraph 79 of the National Planning Policy Framework (the Framework). This requires that policies and decisions should avoid the development of isolated homes in the countryside unless one or more of five criteria apply. However, in its appeal statement the Council subsequently indicates its view, with reference to relevant case law¹, that the site is not isolated. Accordingly, I have not included the original reason for refusal in the main issues identified below.

Main Issues

4. The main issues are:
 - having regard to local and national policies, the suitability of the location for the proposed dwelling, including whether its occupants would have

¹ *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610.

- adequate access to services and facilities without undue reliance on private vehicle use; and
- the effect of the proposed dwelling on the character and appearance of the appeal site and surrounding area.

Reasons

Suitability of the Location

5. The appeal site is a large area of land located in the village of Browston, stretching between the A143 to the north and the site frontage on Cherry Lane to the south. The site is a former nursery and includes a number of buildings and glasshouses either disused or in use by the appellant. The proposal is to remove most of the glasshouses and erect a detached dwelling on the southern half of the site, together with related works and landscaping. The northern half of the site is to remain undeveloped with some additional boundary planting. Browston is a small village with no defined boundaries comprising clusters of a few dwellings, including a number along Cherry Lane near the appeal site.
6. Policy CS2 of the Great Yarmouth Core Strategy (2015) (CS) concerns sustainable growth and seeks to balance the delivery of new homes with the creation of self-contained communities and reducing the need to travel.
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 Framework is a material consideration in planning decisions² and should be taken into account in dealing with applications³. 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 account⁴. It also says that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making⁵.
8. The Council indicates that Browston is classified as a tertiary village in Policy CS2, with development opportunities at a low level and without any discernible services. The appellant states that Belton, a primary village with a small range of services, is some 0.6 miles distant. Belton includes a post office, pharmacy and food stores. Bradwell, which is a key service centre and includes a greater range of services and facilities, is some 1.6 miles away. The nearest main town, Gorleston, is 2.7 miles distant.
9. Both Belton and Bradwell provide the necessary facilities and services for day-to-day living and access to these settlements would not involve significant travel distances within the context of a rural setting. I acknowledge, however, that such journeys are more likely to be undertaken by private vehicle than by walking or cycling. However, it is to be expected, as the Framework indicates, that some travel by private vehicle is likely in rural areas such as this and both settlements are not so distant that long journeys would occur. Moreover, the distances involved do not preclude some journeys being undertaken by cycle.

² Paragraph 2.

³ Paragraph 212.

⁴ Paragraph 9.

⁵ Paragraph 103.

10. I am not aware from the appeal submissions or site inspection of any public transport provision near the site. However, while there might be limited opportunities to use public transport from this location, the addition of a single dwelling would not significantly add to the journeys that already occur from the other nearby dwellings. Moreover, I note that the appellant currently travels regularly to and from the site, and prior approval for converting a building on the site to residential use has been given⁶. As this could be implemented in the event this appeal fails, it represents a 'fallback' to the current proposal. As such, it would generate journeys to and from the site in the same manner as the proposed dwelling.
11. The Council refers to a recent unsuccessful appeal for development at Burgh Castle, relatively close to the appeal site⁷. In that case it was found that the location would not be suitable due to the lack of appropriate access to services and facilities. However, the appeal involved four new dwellings on a site from which, apparently, journeys did not already occur. Therefore, it is not directly comparable to the current proposal, which involves a single dwelling, and therefore fewer journeys, at a location to and from which journeys are already made and which has approval for a residential conversion. However, I give limited weight to the appellant's argument that the proposal will support local services given that it only involves a single dwelling.
12. I accept that there is a policy conflict due to the proposal's location outside defined settlement boundaries. However, I have found in the particular circumstances of this case that no material harm would result from a single dwelling on a site which already generates journeys and which could do so from a credible fallback scheme, and which is not in an isolated or remote location. Accordingly, taking the above findings as a whole, I conclude that the location would not be unsuitable for the proposed development. Therefore, such conflict that there is with Policy CS2 of the CS is outweighed materially by the considerations set out above for the reasons given.

Character and Appearance

13. The appeal site frontage represents a substantial gap along Cherry Lane, where on the same side of the road there are a number of well-spaced dwellings close to the road on a broadly consistent building line. Most of these are modest in scale, predominantly chalet style bungalows and some detached two storey dwellings. The site itself includes a number of buildings and structures, which are either close to the site frontage or, in the case of the extensive glasshouses, are set further back and are low-level and less solid structures.
14. The detached dwelling would be a substantial building in terms of its bulk and height, materially larger than the surrounding dwellings. Its position set well back on the appeal site would represent an encroachment into open land behind the established building line along this side of the lane. Given the openness of the site and the dwelling's size, it would be a prominent addition in this location. From views along Cherry Lane and neighbouring dwellings, both due to its position and built form it would be an incongruous and uncharacteristic addition set against the prevailing pattern of development.

⁶ Ref 06/18/0661/PAD.

⁷ APP/U2615/W/19/3227820 dated 7 April 2020.

Moreover, it appears from the submitted plans that it would be positioned such that its rear elevation would face the road, contrary to the established position of dwellings close to and facing the road frontage. This would add to its uncharacteristic appearance in this setting.

15. I acknowledge that the proposal includes substantial landscaping, including to the site frontage. However, this would not be sufficient to entirely screen the dwelling from surrounding views and, in any case, it would not be desirable to impede views of the site completely given that its largely open appearance adds to the rural character of the locality.
16. Reference is made to Cherry Hall Farm to the west on the opposite side of Cherry Lane. While this is a relatively large detached dwelling, I agree with the Council that it is more modest in scale than the appeal proposal. Furthermore, it does not have the same relationship with neighbouring dwellings as the proposal would given that it stands alone; and it faces the road and, therefore, is more characteristic of the established position of the dwellings along the lane.
17. Accordingly, for the reasons given, I conclude that the proposed dwelling would have an unacceptably harmful effect on the character and appearance of the appeal site and surrounding area. Consequently, it is contrary to Policy CS9 of the CS, which requires high quality design, including that new development should respond to the surrounding area's built characteristics. I accept also the Council's contention that the proposal does not represent an efficient use of land with regard to a design-led approach that appropriately reflects local character. As such, the proposal is contrary to Policy CS3(g) of the CS concerning addressing housing need. The decision notice also refers to the removal of open land from farming use and it being unclear what use would prevail. However, the application is for residential use of the site and I have treated it as such.

Other Matters

18. I have had regard to the representations made by interested parties. I have no evidential basis to conclude that the proposal would set a precedent for further development. Concerns are raised about loss of agricultural land, although this would relate to the northern half of the site and would not amount to a substantive area of land.
19. The Framework requires that plans and decisions should apply a presumption in favour of sustainable development⁸. 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.
20. The Council indicates that it can demonstrate a 6.51 year supply of housing land to 2025. While the appellant contends that the evidence supporting this figure relates to the new Local Plan, which is yet to be adopted, there are no substantive or detailed arguments to suggest that the Council cannot demonstrate the requisite supply. Consequently, the presumption is not

⁸ Paragraph 11.

- engaged as a result of housing under-supply in accordance with footnote 7 to paragraph 11.
21. The most important policies are included in the CS, which pre-dates 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 Framework⁹.
 22. Policy CS2 sets out how sustainable growth will be achieved through a settlement hierarchy. However, the limited circumstances in which new dwellings in the countryside beyond settlements are permissible under the final bullet of CS2a) means that the policy is not wholly consistent with the Framework, which applies similar limitations to isolated development only¹⁰. Policy CS3 sets out how the borough's housing needs will be addressed, while Policy CS9 advocates well-designed places. As such, I find that these policies are consistent with the Framework's objectives.
 23. Nonetheless, part of Policy CS2, 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 whole¹¹.
 24. I have found that the proposal would result in unacceptable harm to the character and appearance of the appeal site and surrounding area. As such, as well as it being contrary to the development plan, the proposal is contrary to the Framework, which requires that development should be sympathetic to local character in contributing to well-designed places¹². I give significant weight to the conflict with the Framework's objectives and requirements in this regard.
 25. Conversely, the proposal would have a number of benefits. It would provide an additional dwelling, which would be built to high environmental standards and the proposal would remove some redundant structures as well as providing some ecological benefits through landscaping and tree planting. I have also had full regard to the appellant's intention to consolidate and expand his beekeeping enterprise and that this would have wider ecological benefits.
 26. I acknowledge that the requirement to provide a five year housing supply is a minimum requirement and should not be viewed as a ceiling, and that this has been a significant factor in a number of appeals referred to by the appellant. Nonetheless, in the particular circumstances of this case, the benefits set out by the appellant are not of sufficient weight, either individually or as a whole, to overcome the extent of the conflict with the Framework's objective to promote good design that respects local character. Therefore, I conclude that the adverse impacts of granting permission significantly and demonstrably

⁹ Paragraph 213.

¹⁰ Paragraph 79.

¹¹ Paragraph 11(d)(ii).

¹² Paragraph 127(c).

outweigh the benefits, and so the presumption in favour of sustainable development does not apply.

Conclusion

27. I have found in the appellant's favour with regard to the first main issue, concerning the suitability of the location for the proposed development. However, I have also found that the proposed development would have a materially harmful effect on the character and appearance of the appeal site and surrounding area. 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