

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/20/3262245

Land west of Browston Lane, Browston, Great Yarmouth NR31 9DP

- 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 P Needham against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/20/0276/F, dated 23 June 2019, was refused by notice dated 20 August 2020.
 - The development proposed is the demolition of a stable and tractor store building and the erection of 1 no. dwelling with open cart shed garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. 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 adequate access to services and facilities without undue reliance on private vehicle use; and
 - the effect of the proposed dwelling on setting of the Grade II listed Manor House.

Reasons

Suitability of the Location

3. The appeal site forms part of a wider area of largely open land in use for stabling horses, with access from Browston Lane. The site and wider area is former farmland and as well as the buildings to be demolished it includes a number of other buildings associated with the current use. Immediately to the east of the site is the Grade II listed Manor House and two other dwellings. Browston is a small village comprising clusters of a few dwellings.
 4. Browston does not have any defined boundaries and, therefore, Policy HOU10 of the Great Yarmouth Borough-Wide Local Plan (2001) (BWLP) concerning new dwellings in the countryside is relevant. According to the policy, permission will only be given if required in connection with agriculture, forestry, organised
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- recreation or the expansion of existing institutions, none of which applies to the proposal in this case.
5. Policy CS1(e) of the Great Yarmouth Core Strategy (2015) (CS) requires that, to ensure the creation of sustainable communities, new development should provide easy access to jobs, shops and community facilities by walking, cycling and public transport. Policy CS2 of the 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.
 6. 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. 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-making⁴.
 7. The Council indicates that Browston is classified as a tertiary village without any discernible services. Belton, a primary village with a small range of services, is some 2km distant. There are no connecting footpaths or rights of way, and surrounding roads are narrow and unlit. Moreover, there is a lack of complete pavement access to the nearest bus stop, which is likely to constrain public transport use.
 8. The appellant indicates that 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 1.3 miles away. The nearest main town, Gorleston, is 2.3 miles distant.
 9. I note that a dwelling is under construction close to the appeal site, which was permitted in accordance with paragraph 55 of the Framework (now paragraph 79) as a truly innovative dwelling in a rural location. However, for the purposes of this appeal, due to the surrounding clusters of dwellings the appeal site cannot reasonably be considered to be an isolated location in terms of the Framework, as confirmed by case law⁵.
 10. 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.

¹ Paragraph 2.

² Paragraph 212.

³ Paragraph 9.

⁴ Paragraph 103.

⁵ In particular *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610.

11. While there are 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 for business reasons the appellant is reducing the current 19 stables to 12. Consequently, it is reasonable to assume that this will result in fewer journeys connected with the current business use, which would offset some of the journeys from the proposed dwelling.
12. The Council refers to a recent unsuccessful appeal for development at Burgh Castle, relatively close to the appeal site⁶. 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 that is already in use.
13. Paragraph 84 of the Framework is not directly relevant as this concerns the location of business and community uses in rural areas, not residential development. I give limited weight to the appellant's argument that the proposal will support local services given that it only involves a single dwelling and I note the appeal decision referred to by the Council in this regard⁷. This appeal also involves a single dwelling in a location north of the appeal site. However, I am unaware of the distances involved to services and facilities in that case and I have considered the current proposal on its merits based on the individual circumstances of the site, which is part of an existing business use.
14. 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 related to an existing use 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 HOU10 of the BWLP and Policies CS1(e) and CS2 of the CS is outweighed materially by the considerations set out above for the reasons given.

Setting of the Manor House

15. The Manor House is a 17th century Grade II listed farmhouse in residential use to the east of the appeal site. A converted barn formerly associated with the Manor House to its south is in separate residential use. The garden boundary of the listed building comprising a fence and hedge is directly next to the appeal site's eastern boundary. The proposal involves a single storey building of greater height than the existing stable building with an additional element perpendicular to the main linear form positioned closer to the eastern boundary than the current stable building.
16. The Framework defines the setting of a heritage asset as the surroundings in which that asset is experienced. In considering this issue I am particularly

⁶ APP/U2615/W/19/3227820 dated 7 April 2020.

⁷ APP/U2615/W/20/3253503 dated 9 February 2021.

mindful of the statutory requirements for decision makers to have special regard to the desirability of preserving the setting of a listed building⁸.

17. I note the appellant's contention that the Manor House is contained within its own curtilage and largely experienced as such. However, the roof and gable end of the historic building are readily visible above the boundary hedge from the appeal site and surrounding land. Moreover, despite the buildings and fencing associated with the current stables use, the relationship between the Manor House and the appeal site and wider area to the north and west reflects the long-term use of the open land for agricultural and related uses. This will be apparent to both the occupants of the Manor House and from the surrounding area.
18. For these reasons, the appeal site forms an important part of the setting of the listed building both visually and with regard to the adjacent land use. While this visual relationship would not obviously be apparent from the public realm, the effects on a designated heritage asset are not dependent on such views being available.
19. While the heightened roof of the building and additional perpendicular element would not impede views of the listed building these changes would make the proposed dwelling more prominent in the building's setting than the existing buildings. As such, they would add a degree of visual competition, thereby materially detracting from the listed building's appearance within its wider setting. I acknowledge that the larger agricultural shed west of the appeal site would impede some views of the relationship between the proposed dwelling and Manor House. However, due to the openness of the wider area it would not restrict the available views to the extent that this would overcome the harm found above. The dwelling under construction to the north-west of the Manor House is further away from it than the appeal site and therefore the effects are not comparable.
20. I acknowledge that the design and materials of the proposed dwelling would largely reflect the appearance of the existing stable building. However the proposal would also result in a reasonably large residential curtilage directly alongside the western boundary of the Manor House. The use and appearance of this area, with the likelihood of domestic paraphernalia associated with the residential use, would harmfully undermine the long-term association of the listed building with this neighbouring land, which forms part of its immediate setting.
21. Therefore, for these reasons, I find that the proposal would fail to preserve the setting of the Manor House. The Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation⁹. Based on the above findings, I consider the harm to be less than substantial in this instance, but nevertheless of considerable importance and weight.
22. Under such circumstances, the Framework advises that this harm should be weighed against the public benefits of the proposal¹⁰. The appellant refers in

⁸ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

⁹ Paragraph 193.

¹⁰ Paragraph 196.

this regard to the sympathetic design of the dwelling, the removal of unsightly buildings and the provision of a new dwelling. However, as already noted above the form of the dwelling and its wider curtilage would result in harm to the setting of the Manor House and neither its appearance nor the provision of an additional dwelling would provide sufficient public benefits that would outweigh the harm that would result from the proposal.

23. Accordingly, for the reasons given, I conclude that the proposal would have a materially harmful effect as it would not preserve the setting of the Manor House. Consequently, it is contrary to Policy CS10 of the CS, concerning the safeguarding of heritage assets including the settings of listed buildings. The proposal is also contrary to section 16 of the Framework.

Other Matters

24. I have had regard to the representations made by interested parties, principally concerning the effects on neighbouring living conditions. I agree with the Council in this regard that the distances involved, screening and oblique angle of the proposed dwelling to existing properties would not result in any overlooking or loss of privacy. The windows to the east elevation could include obscured glass required by condition. The use of the garden close to the side boundary with the Manor House could result in some greater noise than at present, but not to the extent that this is likely to result in material harm.
25. Any covenants relating to the land are not a planning matter and, therefore, are outside the scope of this appeal. Noise associated with construction would be temporary. There is no basis to suggest that the proposed dwelling would be used as more than one unit, particularly for holiday letting purposes or would create a precedent for further development.
26. The appellant refers to a number of benefits of the proposal, including that it would meet the national objective of boosting housing supply and would provide rural housing, would be quickly built and would support social sustainability. 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. These benefits are not, however, sufficient to overcome the harm that has been found with regard to the second main issue concerning the effect on a designated heritage asset.
27. The Framework requires that plans and decisions should apply a presumption in favour of sustainable development¹¹. 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 6.51 year supply of housing land to 2025 and I have no evidence to suggest that this is not the case and, therefore, the presumption is not engaged as a result of housing under-supply in accordance with footnote 7 to paragraph 11.
28. The most important policies are included in the BWLP and CS, both 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

¹¹ Paragraph 11.

were adopted prior to the Framework's publication. Due weight should be given to them according to their degree of consistency with the Framework¹².

29. The limited circumstances in which new dwellings in the countryside beyond settlements are permissible under Policy HOU10 of the BWLP and the final bullet of Policy CS2a) of the CS means that these policies are not wholly consistent with the Framework, which applies similar limitations to isolated development only¹³. Policy CS1(e) of the CS includes criteria to promote sustainable growth, while Policy CS10 concerns the safeguarding of heritage assets. As such, I find that these two policies are consistent with the Framework's objectives.
30. Nonetheless, I find for the reason given that Policy HOU10 and part of Policy CS2, are 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. However, the above findings with regard to the second main issue concerning the effect of the proposal on the setting of a designated heritage asset provides a clear reason for refusing the proposal in accordance with paragraph 11(d)i. For this reason, the presumption in favour of sustainable development does not apply.

Conclusion

31. 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, particularly with regard to access to services and facilities. However, I have also found that the proposed development would have a materially harmful effect on the setting of a designated heritage asset. 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

¹² Paragraph 213.

¹³ Paragraph 79.