
Appeal Decision

Site visit made on 12 May 2021

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2021

Appeal Ref: APP/V2635/W/21/3268880

Land North of 36 School Road, Marshland St James, Norfolk

- 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 Clients of Swann Edwards against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 20/01231/O, dated 6 August 2020, was refused by notice dated 2 November 2020.
 - The development proposed is Outline some matters reserved: Proposed residential development.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Clients of Swann Edwards against King's Lynn and West Norfolk Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal site address in the banner heading above has been taken from the appeal form and Council's decision notice. This more accurately identifies the site than that provided on the application form.
4. Outline planning permission is sought with the matter of access to be considered in detail and I have had regard to the access details provided and have determined the appeal on that basis. I have treated all other submitted information as indicative.
5. Appeal APP/V2635/W/21/3268874 was determined at the same time as the appeal subject to this decision letter, following the same site visit, however, they are classed as two standalone (not linked) cases which were originally submitted as separate planning applications. The proposals are considered on their own merits and the appeal decisions are separate.

Main Issues

6. The main issues are whether the appeal site would be in a suitable location for housing, having regard to the development strategy for the area and in relation to effects on the character and appearance of the area.

Reasons

7. Policies CS01 and CS02 of the King's Lynn and West Norfolk Local Development Framework Core Strategy 2011 (CS) set out the overarching approach to the location of development in the District. Together they seek to direct development to the most accessible locations while preventing the encroachment of development into the countryside. There is no dispute between the parties that the appeal site lies outside of a defined development boundary identified within the Council's Site Allocations and Development Management Policies Plan 2016 (DM) and therefore lies within the open countryside for planning policy purposes.
8. New development within the open countryside is restricted by Policy CS06 of the CS and DM Policy DM2. Policy DM2 lists a number of exceptional circumstances where development within the open countryside may be supported. The proposal does not fit within any of the defined exceptions. As such the proposal is contrary to Policy CS06 and Policy DM2.
9. The appeal site is a parcel of paddock land situated to the northern side of School Road. A modest stable building is situated toward the north west boundary. The front and sides of the site are bound by trees and hedgerow which partially screen the site from the highway. To one side is land recently approved for the erection of four dwellings, paddock land lies to the other side and rear. A single dwelling positioned between two parcels of agricultural land lies opposite the site. I consider the appearance, use and location of the site to have more affinity with the countryside than with the built-up area.
10. An indicative site layout shows four equal plots each served by an individual access. Given that access is for determination, it is reasonable to assume that the indicative layout provides a realistic idea of the likely future layout of the site, and in this respect the appellant has stated that the site would be developed in an identical manner to the recently permitted housing adjacent the north west boundary of the site. Nevertheless, the proposal would introduce dwellings into a field that is largely free from development. At present the site, by virtue of its visible location on the outskirts of the village and its verdant paddock nature, has the character of an attractive rural space which the proposed development would adversely affect.
11. Given its position adjacent other dwellings and consistent with the Braintree judgement¹, the proposed dwellings would not be isolated. However, the proposal would form a noticeable and significant intrusion into what is currently countryside and would urbanise the site, further extending the village into the rural area and affecting the countryside character. In addition to the introduction of dwellings on the site, the four accesses, widening of the road and provision of a footway, would result in an urbanising effect which would be prominent and would significantly alter and unacceptably harm the character and appearance of the area. A condition requiring landscaping would not mitigate the harm I have identified.
12. Whilst there is residential development north westwards of the site on both sides of the highway, it does not continue opposite the site. Rather continuous development ends and there is a clear change in character travelling away from the village. The existing dwelling opposite the site and the recently converted

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

Marshland Arms, and the dwelling opposite it, are part of a more sporadic pattern or slow reduction in built form. The land opposite the site has not been allocated for housing, although it had previously been indicated as a preferred option in the ongoing local plan review. The Council has advised that in its latest draft of the review the decision has been taken that there is no longer a need to allocate residential development sites for the village. Nevertheless, even if the land opposite the site were to be allocated for housing, this does not necessarily mean that the appeal site is suitable for development and the appeal proposal must be determined on its own merits. Further, whether or not a site has been put forward in a 'call for sites' procedure, is not, on its own, an indicator of its suitability or otherwise for future development purposes.

13. The appellant considers the site to be previously developed land (PDL). Although grazing paddocks can fall within the definition of PDL, as was found to be the case in an appeal decision to which I have been referred, I do not consider that case to be directly comparable to the appeal before me. This is because the level of existing development in that case was greater, including a hardstanding and a menage in addition to stables. I do not consider that the curtilage of the stable building, in this case, extends across the whole of the proposed site. In any case, paragraph 118.c) of the National Planning Policy Framework (the Framework), to which I have been referred, is concerned with the use of suitable brownfield land within settlements. The appeal site is within the countryside and I therefore afford the level of PDL within the appeal site limited weight in my considerations and it does not alter my findings with regard to the effect of the proposal on the character and appearance of the area.
14. The appellant refers to a significant number of planning permissions granted outside the settlement boundary of the village, including the development of the adjoining site, to offer support to the acceptability of the appeal proposals. However, those schemes do not alter the relationship of the appeal site within its surroundings, nor have they materially altered the increasingly sporadic nature of development near to and beyond the appeal site and do not therefore justify the harm I have identified.
15. Although a site could be capable of being infill outside a settlement boundary², even in combination with the tandem proposal³, the appeal site is not a natural infill site. Infill sites are frequently understood to be modest gaps between buildings. The appeal proposal would not infill a gap within a continuous frontage, it is part of a significant gap between a continuous frontage and a single converted public house, which appears as a building within the countryside, rather than part of the village. Even though future design details could reflect the style and character of nearby properties, the proposed development would be a significant linear projection along School Road, which would visually extend building into the countryside and harm its character.
16. Consequently, the proposed development would not be in a suitable location for housing, it would conflict with the strategic and rural housing aims of the development strategy and would result in unacceptable harm to the character and appearance of the area. Thus, the proposal would be contrary to CS Policies CS01, CS02, CS06 and CS08 and DM Policies DM1 and DM2 which, together and amongst other matters, set sustainable patterns of development

² [2015] EWCA Civ 195

³ APP/V2635/W/21/3268874

and protect the character of an area. The proposal would also conflict with the Framework with regard to these matters.

Other Matters

17. I have been referred to a planning permission⁴ granted by the Council in January 2021 that the appellant considers offers support for the appeal proposal. However, whilst outside of any settlement boundary, its site specific circumstances differ from that of the appeal proposal, including being a single dwelling on a site that was part of an existing residential garden, that was considered suitable infill, being situated clearly in a small gap between properties. As such, I do not consider that permission to be sufficiently comparable to the appeal scheme proposal as to be afforded weight in the determination of this appeal.
18. I note that there is support for the scheme from a Local Member and from third parties. However, this does not alter my overall conclusions.
19. Reference is made by the appellant to two enforcement notice appeals relating to land rear of 48 School Road which they consider demonstrate support for development in the countryside in this area. However, I have not been provided with specific details of the subject matter of those appeals. In any case, this evidence has been raised at final comments stage and is new evidence that the Council has not seen. Consequently, it would be prejudicial to the Council for me to take it into account. It weighs neither for nor against the appeal.
20. The appellant has raised concerns about the Council's administration of the application. In determining the appeal, I have only had regard to the planning merits of the case.
21. I note that the highway authority does not object to the proposal and that the proposed highway improvement works could be secured via the imposition of conditions to which the appellant has indicated agreement. However, lack of harm with regard to highway safety does not alter my conclusions in respect of the main issues.
22. The Council's evidence indicates that the development would be likely to effect one or more European sites. No detailed information was provided in this regard. However, given my overall conclusions it is not necessary that I consider the effect of the proposal on European sites, as such an assessment would have no bearing on my decision.

Planning Balance

23. The appellant suggests that the presumption in favour of sustainable development as set out under paragraph 11 of the Framework should apply in this case. The Council indicates that it can demonstrate a 7.96 year deliverable housing land supply and the appellant does not dispute this. Instead the appellant argues that the Council has failed to achieve its deliverable targets and its annualised requirements since 2008-2009 and has failed substantially in its completions since 2008-2009. However, the appellant has also pointed to the most recent Housing Delivery Test results for 2020; the results for the Council reveal that an action plan is required as the authority's housing

⁴ Council ref: 20/01665/F

delivery at 94% falls short of the 95% benchmark. This position is improved from the 2019 results of 83% which resulted in the Council having to undertake an action plan and include a 20% buffer.

24. The 2020 results therefore appear to indicate that the earlier action plan has been effective in improving delivery and a 20% buffer is no longer required, although the Council is required to undertake a further action plan. From the evidence before me, and for the purposes of this appeal, I conclude that the Council can demonstrate a deliverable five year supply of housing sites and has met the housing delivery test. Consequently, footnote 7 of paragraph 11 d) of the Framework is not engaged and the relevant policies for the determination of this appeal carry full weight.
25. I acknowledge the proposal would have economic benefits, including by reason of local expenditure and support for services by future occupiers and creation of employment and purchasing of local materials during the course of construction. There would also be highway safety and social benefits by means of the installation of a public footpath across the site frontage and the adjoining land, road widening and relocation of the 40mph speed limit sign. The development would be accessible to some services and facilities. I consider these benefits to be modest commensurate with the scale of development proposed and would be insufficient to outweigh the harm and policy conflict I have identified and to which I attribute significant weight. The proposal would conflict with the development plan as a whole, and there are no material considerations which indicate a decision should be made other than in accordance with it.

Conclusion

26. For the above reasons the appeal is dismissed.

S Tudhope
Inspector