



Appeal Decision

Site Visit made on 10 July 2021

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Monday, 19 July 2021

Appeal Ref: APP/Y2620/W/20/3266100

Highfield Aggregates and Recycling, Church Road, Aylmerton, NR11 8PZ

- 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 Scott Wells against the decision of North Norfolk District Council.
 - The application Ref PF/20/0691, dated 23 April 2020, was refused by notice dated 1 July 2020.
 - The development proposed is described as 'Discontinuation of use of land for aggregate recycling, erection of a single self-build detached dwelling with garage, and ecological improvements'.
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Decision

1. The appeal is allowed and planning permission is granted for the discontinuation of use of land for aggregate recycling and the erection of a single self-build detached dwelling with garage, and ecological improvements at Highfield Aggregates and Recycling, Church Road, Aylmerton, NR11 8PZ, in accordance with the terms of the application, Ref: PF/20/0691, dated 23 April 2020, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue in this appeal is whether the appeal site is a suitable location for the proposed development with reference to the spatial strategy in the development plan and the accessibility of services and facilities.

Reasons

Spatial strategy and accessibility of services and facilities

3. The appeal site is located between the two main parts of Aylmerton. There are some services available in these clusters including a public house, garage, church, village hall and playing field. There is also a bus stop on the A148 that provides a link with larger nearby settlements. These facilities are within a comfortable walking distance, but the absence of footpaths means the walking route may not be attractive to many future occupants of the appeal scheme as a regular alternative to a short drive. Cycling may not be an option either due to fitness or proficiency.
4. Given the limited array of facilities it is likely that future occupants would need to travel further afield for most everyday services such as shops, schooling and work. Cromer and Sheringham provide a range of facilities but they are beyond a comfortable walking distance and would require a pedestrian or cyclist to negotiate the busy A148. As a result, the appeal scheme is not well placed for future occupants to conveniently access services by sustainable transport.

5. Thus, future residents of the proposal would be largely car dependent. Car journeys could be short, but they would soon add up over the life of the development with the associated carbon emissions. Moreover, future occupants would not glean the health benefits from regularly accessing services and facilities by more sustainable means of transport such as walking. Given this limitation the appeal site is designated as countryside for the purposes of applying the policies within the CS¹.
6. In seeking to recognise the rural character of North Norfolk and to prevent car dependency through a dispersal of dwellings, Policy SS1 of the CS seeks to direct new development to a stated list of villages and away from the countryside. It states that development in the countryside will be restricted to particular types. Policy SS2 of the CS identifies the development types that can occur in the countryside in a closed list. The appeal scheme would not be any of the development types listed in Policy SS2. The proposal would therefore be at odds with Policies SS1 and SS2 and would harmfully undermine the spatial strategy in the development plan.

Other Considerations

7. The proposal would conflict with the development plan. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance the National Planning Policy Framework and the benefits of the proposal have been referred to by the appellants as other considerations.

The National Planning Policy Framework

8. Paragraph 213 of the National Planning Policy Framework states that due weight should be given to policies in the development plan according to their consistency with the policies in the Framework. Paragraph 78 of the Framework states that housing should be located where it will enhance or maintain rural communities and that planning policies should identify opportunities for villages to grow and thrive, especially where this would support local facilities.
9. The Planning Practice Guide² explains, in guidance that postdates the CS, that a wide range of settlements can play a role in delivering sustainable development in rural areas and therefore blanket policies restricting housing development in some types of settlement will need to be supported by robust evidence of their appropriateness. It is unclear what robust evidence the Council is relying on in this regard. Policies SS1 and SS2 of the CS effectively prevent housing at small settlements such as Aylmerton and this seems to be inconsistent with Paragraph 78.
10. However, the Framework should be read as a whole. Section 9 seeks to promote sustainable transport. Policies SS1 and SS2 are broadly consistent with this aim and are not entirely out of date. That said, there is a qualification in Paragraph 103 of the Framework that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. It also states that significant development should be focussed on locations which are or can be made sustainable. 'Significant' is not defined but it would be difficult to argue that a single dwelling is 'significant development' and I have seen nothing to suggest the proposal would cumulatively result in 'significant development'.

¹ North Norfolk Local Development Framework Core Strategy Incorporating Development Control Policies 2008

² Paragraph: 009 Reference ID: 67-009-20190722

11. Thus, I share the view of the appellant that the Framework could be interpreted as supporting modest (not significant) levels of housing within villages even if there are limited services and facilities available. This is part of a balanced approach between supporting rural communities and achieving sustainable transport objectives. It is unclear how Policies SS1 and SS2 achieve this balance.
12. The appellant submits that the appeal site sits between the two core areas of Aylmerton but is part of this small but sprawling village due to its proximity to the Church and the Roman Camp Inn, and from it being contained within a ribbon of existing development and a 30mph speed limit. The Council has confirmed that it does not consider the site to be physically separate *or* remote from a settlement and thus not isolated within the meaning of the Framework. On balance, I agree.
13. Thus, the appeal site is within the discernible rural village community of Aylmerton and therefore the occupants of the appeal scheme would be able to support the vitality of this community, but mainly in a social sense given the limited services on offer. That said, future occupants could use those services and facilities that are available. Residents would also support services in nearby settlements and this chimes with Paragraph 78 of the Framework, which states that development in one village may support services in a village nearby.
14. However, the development plan policies referred to work against these aims by providing no apparent mechanism for Aylmerton, as a village, to proportionately grow. Robust and up to date evidence supporting and justifying this approach is not before me. Thus, the conflicts with Policies SS1 and SS2 attract moderate weight in the context of determining this appeal.

The benefits of the proposal

15. The appeal submissions include a Lawful Development Certificate that establishes the lawful use of the site as a waste and recycling centre. This is important evidence that was not before the previous Inspector³. There are no conditions attached to the use, which could in theory operate all day and night. However, I have not been provided with substantive evidence detailing how intensively the site is used. The attempt to quantify vehicle movements by using theoretical limits rather than past activity is unpersuasive in establishing a likely upper level of activity.
16. During my visit I observed moderate amounts of hard core being processed. In so doing the crusher was very loud and audible for some distance. There was also dust and general activity. The use also had a presence in the landscape due to piles of hardcore and soil as well as vehicles and paraphernalia on site. It is therefore understandable that most interested parties wish to see the current use stop and are generally supportive of the appeal scheme. That said, the previous Inspector⁴ saw no dust and heard no activity when he visited. This would suggest the activity is intermittent. It may be that the activity I saw and heard was put on in preparation for my visit and is not a true reflection of what regularly occurs. Moreover, any intensification, such as new buildings, would be controlled through the planning system.

³ APP/Y2620/W/19/3241405

⁴ Ibid

17. However, the letters from interested parties do seem to indicate that the activity, which is inherent to the use, regularly occurs and has been problematic. Other legislation could be used to control any statutory nuisance, but there is nothing of substance before me to demonstrate the proposal has reached this level. Nevertheless, the evidence indicates the existing use is impacting amenity and therefore discontinuation would be a moderate benefit.
18. In addition, the proposal would result in some modest economic benefits from the construction and occupation of the dwelling. The new planting would also benefit biodiversity and the landscape, and the Council would benefit from additional revenue. There would also be a small uplift in housing land supply, but the Council are currently able to demonstrate a five-year supply. These are additional modest benefits of limited weight in favour of the proposal.
19. Furthermore, a point of note is that the proposal would be the redevelopment of a previously developed site that is not physically separate from a village. I also agree with the appellant that the proposal would be a form of infilling given the recent establishment of a lawful dwelling next door. The proposal is advanced as a self-build scheme but a planning obligation securing this has not been advanced and therefore this is a point of very limited weight.

Other Matters

20. The proposed dwelling would be a large modern bungalow with a complicated form, mono pitch roof and prominent garage. I therefore share the concerns of the Norfolk Coast Partnership that the striking modern design of the appeal scheme would result in it being a visual detractor. However, I note that this is not a concern of the Council and, importantly, the previous Inspector came to a finding that the dwelling would have a neutral effect in this regard. The evidence before me does not justify a different conclusion despite my reservations, and consistency is important in the planning system. Thus, I have also found a neutral overall impact on the character and appearance of the area, including the North Norfolk Area of Outstanding Natural Beauty. This is in large part due to the screening that will occur from the proposed landscaping.
21. The previous Inspector dismissed a similar scheme last year. In so doing he concluded that the proposal before him would be at odds with Paragraph 78 of the Framework. However, the appellant has apparently developed his case with reference to case law⁵ and provided additional evidence that better substantiates the points being made. This justifies the different findings I have arrived at. As a result, there is no inconsistency. The Council has also referred to another appeal decision⁶, but the circumstances appear different, especially in respect of the benefits.
22. Aylmerton has not been identified within the emerging Local Plan as a settlement suitable to accommodate further housing development. However, the evidence underpinning this is not before me and is yet to be examined. As such, there is nothing to suggest the emerging plan should be given anything more than very limited weight.

⁵ City & Country Bramshill Limited v Secretary of State for Housing, Communities and Local Government - and Hart District Council 2021 EWCA Civ 320, Case No: C1/2020/0160

⁶ APP/Y2620/W/20/3245559

Planning Balance

23. In this case the policies in the Framework indicate the conflict with the development plan should be given only moderate weight. The case is finely balanced, but I ultimately find that the benefits of the scheme are of sufficient force to outweigh the development plan conflict in this instance. Thus, the proposal should be determined otherwise than in accordance with the development plan.

Conditions

24. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council. It is necessary in the interests of certainty and safeguarding the character and appearance of the area to ensure the proposal is undertaken in accordance with the approved drawings and finished in the material stated on the elevations. For similar reason it is necessary for a scheme of landscaping to be submitted and approved. I have altered the suggested condition so that the submitted details can be altered if needs be. For example, the highway access is shown as an expansive area of tarmac and some new planting nearer to the house than shown could be advantageous.

25. In the interests of improving biodiversity it is necessary to secure enhancement measures. In the interests of highway safety, it is necessary to ensure the parking and turning area is provided and that any gates open inwards. However, substantive evidence is not before me to demonstrate the proposal would result in an intensification in use of the existing lawful access, which is long standing. As a result, it would be unreasonable to require an upgrade of the access. The Council have suggested that permitted development rights should be removed, but it is unclear why given its findings that the proposal would not harm the landscape. If that is the case, then smaller ancillary structures or extensions are unlikely to have a negative effect either.

Conclusion

26. The proposed development would be contrary to the development plan but in this instance material considerations, namely the Framework, indicate the proposal should be determined otherwise than in accordance with the development plan. Thus, for the reasons given, the appeal has succeeded.

Graham Chamberlain

INSPECTOR

Schedule of Planning Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.
2. Subject to the other conditions hereby imposed, the development to which this permission relates shall be undertaken in strict accordance with the following approved plans: PL06, PL05, PL04 and 210420/01 Rev A.
3. The external materials to be used on the development hereby permitted shall be in full accordance with the details submitted in the planning application.
4. Notwithstanding the submitted details and prior to the occupation of the development hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The proposals shall include plans at no less than 1:200 showing the following details:

Soft Landscape

a) existing trees, shrubs and hedgerows on the site, indicating those to be removed b) accurate plotting of those to be retained (including species and canopy spread), including measures for protection during the course of the development to BS5837:2012 c) Details of all new planting including: species, location, number and size of new trees and shrubs d) Measures for protection of new planting.

Hard Landscape

a) Surface materials for vehicle and pedestrian areas b) Boundary treatments, including fencing and walling.

The scheme as approved shall be implemented during the next available planting season (Nov-March) following the commencement of development or such further period as the Local Planning Authority may approve in writing.

5. No tree, shrub or hedgerow which is indicated on the approved plan to be retained shall be topped, lopped, uprooted, felled or in any other way destroyed, within ten years of the date of this permission, without the prior written approval of the Local Planning Authority.
6. All ecological mitigation and enhancement measures and/or works within the Preliminary Ecological Appraisal (prepared by Glaven Ecology dated May 2019) shall be carried out prior to the occupation of the dwelling hereby approved.
7. Any access gates/bollard/chain/other means of obstruction shall be hung to open inwards, set back, and thereafter retained a minimum distance of 6 metres from the near channel edge of the adjacent carriageway.
8. Prior to the first occupation of the development hereby permitted the proposed access and on-site car parking area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plans and retained thereafter available for that specific use.