



Appeal Decision

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 5 August 2021

Appeal Ref: APP/F2605/W/20/3262400

Land north of Blackthorn Road, Attleborough, 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 Rouf Homes Limited against the decision of Breckland District Council.
 - The application Ref 3PL/2019/0717/O, dated 11 June 2019, was refused by notice dated 8 September 2020.
 - The development proposed is described as “up to 18 dwellings with associated infrastructure, including access road, bunding, SUDs/swale and landscaping”.
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Decision

1. The appeal is allowed and planning permission is granted, for development comprising 18 dwellings with associated infrastructure, including access road, bunding, SUDs/swale and landscaping, on land north of Blackthorn Road, Attleborough, Norfolk, in accordance with the terms of the application, Ref 3PL/2019/0717/O, dated 11 June 2019, subject to the conditions set out in the attached schedule.

Preliminary matters

2. The appeal seeks outline permission, with all details reserved. The parties are agreed that the submitted plans are to be treated as illustrative, and I have dealt with them on this basis.
3. A Section 106 agreement has been entered into which provides for affordable housing, on-site open space, and financial contributions to education, libraries and green infrastructure. Based on the evidence before me, I am satisfied that these obligations meet the relevant tests¹ contained in planning legislation.
4. In July 2021, an updated version of the National Planning Policy Framework (the NPPF) was published. The parties have been given an opportunity to comment in the light of this new document, and I have taken account of the replies received.

Policy context and main issue

5. In the Breckland Local Plan (the BLP), adopted in November 2019, Attleborough is designated as a Key Settlement, which is the first tier of the hierarchy set out in Policy GEN 03.

¹ Regulation 122(2) of the Community Infrastructure Levy Regulations 2010

6. The appeal site lies outside the defined settlement boundary. In such areas, Policy GEN 05 provides that development is restricted to recognise the intrinsic character and beauty of the countryside, but will be acceptable where it is compliant with all other relevant development plan policies. In addition, Policy ENV 05 seeks to protect and enhance the District's landscape, for its rural character, biodiversity, geodiversity and historic interest.
7. In the present appeal, the Council's refusal reason is based on the perceived harm to the countryside's character and beauty, and to the local landscape, and resulting conflicts with Policies ENV 05 and GEN 05.
8. Having regard to all the submissions before me, I find that the main issue between the Council and the appellants relates to the effects of the proposed development on the character and quality of the local landscape.

Reasons for decision

9. The appeal site comprises about one hectare of rough grassland and scrub, with established trees, hedges and highway planting around its boundaries. To the south and east, the appeal site adjoins Blackthorn Road, which is a modern estate road serving the adjoining housing areas. To the north, it is bounded by the A11 Attleborough Bypass and a slip road, which join at the top of an elevated highway embankment. To the west there is a series of further smallish fields and paddocks, and a small pumping station with a tall telecommunications mast.
10. The site forms the easternmost section of a larger, wedge-shaped area of grazing land, running between the town of Attleborough and the Bypass. Viewed as a whole, this belt of undeveloped land forms a green buffer which contributes a sense of openness and a semi-rural character to this section of the urban edge. However, the area is not subject to any policy designation, other than as countryside.
11. The present appeal site comprises a small portion of this larger area, at the 'tip' of the wedge. In comparison with the remainder, this part of the wedge is particularly tightly contained, by the road embankment and boundary vegetation. Its character is also more urban, due to the proximity of the grade-separated road junction between the A11 and B1077, with the associated traffic signals, lighting and mast. Furthermore, the appeal site has little or no intrinsic quality or rural character of its own, appearing primarily as an adjunct to the urban area and major road, rather than integral to the countryside to the west. To my mind, these characteristics set the appeal site apart from the remainder of the adjoining countryside wedge area.
12. In coming to this view, I have paid close regard to the landscape assessments and recommendations contained in the Breckland Landscape Character Assessment (the LCA), dated May 2007, and the Breckland Settlement Fringe Study (the SFS), of July 2007. However, the SFS acknowledges that what it terms the 'reconstructed landscape' around the A11 is substantially different in character from the wider surrounding countryside, with the residual areas contained by the road having generally lower landscape quality and less sensitivity to change. The LCA also notes the effect of the A11 in interrupting the otherwise generally unified character of the area's landscape. Nothing in either the LCA or the SFS supports any contention that the appeal site is a valued landscape. Overall, these assessments seem to me to confirm and

reinforce my view, that the appeal site comprises a parcel of poorer quality landscape, which contributes little of any value, either to the setting of Attleborough or to the wider countryside.

13. I appreciate the Council's concerns about the visual impact of built development in a relatively prominent position, with potential views from the main road and slip road. But since all details are reserved, the opportunity to secure an attractive design and layout at the detailed stage, taking account of local and national design policies, and any relevant design guidance and codes, would still remain. Although the submitted plans are only illustrative, they are sufficient in my view to demonstrate that a substantial proportion of the existing trees and vegetation could be retained, together with the necessary land for a swale or other surface water drainage requirements, and some open space. I note that it is agreed that an acoustic fence should be provided, but this would be sited amongst existing and new landscaping, and in this context I consider that its impact could be satisfactorily mitigated.
14. I note that an appeal relating to another site within the same wider countryside wedge was dismissed in March 2021, on grounds relating to landscape impact. However, that appeal related to a scheme for 80 dwellings, with a substantially larger site area, positioned more centrally within the wedge. For the reasons already identified, I consider that the present appeal site and proposal are significantly different from that case. In any event, I have considered this appeal on its own merits.
15. In the light of the above, I am satisfied that the development now proposed could be carried out without causing any material harm to the local landscape, or to its character and quality, and without the loss of any significant landscape features. In all these respects, the scheme would comply fully with BLP Policy ENV 05. Having regard to the requirements of Policy GEN 05, the development would safeguard the intrinsic character and beauty of the countryside, for the same reasons as already stated. Consequently, in the absence of any identified conflict with any other development plan policies, the appeal proposal also satisfies Policy GEN 05.

Conditions and reasons for imposition

16. I have considered the suggested conditions against the tests in paragraph 56 of the National Planning Policy Framework (the NPPF). Those that I consider should be imposed are set out in the attached schedule. I have edited these, in the interests of clarity, conciseness, consistency, and to avoid undue prescriptiveness.
17. Conditions relating to drainage and flooding, ground contamination, and the provision of fire hydrants, are all necessary to protect future occupiers against various risks to human health and public safety. Provision for off-street parking during the construction stage is needed for reasons of highway safety.
18. A condition relating to archaeology is necessary to ensure that valuable historical information is not lost. Requirements relating to ecology and biodiversity are necessary to protect existing wildlife, and to secure net gains in accordance with BLP Policy ENV 02. Conditions relating to trees and hedges are needed to protect and maintain the area's character and appearance.

19. Requirements in relation to noise attenuation and space standards are reasonable, to ensure satisfactory living conditions. A condition relating to the provision of new internal roads and footways is needed to secure a high standard of development. A requirement for cycle parking is necessary to ensure that occupiers have a choice of sustainable transport modes.
20. Specific conditions relating to visibility splays, floor levels, and avoidance of parts of the site prone to flooding, are unnecessary, as these matters fall within the scope of reserved matters or other conditions. Additional requirements for off-site highway widening or air quality mitigation have not been justified by any evidence. A condition specifying the approved plans is not appropriate since all details are reserved.

Conclusion

21. For the reasons set out above, I find that the proposed development would avoid harm to the District's landscape, and respect the countryside's character and beauty, in compliance with the relevant provisions of BLP Policies GEN 05 and ENV 05. No conflict would arise with any other relevant policies. The scheme would therefore accord with the development plan as a whole.
22. The development would provide social and economic benefits in the form of new housing, including an element of affordable housing, and a not insubstantial stimulus to the local economy in terms of jobs and investment. It would also have the potential, through the conditions imposed, to secure a modest net environmental gain to biodiversity. No significant adverse impacts have been substantiated. The balance of these considerations therefore weighs clearly in support of a decision that accords with the development plan.
23. I have taken account of all the other matters raised, but none changes this conclusion. The appeal is therefore allowed.

JS Felgate

INSPECTOR

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions:

- 1) The development hereby permitted shall not be commenced until details of the access, layout, scale, appearance and landscaping (hereinafter called "the reserved matters") have been submitted to the local planning authority and approved in writing. The development shall thereafter be carried out in accordance with these approved details.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development shall be commenced not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) No site preparation or construction work shall take place until the site has been investigated for soil contamination, and any such contamination found to be present has been removed or rendered harmless, in accordance with a scheme to be submitted to and approved in writing by the local planning authority. In addition:
 - i) If, during the course of construction, any contamination is found which has not been identified previously, no further work shall take place until that contamination has been removed or rendered harmless, in accordance with additional measures to be submitted to and approved in writing by the local planning authority; and
 - ii) If any contamination has been found to be present at any stage, either before or during construction, no part of the proposed development shall be brought into use until a verification report has been submitted to and approved by the local planning authority, showing that all such contamination has been treated, and the site rendered safe for occupation, in accordance with the original contamination scheme and any further measures subsequently agreed.
- 5) No site clearance, site preparation or construction works shall be commenced until an archaeological investigation has been carried out, in accordance with a detailed archaeological scheme to be submitted to the local planning authority and approved in writing. The scheme shall include details of:
 - i) the methodology for site investigations and recording;
 - ii) post-investigation assessment, analysis and recording;
 - iii) publication, dissemination and archive deposition;
 - iv) the person or organization who will supervise these works;
 - v) and the timing and programming of all fieldwork and post-investigation works, in relation to the construction and occupation of the development.
- 6) (i) All site clearance, site preparation and construction works shall be carried out in full accordance with the recommended ecological mitigation measures set out in Sections 3.5.4, 3.6.4 and 3.8.4 of the Preliminary Ecological Appraisal Report (the PEA) by Practical Ecology, dated May 2019, and Section 5 of the Reptile Survey Report by Practical Ecology, dated November 2019.

(ii) No dwelling within the development shall be first occupied, and no part of the development brought into use, until a detailed scheme of biodiversity enhancements has been submitted to the local planning authority and approved in writing. The biodiversity scheme shall incorporate the measures recommended in Sections 3.2.4, 3.5.5, 3.6.5, 3.8.5 and Table 21 of the PEA, together with any other measures

- necessary to achieve an overall net gain in biodiversity. The scheme shall also include a timetabled implementation programme, and shall be carried out in accordance with that programme.
- 7) No site clearance, site preparation or construction works shall take place until a tree and hedgerow protection scheme has been submitted to the local planning authority and approved in writing. The scheme shall include details of:
- i) all existing trees and hedges within or adjacent to the site, showing which are to be removed and which retained (notwithstanding any details shown in the plans submitted previously);
 - ii) any proposed lopping, topping, pruning or other works to any retained tree;
 - iii) measures for the protection of all retained trees and hedges before and during construction, including the definition of root protection areas;
 - iv) all proposed excavations, service trenches and alterations to ground levels within root protection areas;
 - v) the method of construction of all hard surfaces to be formed within root protection areas.
- 8) No tree or hedge identified for retention in accordance with Condition 7(i) above shall be cut down, uprooted or destroyed, nor shall any such tree or hedge be topped, lopped or reduced other than in accordance with details approved under Condition 7(ii). Notwithstanding the foregoing requirement, in the event that any retained tree or hedge is cut down, uprooted or destroyed, replacement planting shall be provided, in accordance with details to be submitted to the local planning authority and approved in writing.
- 9) The tree and root protection measures approved in accordance with Condition 7(iii) above shall be undertaken before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and building materials have been removed from the site. Nothing shall be stored or placed in any root protection area defined in accordance with Condition 7(iii), and no excavations or alterations to ground levels shall be made within those areas, other than in accordance with the details approved under Conditions 7(iv) or 7(v).
- 10) No site preparation or construction works shall take place until a detailed surface water drainage scheme has been submitted to the local planning authority and approved in writing. The detailed scheme shall broadly accord with the principles shown on the submitted plan 'Proposed Drainage Strategy' (No. 191172), and shall include full details of the proposed means of surface water drainage, including attenuation measures, water storage volumes and run-off rate calculations, together with the proposed arrangements for the future management and maintenance of the system. The scheme shall thereafter be implemented as approved.
- 11) No site preparation or construction works shall take place until a detailed flood risk assessment has been submitted to the local planning authority and approved in writing. The detailed assessment shall broadly accord with the methodology and principles set out in the submitted Flood Risk Assessment by Lanmor Consulting (dated May 2019). The assessment shall also include:
- i) detailed modelling and calculations of the depth and location of any above ground flooding in critical rainfall events with both a 1% and 3.33% annual probability;
 - ii) measures for the management of flood waters in the event of rainfall events in excess of the 1% annual probability level;
 - iii) proposed freeboard allowances and finished ground floor levels, in relation to all potential sources of flood risk.

- 12) The layout details to be submitted and approved under Condition 1 above shall include full details of the proposed vehicular access(es) to the site, and all new roadways, footways and cycleways forming part of the development. No dwelling within the development shall be occupied until the accesses, roads, footways and cycleways serving that dwelling have been constructed to binder course level in accordance with these approved details, and provided with highway drainage and lighting in accordance with further details also to be submitted to the local planning authority and approved in writing.
- 13) The layout details to be submitted and approved under Condition 1 above shall include full details of a 5m-high acoustic fence, to be sited along the site's northern boundary with the A11 slip road, and full details of 2.1m high acoustic fencing to be sited along the rear boundaries of any gardens facing toward the slip road. No dwelling within the development shall be occupied until all of the proposed acoustic fencing between that dwelling and the slip road has been erected, in accordance with these approved details. Thereafter, the acoustic fencing shall be retained and maintained, as originally provided.
- 14) The layout details to be submitted and approved under Condition 1 above shall include full details of the provision to be made for the storage or parking of bicycles. No new dwelling shall be occupied until the provision relevant to that dwelling has been provided in accordance with the details thus approved.
- 15) The layout details to be submitted and approved under Condition 1 above shall include full details of a scheme for the provision of fire hydrants to serve the development. No new dwelling shall be occupied until the fire hydrant(s) relevant to that dwelling have been provided in accordance with the details thus approved.
- 16) All new dwellings within the development shall meet or exceed the minimum internal floor areas and storage space standards set out in Table 1 of the 'Technical Housing Standards – Nationally Described Space Standard', published by the Department for Communities and Local Government, dated March 2015.
- 17) No site clearance, site preparation or construction works shall take place until a temporary parking area has been provided within the site, for the parking of construction workers' vehicles and other construction-related vehicles, in accordance with details to be submitted to the local planning authority and approved in writing. The temporary parking area shall be retained throughout the construction period. When no longer required, the temporary parking area shall be removed and the land integrated into the development in accordance with the approved layout details.

[END OF SCHEDULE]