



Appeal Decision

Site Visit made on 13 July 2021

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 24 August 2021

Appeal Ref: APP/Y2620/W/21/3268526

The Stables, Bacton Road, North Walsham, NR28 0RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr David Taylor of Cincomas Limited against the decision of North Norfolk District Council.
 - The application Ref PP/20/0160, dated 28 January 2020, was refused by notice dated 15 January 2021.
 - The development proposed is permission in principle for the demolition of the existing buildings on site and the erection of four dwellings with associated parking and gardens.
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Decision

1. The appeal is allowed and permission in principle is granted for residential development comprising a minimum of one and a maximum of four dwellings at The Stables, Bacton Road, North Walsham, NR28 0RA in accordance with the terms of the application, Ref PP/20/0160, dated 28 January 2020.

Preliminary Matters

2. I have omitted the words "and an extension of 30mph speed limit" from the description of development as it appears on the application form as the alteration of speed limits is not a description of development.
3. Further revisions have been made to the National Planning Policy Framework during the course of my consideration of the appeal and a revised version was published in July 2021 (the Framework). I have invited the main parties to comment on the Framework and I have taken account of any responses from them in my determination of the appeal.
4. As explained in the Planning Practice Guidance (the Guidance), the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 (the Order) is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for the proposed development from the technical detail. The application and this appeal relate to the first of these two stages.
5. In respect of residential development, an applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum number of nett dwellings as part of the application. In this instance, whilst no minimum is stated, permission in principle has been sought for the erection of four dwellings at the appeal site. I have taken this as a maximum and I note that this reflects the descriptions on the appeal form and decision notice. For the avoidance of doubt, I have determined the appeal on that basis, having regard to the requirements of the above referenced Order and the Guidance.

6. The proposal is seeking permission in principle for the development. I have assessed the proposal on this basis and treated all of the drawings as simply being an illustration of how the proposal could ultimately be configured.

Main Issue

7. The main issue in this appeal is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

8. The appeal site is a parcel of land fronting onto Bacton Road. Towards the rear of the site lies a substantial building with a functional, agricultural appearance, a smaller building of commercial appearance and areas of hardstanding. Fronting Bacton Road is an area of woodland containing trees which are subject to tree preservation orders and a building of shed-like appearance. To the south lies a group of buildings in residential use and to the north-east a number of sheds, again of an agricultural, utilitarian appearance.
9. Within this grouping lies Melbourne House, a Grade II Listed Building (LB). The group of buildings around it form part of its setting. Several have been converted to residential use. The significance of the LB, in so far as it relates to this appeal, derives from its evidential, historic and aesthetic value found in the authenticity of its architecture and appearance.
10. North Norfolk Local Development Framework Core Strategy Incorporating Development Control Policies -2008- (the Core Strategy) sets out a spatial strategy which seeks to locate development, including housing, in locations with access to goods and services. North Walsham is identified in Policy SS1 of the Core Strategy as a Principal Settlement where the majority of new commercial and residential development will take place. However, the site lies outside of the identified settlement boundary. It is therefore in the countryside for planning purposes where development will only be permitted subject to the exceptions set out in the Council's countryside policies. Policy SS2 of the Core Strategy seeks to limit development to that which requires a rural location and provides a list of development that is considered to be so.
11. Whilst there is no dispute that the development lies outside the development boundary of North Walsham and is not one of the exceptions to development set out in Policy SS2 of the Core Strategy there is debate as to whether, spatially, the site forms part of the settlement.
12. The site lies amongst other buildings, forming part of a contiguous built form extending outside of the identified development boundary. Thus, whilst, for planning purposes, the site lies in the countryside, spatially it forms part of the settlement. It is not, therefore, 'isolated' in respect of the 'Braintree' judgement¹. Further, its character is obviously different to that of either the nearby open countryside, or the built-up area to the south.
13. The site is well screened from the public realm by existing planting fronting Bacton Road, but its nature and appearance are apparent from the nearby dwellings. Whilst there is no evidence before me that the buildings could not be brought back into use, they are somewhat dilapidated and do not make a

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

positive contribution to the character or appearance of the nearby listed building, or that of the surrounding countryside. Although the layout and design of the proposal are not being considered as part of this appeal the Council have identified that, in detailed design, care must be taken to avoid harm to the setting of the LB. This is a matter to be considered during the Technical Details Consent stage.

14. The Council have identified other areas of concern including matters associated with residential amenity and highway safety. However, Permission in Principle allows for development up to a maximum number of units. Detailed design and layout are matters to be resolved at a later date, when Technical Details are provided. There is no substantive evidence before me to demonstrate that a suitably designed development, albeit that it may have to be below the maximum proposed by the appellants, could not be located within the site, and it is only when details are provided at a later date that this matter can be resolved. I note that this accords with the approach taken by the main parties.
15. The Council accept that, on the evidence provided, the site could accommodate up to four residential units and the main issue of dispute relates primarily to the suitability of the location for housing.
16. Whilst within the spatial extent of the town, the site nonetheless lies outside of the development boundary and thus, in planning terms, is in the countryside. It is not development of a type specifically identified as requiring a rural location. Therefore the proposal is in conflict with Policies SS1 and SS2 of the Core Strategy.

Conditions

17. It is not possible for conditions to be attached to a grant of Permission in Principle as its terms may only include the site location, the type of development and amount of development allowed. Permission in Principle is not, of itself, a planning permission and an approval of technical matters is required in association.

Planning Balance and Conclusion

18. Whether development plan policies are considered out-of-date in terms of paragraph 11d) of the Framework will depend on their degree of consistency with its policies, whether matters have changed on the ground or new local policies have been adopted or whether there are other material considerations which render the policy out of date.
19. The policies in the development plan that are most important in this case (Policies SS1 and SS2 of the Core Strategy) pre-date the current version of the Framework and accordingly it is necessary to consider whether Policies SS1 and SS2 are out-of-date by their consistency with the Framework.
20. Policy SS1 relates to the spatial strategy for North Norfolk and seeks to ensure that the overall housing provision will be distributed in accordance with the settlement hierarchy. The policy also identifies the rest of North Norfolk outside of settlements named in the policy as being designated as countryside and restricts the types of development that would be appropriate in these areas. The Core Strategy identifies the limits of these settlements, outside of which the land would be in the countryside, by means of development boundaries.

21. Policy SS2 limits the types of development that would be appropriate in the countryside. In this sense SS2 is a protective policy to a degree. However, the list of development types is reasonably extensive and not heavily restrictive.
22. The Core Strategy sets out a spatial strategy which seeks to locate development, including housing, in locations with access to goods and services whilst protecting the natural environment from inappropriate development.
23. The Framework does not impose a blanket restriction on development outside defined settlements, nor does it explicitly prevent the use of such boundaries. The appeal site is located in close proximity to existing dwellings and is not isolated and so the countryside location does not conflict with paragraph 80 of the Framework. Paragraph 79 supports new housing where it will enhance or maintain the vitality of rural communities. Paragraph 120 gives substantial weight to the value of using suitable brownfield land within settlements for homes and supports the development of under-utilised land and buildings. Thus, whilst the site is outside the settlement boundary this in itself does not persuade me that the site is in an unsustainable location.
24. The Framework seeks to promote sustainable development, balancing growth with the need to conserve and enhance the natural environment, recognising, amongst other things, the intrinsic character and beauty of the countryside. Policies SS1 and SS2 of the Core Strategy seek to restrict inappropriate development in the Countryside, limiting development to within identified settlement boundaries or those that require a countryside location. As such these policies are broadly in compliance with the aims of Sections 2, 5, 9, 12 and 15 of the Framework and, therefore, are not out-of-date.
25. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
26. As will be seen above I have found that the proposal would conflict with the Council's spatial strategy and thus the development plan in relation to its location outside the defined development boundary. The policies and plan are up-to-date and thus this conflict weighs significantly against the development. The policy establishes the broad strategy for the delivery of sustainable development and should not lightly be set aside. However, no other planning harm has been identified. Given the location of the proposal within existing development, the proximity of it to a Principal Settlement, identified for significant levels of growth, and the limited visual changes to the area that will be apparent from the public realm the degree of the conflict is relatively small and there would therefore only be limited harm to the Council's overall strategy.
27. Further, the proposal has characteristics which would be broadly consistent with some of the key principles of both local and national policy. The development would provide benefits in terms of delivering up to an additional four homes to boost housing supply, re-using a brownfield site, in a location which is well-related to the town. The Council's identified housing need figure is not a maximum and the additional homes would provide a modest benefit, given the Government's aim of significantly increasing the delivery of housing. There would be minor benefits to the local economy in terms of short term

employment in the construction industry and longer term support to local shops and businesses. Taken together, given the scale of development, these benefits, though modest, would outweigh the limited harm that I have identified.

28. The proposal would provide an opportunity to enhance the setting of the LB. However, this would be subject to the detailed design of the proposal and so I have given this matter no weight.
29. Although the proposal is in conflict with the development plan there are material considerations in this instance that indicate that a decision should be made otherwise than in accordance with it. For these reasons I conclude that the appeal should be allowed.

I Dyer

INSPECTOR