

Appeal Decision

Site visit made on 17 November 2020

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th September 2021

Appeal Ref: APP/U2615/W/20/3257688

Land East of Ormesby Lane, Filby NR29 3HX

- 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 Miss T Hind against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/19/0079/O, dated 4 February 2019, was refused by notice dated 16 June 2020.
 - The development proposed is the erection of 6no. dwellings (Outline application with all matters reserved except for access).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The original application was submitted in outline with only access committed. All other matters, layout, external appearance, scale and landscaping are reserved for later consideration. A plan has been submitted showing an indicative layout and 3D drawing of the dwellings, and I have taken this as illustrative only aside from details of the access.
3. The revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been given the opportunity to comment insofar as the revisions to the Framework relate to this appeal.

Main Issues

4. The main issues are:
 - Whether the development would be in a suitable location for new housing;
 - The effect of the development on the provision of Grade 1 Agricultural Land; and
 - The effects of the development on highway safety with particular reference to pedestrian access.

Reasons

Suitable Location

5. The appeal site is located on Ormesby Lane and currently comprises part of a wider area of open, agricultural land. Opposite the site are recently constructed residential properties. To the South are properties located on Main Road (A1064). The proposed development would introduce 6 dwellings into the site. The illustrative plans show these to be in a linear, road frontage layout. Access would be via a shared access point from Ormesby Lane, serving all six properties.
6. The appeal site is outside of the settlement boundary for Filby however it adjoins part of it. For the purposes of the development plan, the site constitutes open countryside. Policy CS2 of the Great Yarmouth Local Plan: Core Strategy 2013 – 2030 (2015) (Core Strategy) seeks to direct new housing in accordance with the settlement hierarchy. Filby is listed as a Secondary Village which are those that contain few services and facilities with limited access to public transport and few employment opportunities. Policy CS2 aims to deliver approximately 5% of new development in such locations. Policy CS2 also highlights that in the countryside development will be limited to conversions, replacement dwellings, buildings and schemes that help to meet rural needs. There is no dispute between the parties that the site is not classed as isolated due to its proximity to other buildings and properties.
7. Policy CS3 of the Core Strategy considers the borough's housing need and seeks to focus new development in accessible areas and those with the most capacity to accommodate new homes, amongst other things. Saved Policy HOU10 from the 2001 Great Yarmouth Borough-Wide Local Plan (2016) (Local Plan) relates to new dwellings in the countryside and provides a list of criteria to be met for housing in these locations to be supported.
8. Although the appeal site is in proximity to the settlement of Filby, facilities are somewhat limited in this location but include a public house, village hall, post office and primary school. The Council have highlighted the distances from the main facilities, which in the case of the post office, village hall and school are some distance from the appeal site. In addition, the Council have indicated that there have already been 36 new homes built in Filby with permission for a further 17 homes which would exceed the policy requirements for development in Secondary Villages.
9. Given the above considerations, the proposal would result in development outside of the settlement boundary for Filby, which is a Secondary Village with limited facilities. As such, the proposed development would not be in a suitable location for new housing when assessed against the development plan. The proposed development would therefore be contrary to the provisions of Policies CS2 and CS3 of the Core Strategy and HOU10 of the Local Plan for the above reasons.

Agricultural Land

10. The appeal site comprises a parcel of agricultural land set within a larger area of open land. According to the Council, the DEFRA records show that the land is classed as Grade 1 and therefore is considered the most productive of agricultural land.

11. Policies CS6 and CS12 of the Core Strategy seek to minimise the potential loss of the best and most versatile agricultural land by ensuring that it is demonstrated that there are overriding sustainability benefits from the development, there are no realistic opportunities for accommodating the development elsewhere and protecting the best and most versatile agricultural land as a valuable resource for future generations. Paragraph 174 b) of the Framework (2021) seeks to ensure that development contributes to and enhances the natural and local environment by recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land.
12. The Appellant considers that the classification of the site as Grade 1 Agricultural Land is not accurate. I have had regard to the map extracts and the information submitted, however I have been provided with limited information in relation to the crop production, yield and productivity of the land to support the Appellant's view that it should be considered a lower grade. In any event, the Framework and Development Plan do not refer specifically to Grade 1 land only, rather the best and most versatile agricultural land.
13. The agricultural land to the rear of the appeal site would remain accessible via the track access running adjacent to the boundary of the site. The Appellant has highlighted that the development would utilise around a quarter of the overall parcel of agricultural land. Nevertheless, whilst the development would be for 6 dwellings only and would not use all of the parcel of land, it would still lead to a loss of an area of high-quality agricultural land. It has not been demonstrated that there are no other areas of lower quality land and accordingly, the development is not justified in this location in relation to the loss of agricultural land.
14. As such, the proposal would not comply with Policies CS6 and CS12 of the Core Strategy or the provisions of paragraph 174 b) of the Framework (2021) for the above reasons.

Highway Safety

15. Ormesby Lane narrows off away from the junction and becomes a rural lane beyond the extent of the farthest existing dwellings. The road is straight along the frontage of the appeal site and to the junction with Main Road (A1064). The proposed development would provide 6 additional dwellings which would result in an increased number of people using this stretch of Ormesby Lane to access facilities and services.
16. Ormesby Lane has no pedestrian facilities along the appeal site side of the road. I note a new footpath has been provided along part of the opposite side of the road however this does not link with the nearest footpaths on Main Road. It is feasible that pedestrians from the appeal development would cross the road and utilise this stretch of pavement, however they would soon have to walk along the road or the verge to complete their journey. The propensity to walk will not only be influenced by distance but by the quality of the experience. Above all, pedestrians need to feel safe when walking.
17. The introduction of 6 dwellings in this location would be likely to generate a number of additional traffic movements. The parties agree that there are bus stops nearby, however the Council have indicated that bus services are limited

to peak hour services only and I have not been provided with information to evidence the contrary. As such, there would be a reliance on the private car for many of the journeys to and from the proposed dwellings, not only in relation to the limited facilities in Filby but also services in the wider surroundings.

18. Consequently, I conclude that the proposed development would have an adverse impact on highway safety and would not provide suitable access without the use of a private vehicle for the above reasons. It would therefore fail to comply with Policy CS16 of the Core Strategy which seeks to ensure that new development does not have an adverse impact on the safety and efficiency of the local road network for all road users, amongst other things.

Other Matters

19. The Appellant has highlighted other applications and appeals, which include the development opposite the appeal site, Green Lane, Newmans Green and Tharston. In relation to the development opposite the appeal site on Ormesby Lane, I note that this has had a number of applications and is under construction. There are existing properties on that side of the road further along Ormesby Lane resulting in the development being infill whereas there are none beyond the appeal site and therefore the development would physically and visually encroach into the open countryside.
20. The Council have highlighted the differences with the other sites referred to by the Appellant. Notwithstanding this, I do not have full details behind these decisions therefore I am unable to conclude that they are sufficiently comparable in order to set a precedent for the proposed development.
21. Local objections have been received concerning, in addition to the above matters, concerns over the layout and density and additional traffic levels. It is worth noting that layout and density are not matters for consideration at this stage due to the outline nature of the proposal. Nevertheless, it is not necessary for me to conclude on these matters as they would not alter my overall findings in this case.

Planning Balance

22. I have found that the proposed development would be contrary to the provisions of the development plan as a whole for the above reasons. However, the Appellant has stated that they consider the Council's policies that restrict housing, particularly CS2, CS3 and HOU10, to be out of date due to the Council's lack of five-year housing land supply and the age of the policies. However, just because development plan policies pre-date the Framework, it does not automatically mean that they are out of date, rather their consistency with the Framework needs to be considered.
23. The general principle of Policies CS2 and CS3 of the Core Strategy are to direct growth to areas with access to jobs and services in order to reduce the need for travel. Policy CS2 also attributes percentages for development to the various areas in the settlement hierarchy. Policy CS3 seeks to ensure that residential development meets the housing needs in the borough and similarly seeks to direct these to certain areas as well as securing them via allocated sites. Whilst the predictions for housing are out of date due to the age of these policies, as acknowledged by the Council, the spirit of the aims of these policies

- still accord with the overarching provisions of the Framework to achieve sustainable development and ensure it comes forward where it is needed.
24. Saved Policy HOU10 of the Local Plan sets out the criteria to be met for new dwellings in the countryside and includes a list of the types of development that would be suitable. Whilst this is a more restrictive policy, it nevertheless aims to protect the character of the countryside and support the delivery of the wider spatial strategy. I find that this accords with the aspirations of the Framework to direct housing to where it is needed in sustainable locations and recognise the intrinsic character and beauty of the countryside (paragraph 174). Accordingly, I find that these policies should still carry considerable weight and are not rendered out of date as a result of their age.
25. In relation to the Council's five-year supply of housing land the Appellant considers that the supply is just over 2 years. However, the Council have advised that based on the updated method for calculating need in the Framework, allocated sites in the emerging plan and those with permission, the Council can demonstrate a five-year supply. However, based on the information before me I do not have a fully updated position on this, and I have not been presented with sufficient evidence to fully support either view. Nevertheless, were I to find that the Council did have a shortfall in their supply of housing land, the provision of 6 dwellings would make a reasonably limited contribution.
26. The Appellant has highlighted the benefits that would arise as a result of the proposed development. These consist of the new properties supporting the rural community and services of Filby and the surrounding area and I have taken these into consideration in the planning balance. I have found that the proposed development would make a very modest contribution to the Council's supply of housing land, limited due to the number of dwellings proposed. I have concluded that the loss of agricultural land has not been sufficiently justified and I have found that the proposal would not be acceptable in terms of its access to services and facilities and highway safety. Even if I were to conclude there is a shortfall in the five-year supply of housing land on the scale suggested by the Appellant, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.

Conclusion

27. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be dismissed.

R Norman

INSPECTOR