



Appeal Decisions

Site Visit made on 17 May 2021

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 29 September 2021

Appeal Ref: APP/F2605/W/20/3262992

Syers Lane, Beeston, Easting 591080, Northing 315911

- 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 Ms Toni Townshend against the decision of Breckland Council.
 - The application Ref: 3PL/2019/1105/O, dated 28 August 2019, was refused by notice dated 22 May 2020.
 - The development proposed is two pairs of semi-detached, three bedroomed properties.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters save for access reserved for future determination. Whilst I have been provided with detailed plans, including a number showing different proposed layouts, I am advised that these are indicative only and I have therefore determined the appeal on this basis.
3. A revised National Planning Policy Framework (the Framework) was published on the 20 July 2021 and the parties have been provided an opportunity to comment on the implications of this for their case.

Main Issues

4. The main issues are:-
 - i) whether the appeal site is a suitable location for residential development having regard to the settlement strategy of the development plan; and
 - ii) the effect of the proposal on the character and appearance of the surrounding area with particular regard to hedgerow.

Reasons

Settlement strategy

5. For the purposes of Policy HOU 04 of the Breckland Local Plan (2019)(LP), Beeston is considered as a rural village with a settlement boundary. The appeal site is located outside of the defined settlement boundary for Beeston and therefore, for the purposes of applying planning policy, it lies within an area designated as countryside.
6. LP Policy GEN 05 sets out a development hierarchy based on settlement boundaries. It seeks to restrict development outside of defined boundaries in

order to recognise the intrinsic character and beauty of the countryside. Development outside of settlement boundaries will only be acceptable where it is compliant with all relevant policies in the development plan.

7. One such policy that is permissive of development in rural areas is LP Policy HOU 14 for the purpose of providing affordable housing. The appellant indicates an intention to provide the proposed dwellings as units of affordable housing suitable for first time buyers or those looking to rent their first home as per paragraph 72 (formerly paragraph 71) of the Framework. However, there is no completed planning obligation before me, such as a s.106 planning agreement or a unilateral undertaking, that would secure the effective delivery of affordable housing.
8. The use of a condition to ensure that dwellings remain as affordable housing can be used in limited circumstances. However, on the basis of the limited detailed information before me, the method of securing affordable housing is vague and I find the use of a condition would be unsuitable in this instance. Consequently, the appeal scheme fails to be considered as affordable housing for the purposes of LP Policy HOU 14. It has not been necessary for me to give any further consideration to the appeal scheme's compliance with the remaining criteria of this policy.
9. Reference has been made to paragraph 149(e) (formerly paragraph 145(e)) of the Framework providing support to the appeal proposal together with a previous appeal decision¹. Given that the appeal site is not located within an area of green belt, the provisions of limited infilling as set out within paragraph 149(e) of the Framework do not apply here.
10. Taking all matters into consideration, the appeal site's location outside of the settlement boundary is not a location to which new development should be directed. To do so would conflict with the Council's spatial strategy of the district and the provisions of LP Policies HOU 04, GEN 01 and GEN 05. This conflict weighs against the proposal in the overall planning balance.

Character and appearance

11. Syers Lane is a narrow and quiet rural lane. Albeit a more tightly knit arrangement of built form exists towards the junction with Dereham Road the pattern of development becomes more dispersed with large gaps providing spaciousness as the lane leads away from the village. Dwellings are generally large and detached and they are set within substantial plots with their built form being positioned away from the highway. Front gardens are well stocked with front boundaries being typically comprised of mature hedging with some trees which contributes a pleasant and verdant appearance. The presence of mature hedgerow along a vast part of Syers Lane makes a significant contribution to the overall semi-rural character of the surrounding area.
12. The appeal site is a roughly rectangular parcel of undeveloped land with an existing access from Syers Lane that punctuates the dense hedgerow boundary that lies to the front of the site. It is flanked to each side by existing properties and adjoined to the rear by open countryside. In views from neighbouring properties, the highway and from the wider countryside, the site forms part of

¹ APP/J1535/W/18/3205757

an open and undeveloped gap which contributes to the rural character of the surrounding area.

13. There is dispute between the parties as to the extent of the hedgerow vegetation which would need to be removed and/or thinned to provide the required lines of sight at the access with the highway and, secondly, whether this hedgerow constitutes 'important' hedgerow as defined by the Hedgerow Regulations 1997. However, even if I were to conclude that the hedgerow did not meet the criteria to be considered as 'important' hedgerow, nevertheless, LP Policy ENV 06 recognises the importance that hedge and shrub masses contribute to the green infrastructure network. This policy goes on to require their retention as an integral part of the design of development unless their long-term survival would be compromised by their age or physical condition, or there are exceptional and overriding benefits in accepting their loss.
14. It has not been put to me that age is relevant in this instance and I observed the hedgerow to be in a good condition. Whilst there are some benefits of the proposed development, including the provision of up to four dwellings, the benefits are not, to my mind, exceptional or overriding so as to justify its loss. Moreover, given that the precise extent of hedgerow to be removed or thinned is unclear, I consider that it is likely that the impact on the existing hedgerow would not be sufficiently limited so as not to have a significant adverse effect on the character of Syers Lane. Although the impact would be localised, the effect would be considerable and the sensitivity of residential receptors high, resulting in a substantial adverse visual effect.
15. The proposed development would significantly intensify the pattern of built form and the consequent urbanising effect would be immediately apparent to adjoining occupiers and users of the highway. The loss of openness and consequent intensification of built form would create a more prominent and uniform edge to the settlement thus eroding the rural character of this part of Syers Lane and severing the connection with the open countryside to the north, thereby diminishing local distinctiveness.
16. Although new planting is proposed to the front of the site this would take some time to mature. Once maturity is reached, seasonal changes would affect the ability of foliage to provide year-round cover and the proposed development would remain partially visible in views through and over vegetation. In addition, the proposal would be readily visible in views through the access opening.
17. For the reasons given above, I find that the proposed development would give rise to a significant adverse effect on the character and appearance of the surrounding area. Thus, even if I had been satisfied that the appeal scheme secured the delivery of affordable housing, it would have failed to comply with the remaining provisions of LP Policies HOU 14 and ENV 06 insofar as a development should be well-related to the existing settlement and seek to retain hedge and shrub masses as an integral part of the development's design.

Other Matters

18. The Framework recognises that sites to meet local community needs in rural areas may need to be found adjacent to, or beyond existing settlements. However, in such circumstances, given my findings in relation to the appeal

scheme's impact on character and appearance to the surrounding area, the proposal fails to be sensitive to its surroundings as is required by paragraph 85 of the Framework (formerly paragraph 84).

19. The Council considers that it can demonstrate a five-year supply of housing land. The appellant disputes this on the basis that more than 12 months have elapsed since the publication of the LP and a previous monitoring report that showed a supply figure in the region of 4.7 years. As part of the appeal process, the Council have provided a five-year housing land supply statement from November 2020 which shows a housing supply in the region of 6.95 years, when applying a 5% buffer. There is no clear evidence before me regarding the impact of the Covid-19 pandemic and any implications for the housebuilding industry. The full economic effects remain unknown at present and there is no substantive evidence before me to support the appellant's assertion that the Council are unable to demonstrate a five-year supply of housing land.
20. Reference is made to a development of housing on the opposite side of Syers Lane². Consistency in the planning process is important and 'like cases' should be decided in a like manner. However, it is also important that each case is determined on its own merits and on the basis of the evidence before the Inspector at the time. With regards to this development, it concerned a brownfield site, unlike the appeal case. Furthermore, it was determined at a time when the Council were unable to demonstrate a five-year housing land supply, thus engaging the provisions of paragraph 11(d) of the Framework. As the Council can demonstrate such a supply, the tilted balance is not engaged in the appeal case and consequently, I attribute full weight to the conflict with policies within the development plan, unlike in the previously consented scheme.
21. The appellant suggests that there have been other planning applications approved in Beeston and within the wider district. However, little information has been provided in relation to the particular circumstances of these developments and whether the circumstances are therefore comparable to the appeal proposal. As such, a comparison is of limited relevance in this instance and I have considered the appeal before me on its individual planning merits.
22. My attention has been drawn to the capacity of the local school which the appellant suggests is at danger of closure for under occupancy which will necessitate vehicular trips to schools located further away. There is little evidence to support this view and I therefore attribute this matter negligible weight.
23. It is suggested that the appeal site is reasonably well-located to services, facilities and employment opportunities. Whilst there is limited detail before me regarding the extent of these, I note that it does not form part of the Council's case that the appeal site's location is unsuitable in terms of its access to services, facilities and employment opportunities, nor that sustainable modes of transport do not exist for future occupants to utilise.
24. In the absence of any evidence to the contrary, I accept that future occupants of the proposed dwellings would provide support for these services and facilities. This would meet the Framework's aims to enhance or maintain the

² Planning Reference:1062/O

vitality of this rural community. In addition, the appeal scheme would deliver housing on a small site and make a contribution of upto four dwellings towards housing supply. However, the weight to be attributed to these benefits is moderated by the overall small scale of the appeal scheme and as such I consider they weigh modestly in favour of the proposal.

25. The appeal scheme would adequately address highway safety. However, the absence of harm is a neutral matter in the planning balance which weighs neither for nor against a proposal.

Conclusion

26. In accordance with s.38(6) of the Planning and Compulsory Purchase Act, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Where a proposal conflicts with an up to date development plan, planning permission should not usually be granted. The proposed development would be contrary to LP Policies HOU 04, HOU 14, GEN 01, GEN 05, and ENV 06. The appeal scheme's conflict with these policies weighs significantly against the proposal. The benefits of the proposed scheme would carry modest weight and they would be insufficient to outweigh the conflict with the development plan.
27. Accordingly, for the reasons given, the appeal is dismissed.

E Brownless

INSPECTOR