



Appeal Decision

Site Visit made on 7 September 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 October 2021

Appeal Ref: APP/F2605/W/21/3270171

Saham Tythe Barn, Chequers Lane, Saham Toney IP25 7HQ

- 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 Mr N Garioch (Garioch Estates Ltd) against the decision of Breckland Council.
 - The application Ref 3PL/2019/0948/O, dated 30 July 2019, was refused by notice dated 27 January 2021.
 - The development proposed is residential development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was submitted in outline with all matters reserved. I have had regard to the Site Plan (Drawing Ref 1306/1 B) but have treated each element of the drawing as indicative when considering the likely impact of the proposal on the matters set out in the main issues below.
3. Since the Council's decision was issued, the Saham Toney Neighbourhood Plan 2019-2036 (NP) has been subject to Examination, with the Independent Examiner's Report published on 13 July 2021. On 13 August 2021, the Council published its decision to allow the NP to proceed to a referendum, subject to incorporating the comments and corrections outlined in the Report. The Council has confirmed that the NP has been updated on this basis. On 25 September 2020 the Planning Practice Guidance (PPG) regarding neighbourhood planning was updated¹. This sets out that where the Council intends to send a neighbourhood plan to referendum, that plan can be given significant weight in decision-making, so far as the plan is material to the application. The Council's decision notice does not refer to the emerging NP, but both main parties have provided comments about its content. Neither party would therefore be prejudiced by my reference to the NP in the determination of this appeal, particularly Policy 2C, which has been highlighted by the Council as being relevant to the location of the appeal scheme.
4. Similarly, the National Planning Policy Framework was revised on 20 July 2021 (the Framework). The main parties have had the opportunity to comment upon the relevance of any revised content of the Framework and I have had regard to any responses received in my decision.

¹ Paragraph: 107 Reference ID: 41-107-20200925

Main Issues

5. The main issues are:

- whether the site is a suitable location for the proposed development, having regard to the spatial strategy in the development plan and the accessibility of the site to services and facilities; and
- the effect of the proposed development on the character and appearance of the site and its surroundings.

Reasons

Location and accessibility

6. The appeal concerns a roughly square parcel of land, aside from smaller protrusions to the south to enable access to the highway and to include a pond. The site lies to the east of Chequers Lane, some way back from it, and there are four bungalows under construction to the south.
7. Policy HOU04 of the Council's Local Plan² forms part of the strategy for development outside of the settlement hierarchy. It states that development must be immediately adjacent to a settlement boundary to be allowed. A similar approach applies in Policy 2C of the NP. There is no supporting definition in the Local Plan as to what constitutes 'immediately adjacent', for the purposes of applying that policy, but the Glossary in the NP defines it as "Directly abuts such that the boundary of a proposed site is common with the settlement boundary for at least part of its length".
8. The main parties agree that the site is approximately 220 away from the settlement boundary. With this in mind, the site could not be said to be 'immediately adjacent' or close to the settlement boundary.
9. I accept that the Saham Toney Policies Plan (STPP) includes an annotation for the appeal site as being a site with planning permission, but I have not been referred to an extant planning permission for the whole area of land. Rather, the annotation appears to relate to permission for the four bungalows³ to the south, which predates the current development plan. I have therefore afforded limited weight to the argument that the site is a proposed allocation, as the STPP clearly distinguishes between sites that are allocated or with permission.
10. Policy 2C adopts a stricter approach to development on the basis that there are proposed allocations in the NP. The proposed criteria relate to conversions of existing buildings, rural worker exceptions, rural exception sites and dwellings deemed to be isolated satisfying the criteria outlined in the Framework. One of the exceptions to Policy GEN 05 of the Council's Local Plan also relates to rural exception sites considered under Policy HOU 14. Although that policy allows some market housing alongside affordable housing it is necessary to demonstrate that it is required for the viability of the development. In this case, there would be equal proportions of market and affordable homes and the appeal is not supported by any substantive evidence to demonstrate that the market houses are required for such purposes. It would therefore not be possible for the proposal to comply with any of the exceptions outlined in those policies.

² Breckland Local Plan, adopted November 2019.

³ Planning References: 3PL/2019/0948/O and 3PL/2019/0808/D.

11. Similarly, I do not subscribe to the notion that all windfall sites would need to be located beyond settlement boundaries, as it would undermine the spatial strategy in the development plan. In my experience, these are generally sites not accounted for by allocations, so they equally include sites in and outside settlements. The Council's Local Plan accounts for this in its approach to development immediately adjacent to settlements such as Saham Toney.
12. I have also had regard to the permissions for the sites opposite at Stanway Farm⁴ and Meadows Farm⁵, both on Chequers Lane, to the north at Meadow View⁶ and, to the south, at Ovington Lane⁷. The first and second of these decisions were permitted prior to the adoption of the current development plan, so are not comparable with the appeal scheme before me in respect of its location. Meanwhile, the others appear to accord with Policy HOU 04 in that they are immediately adjacent to the settlement.
13. While Chequers Lane shares similarities with other routes in the vicinity of Saham Toney in respect of lack of street lighting and dedicated footways, it generally has the character of a rural lane which, for the most part, sets it apart from the other built-up parts of the settlement. Nevertheless, like the appeal site, the existing and consented properties between the northern and southern extents of the lane are served from shared accesses and situated away from the street frontage. The occupants of residential properties within the appeal site would therefore be no more likely to utilise private motorised means of transport than the occupiers of properties in those other developments. I also note that the Local Highway Authority arrived at a similar conclusion to the Inspector in the appeal decision for a site at Mill View off Ovington Road⁸ in respect of the safety of pedestrian access and the possibility to cycle from the site to local facilities and services, as they also did for Meadows Farm, a short distance to the south. There is therefore very little to distinguish the site from others nearby with planning permission in respect of its accessibility to services and facilities and I therefore consider that the proposal meets the requirements of Policy TR 01 of the Council's Local Plan in that respect.
14. Despite my findings in relation to the accessibility of the appeal site, I conclude that it would not be a suitable location for the proposed development with reference to the spatial strategy in the development plan. Hence, the proposal would not accord with Policies GEN03, GEN05, HOU02 and HOU04 of the Council's Local Plan and Policy 2C of the NP.

Character and appearance

15. The dwellings and other buildings in the area surrounding Saham Toney are generally positioned in scattered groupings of various sizes to either side of a more-or-less circular arrangement of streets. Some groupings are set away from and others closer to the streets. The varied pattern to built form therefore makes a positive contribution to the character and appearance of the site and its surroundings.

⁴ Planning References: 3PL/2017/1423/O and 3PL/2020/0419/D.

⁵ Planning Reference: 3PL/2019/0011/F.

⁶ Planning Reference: 3PL/2020/0119/F.

⁷ Planning Reference: 3PL/2020/1080/F.

⁸ Appeal Ref: APP/F2605/W/17/3176900.

16. I am mindful of the findings of the Saham Toney Parish Council Landscape Character Assessment (2019) in respect of the sensitivity of Chequers Lane to new development, particularly in respect of the scattered nature of development found there. Nevertheless, to my mind, there do not appear to be any particular characteristics of the site that would distinguish it from the locations where other developments have been permitted by the Council since that document was introduced, particularly those close to the site on either side of Chequers Lane.
17. I accept that it would add to existing built development in the countryside. However, the position of the appeal site set away from Chequers Lane, and the indicative arrangement of the proposed dwellings, would result in a built form of development that would share similarities with adjacent developments and others found in the surrounding area. It would not therefore be harmful to the established grain of development within and surrounding the settlement.
18. In light of the above, I conclude that the proposed development would not have a harmful effect on the character and appearance of the site and its surroundings. Hence, the proposal would accord with the design aims of Policies COM 01, GEN 02 and ENV 05 of the Breckland Local Plan (adopted November 2019) and paragraphs 130 and 134 of the Framework.

Planning Balance

19. The Council has indicated that it has 6.95 years of housing land supply, which includes a five percent buffer. Given that this figure was reported in the Council's annual position statement towards the end of 2020, it is still valid in accordance with paragraph 75 of the Framework. The appellant has not disputed this position. Nevertheless, I am mindful that the presence of a five-year supply does not represent a ceiling on the delivery of housing, as the Framework confirms the Government's aim to significantly boost the supply of housing and the contribution made by small and medium sized sites is important to achieving that aim. I have had regard to the weight given to this factor for sites at Brundall⁹ in neighbouring Broadland District and a site in South Cambridgeshire¹⁰. However, the former was for a significant mixed-use development of up to 170 houses with community and outdoor sports provision, while the latter was also for a larger scheme of 21 dwellings. Given that the proposal would result in a net provision of eight dwellings, this would amount to a social benefit of moderate weight.
20. There would be short-term benefits to the local and wider economy from direct and indirect employment associated with construction works and future occupants would be likely to support local shops and services through expenditure. These would all constitute benefits in social and economic terms, but given the magnitude of the proposed development, they would be afforded limited weight.
21. Notwithstanding my findings in relation to the first main issue, half of the proposed dwellings are intended to be affordable homes, which are dealt with by Policy HOU07 of the Council's Local Plan. The policy approaches the consideration of proposals for housing in rural areas twofold. Affordable housing is required on all new housing developments of 10 or more units *or on*

⁹ Appeal Ref: APP/K2610/W/19/3239986.

¹⁰ Appeal Ref: APP/W0530/W/20/3253436.

sites of 0.5 hectares or more [my emphasis]. The use of the word 'or' would suggest that the requirement for affordable housing should not be linked to both triggers. The appeal scheme before me clearly identifies the quantum of proposed development (eight dwellings) and the site area is below 0.5 hectares.

22. I have had regard to the arguments presented by the main parties in respect of the potential for site assemblage with the site to the south and whether there is a need for any of the houses to be affordable homes. However, the appellants have proposed the affordable homes as a benefit of the appeal scheme and I have determined the appeal on that basis. With that in mind, even if both sites were considered together, the policy requirement would be exceeded by the quantum of affordable homes proposed. The planning obligation would ensure that three of the homes would be made available as Affordable or Social Rented Dwellings and another for sale at below market price. A local connection cascade would also ensure priority is given to persons with a local connection to Saham Toney when they are allocated. As there is a reasonably extensive waiting list for households on the Council's housing register with connections to the settlement, I afford considerable weight to this benefit.
23. The planning obligation would ensure compliance with the provisions of the Self Build and Custom Housebuilding Act 2015 (the Act) and provide certainty that one of the proposed dwellings would be a self-build project, as promoted by the appellants. I note that the Independent Review into Scaling Up Self-Build and Custom Housebuilding (2021) recommended that substantial weight should be given to such housing in a revised Framework, but it is not the latest expression of government policy in respect of such matters. Moreover, paragraph 62 of the Framework only requires that planning policies should reflect the needs of people wishing to commission or build their own homes. While I accept that the proposal would help the Council to meet its responsibilities under the Act to provide enough suitable permissions to meet identified demand for the District, the contribution to the overall demand for such housing would only be modest as a single unit is proposed, which would not meet the criteria of Policy HOU 04, as outlined in the first main issue. This would therefore only amount to a benefit of very limited weight.
24. Open space provision within the site, and its management, or provisions for off-site contributions should this ultimately be deficient for the site, are also included in the obligation. However, as this is a policy requirement of Policy ENV04 of the Council's Local Plan, it would be a benefit of neutral weight.
25. In the main issues, I have found that the proposed development would comply with development plan policy in respect of the accessibility of the site and the effect of the proposal on the character and appearance of the site and its surroundings. Other aspects cited in support of the proposal also relate to an absence of harm through policy compliance, in matters including ecology and biodiversity and flood risk. However, the absence of harm in these matters would weigh neither for nor against the appeal scheme.
26. I have had regard to the appeal decision for development in North Norfolk¹¹, but note that this related to a development plan of some age, which predated all iterations of the Framework. The same could not be said for the Council's

¹¹ Appeal Ref: APP/Y2620/W/20/3266100.

Local Plan and the NP, which have both been through Examination in the last two years. I have therefore given limited weight to the arguments advanced in the context of the compliance of the policies of both plans. In particular, as I have outlined in the first main issue, there are clear reasons why the NP proposes to be more restrictive to new development beyond the settlement. Even if I were to give less than the significant weight to the NP that I am obliged to, I have found that the proposal would conflict with several policies in the Council's Local Plan, namely Policies GEN03, GEN05, HOU02 and HOU04, which relate to the location of development in the context of the Council's spatial strategy. I afford significant weight to the conflict of the proposal with these policies.

27. This leads me to an overall conclusion that the appeal scheme would not accord with the development plan, when considered as a whole, and I find that the adverse impacts of the proposal are matters of significant weight against the grant of planning permission that comfortably outweigh the claimed benefits.

Conclusion

28. The proposed development would be contrary to the development plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeal should not succeed.

Paul Thompson

INSPECTOR