
Appeal Decision

Site visit made on 18 October 2021

by David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2021

Appeal Ref: APP/Y2620/W/21/3270961

Hurricane Corner, Church Road, Lower Bodham, Norfolk

- 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 Gay against the decision of North Norfolk District Council.
 - The application Ref PP/21/0155, dated 17 January 2021, was refused by notice dated 22 February 2021.
 - The development proposed is erection of one self-build dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant provided an appeal decision¹ in North Norfolk after the Local Planning Authority (LPA) had submitted its statement of case for this appeal. As this recent decision deals with a proposal for permission in principle which engaged relevant development plan policies, I have taken it into account and the LPA was invited to make comments. The appellant also provided a further very recent appeal decision² in North Norfolk, which deals with, amongst other things, matters of housing land supply and relevant development plan policies. Again, I have invited comment from the LPA on this decision.

Main Issue

3. The main issue is whether the appeal site would be a sustainable location for residential development.

Reasons

4. The appeal site is situated in countryside, less than 1 mile to the south-east of the settlement of High Kelling and approximately 2 miles east of the market town of Holt. There is a scattering of small villages, generally to the east and south of the appeal location including Baconsthorpe, Bodham, Hempstead and West Beckham, which are all generally over 1 mile away and predominantly up to 2 miles distant and mainly accessible via a network of remote narrow lanes.
5. The appeal site is positioned between two residential properties and is a short distance from a smattering of development to the east, including a number of large modern agricultural buildings at Hill House Farm, some of which appear to be in employment use. Due to the dispersed pattern of development and

¹ APP/Y2620/W/21/3268526 – issued 24 August 2021

² APP/Y2620/W/21/3256225 – issued 12 November 2021

the predominant countryside character at the appeal location, the proposed dwelling would not be located in any coherent form of physical settlement or tangible rural community.

6. A narrow, rural lane connects the appeal site to High Kelling, which has a shop/post office, parish hall and bus stops on the main A148 road. There is no footway along this lane other than a very short stub of combined footway / cycle path close to the junction with the A148. This path provides a connection to the shop and an onwards continuous route through to Holt. At 2 miles Holt is beyond a reasonable walking distance from the appeal site. High Kelling would be at the margins of a reasonable walking distance but the absence of a footway and street lighting along a narrow, rural lane which is within the national speed limit are factors which would significantly deter walking as an attractive option. In addition, the majority of the connecting route is through dense woodland on both sides of the road, with negligible natural surveillance from any roadside properties and constricted verges in places to safely step off. It would be an uncomfortably remote route for many, which would strongly deter walking from the appeal location to High Kelling.
7. The narrow highway width and speed limit would also be a deterrent to most cyclists. There would also be the added factor that cyclists would have to negotiate either using or crossing the heavily trafficked A148 road to access services in High Kelling or in Holt. Consequently, I find that neither walking nor cycling would be attractive, regular travel choices. Therefore, future occupants of the appeal proposal would be heavily reliant on the use of the car to access services and facilities.
8. Due to the distance and remoteness of the connecting route the proposed dwelling would be not be part of the rural community at High Kelling. At one dwelling, the appeal proposal would make only a very limited contribution towards enhancing and maintaining the vitality of services in High Kelling and other rural communities in this part of North Norfolk. Spatially, the appeal location is not a "smaller settlement" or "village" at which NPPF paragraph 79 envisages housing may be considered sustainable development by supporting the services in a village nearby.
9. I have been referred to the *Braintree* judgment³ which concerned a proposal "in the village of Blackmore End" (paragraphs 3 & 12 of the judgment). The judgment at paragraph 29 reaffirms through national planning policy that "...settlements are the preferred location for new housing development in rural areas". Importantly, paragraph 31 of the judgment clarifies that "isolated" connotes a dwelling that is physically separate or remote from a settlement. That is the case here. Overall, I find the appeal proposal would result in an isolated new dwelling in the countryside.
10. The appellant is a smallholder which undoubtedly requires some degree of daily on-site attendance for welfare purposes. I note that the appellant is not making a functional case for an agricultural dwelling but because the appellant does not live on the site, and has principal employment elsewhere, this is claimed to generate a minimum 6-8 daily one-way vehicle movements to attend to the welfare of animals which would mitigate vehicular traffic generated to access day-to-day services and facilities from a dwelling on the site.

³ Braintree District Council v. SSCLG, Greyread Ltd, Granville Developments [2018] EWCA Civ610

11. The appeal site itself extends to c.0.23ha (approximately half an acre). The footprint of the proposed dwelling and any reasonable immediate curtilage for amenity space, would reduce this further. It is difficult to see, on the limited evidence before me, how such a small site would support a scale and intensity of operation to generate the asserted current number of vehicle movements. Overall, I find it difficult to conclude that the appeal proposal would markedly reduce vehicle movements from those already associated with the current use of the site.
12. The general principle is that planning permission usually runs with the land and it is rarely appropriate to provide otherwise⁴. What has been applied for and consulted on, including with the local community, is permission in principle for a self-build dwelling. Were the smallholding operation to cease, the result would be a new dwelling in the countryside with the attendant harm of being socially and functionally isolated for future inhabitants, whilst generating notable vehicle movements. The National Planning Policy Framework (NPPF) at paragraph 105 states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Whilst the length of car trips into High Kelling and Holt may only be modest, it remains that there is negligible public transport and only limited prospects of future occupants walking or cycling into either High Kelling or Holt. In this regard, I attach appreciable weight to the submission of the Local Highway Authority that the distance of the appeal site from service provision precludes any realistic opportunity of encouraging a modal shift away from private car use.
13. The appellant refers to the potential of an electric vehicle charging point. There would be no requirement, however, for occupants of the dwelling to own or use an electric or low emission vehicle, against the reality that petrol/diesel vehicles are going to remain in use for many years. Accordingly, an electric vehicle charging point would not overcome my concerns regarding the environmental and social harms that would arise from an isolated dwelling, where private car use would be the only realistic travel choice.
14. Overall, the appeal site, due to its countryside location and isolation from any physical settlement or tangible community, would not be a sustainable location for the residential development proposed. It would be contrary to Policies SS1, SS2 and SS4 of the North Norfolk Local Development Framework Core Strategy 2008 (*the Core Strategy*) which seek to sustainably focus new housing development to identified towns and villages and to carefully manage development in the countryside. These policies aim to strike an appropriate balance between development that will positively support the rural areas whilst protecting the rural character and securing a sustainable pattern of development that will reduce the dependency to travel by car to reach basic services. The proposal would not comprise of any of the types of development requiring a rural location identified in Policy SS2. Furthermore, it would not accord with the NPPF at paragraph 79 by virtue of not being within a smaller settlement or village. NPPF paragraph 80 states that isolated homes in the countryside should be avoided unless there are particular circumstances. The appeal proposal would not constitute one of exceptions listed at sub-points (a) to (e) of paragraph 80.

⁴ Planning Practice Guidance (PPG) 2a-015-20140306

Other Matters

15. I note, notwithstanding Policies SS1 and SS2, that housing developments have been allowed on appeal where material considerations have indicated otherwise. There is limited information before me on the particular in those schemes and how comparable they are to the appeal location. In any event, each appeal must be determined on its own circumstances and merits. That said, I note in the 2019 Hindolveston appeal⁵ and the 2021 North Walsham appeal⁶ submitted by the appellant those sites were edge of village and edge of town locations respectively. That is in notable contrast to this case, and so limits their applicability.
16. The appeal proposal is for a self-build dwelling. The appellant submits that the Council is not granting sufficient permissions to meet its duties under the Self-Build and Custom Housebuilding Act 2015 (*the Act*) and that the development plan does not address the matter of self-build such that the 'tilted balance' at paragraph 11(d) should be engaged. On the first point, the evidence indicates that the LPA has not granted sufficient permissions for self-build plots to meet its duty under the Act. It is unclear, however, whether the appellant has applied to be on the Council's self-build register. As such, I give only moderate weight to the benefit of the self-build nature of the appeal proposal in assisting to meet a particular housing need.
17. In respect of the second point, the development plan contains policies to facilitate the delivery of housing, which could include appropriately and sustainably located self-build plots. Whilst I note the contents of the Woodville appeal decision⁷, numerous individual and small-scale windfall plots have the potential to be classified as 'self-build', even if they are not being implemented by persons on the Council's register or have not been specifically secured through a legal agreement. As such, there are relevant policies against which to determine self-build proposals. Moreover, there is little in either the NPPF (paragraphs 79 and 80) or the relevant PPG chapter (including paragraph 57-025-20210508) to advocate that the provision of self-build housing should be disengaged from the over-arching objective to focus most new housing in rural areas into settlements as part of a spatial strategy to secure a sustainable pattern of development or to consider 'self-build' a type of 'rural exception housing' suitable for isolated locations.
18. In respect of facilitating a new home in a countryside location, the appellant refers to both permitted development under Class Q of the Town and Country (General Permitted Development) (England) Order 2015 (as amended) and dwellings of exceptional design quality as comparable scenarios as a fallback position. Class Q relates to the conversion of existing, structurally sound agricultural buildings and so enables the re-use of existing resources in the countryside, rather than new build. Rural dwellings of exceptional design are relatively few and far between reflecting the very high design bar required. I therefore attach negligible weight to the asserted fallback position.

⁵ APP/Y2620/W/20/3222639

⁶ APP/Y2620/W/21/3268526

⁷ Appellant Statement of Case Appendix 3

Planning Balance and conclusion

19. Whether or not the LPA can demonstrate a deliverable five-year housing land supply was recently considered in some detail as part of a recent June 2021 Inquiry appeal⁸ which concluded that the LPA, at the time it submitted its statement of case for this appeal, could demonstrate a housing land supply of 5.16 years. However, as stated above, a very recent appeal hearing decision in the District has found that the Council's deliverable supply position is likely to now be somewhere between four and five years⁹. Whilst I have relatively few details about the evidence presented at the Briston hearing, I note that the LPA does not dispute the decision or present alternative evidence, having been invited to comment as part of this appeal. As such, I have no reason to find contrary to the more recent Briston appeal in this case and conclude that there is presently not a five-year supply of deliverable housing land. Accordingly, having regard to footnote 8 to paragraph 11(d) of the NPPF the development plan policies which are most important for determining the application are out-of-date.
20. As such the tilted balance at paragraph 11(d)(ii) of the NPPF is engaged. This does not change the statutory status of the development plan as the starting point for decision-making. It is also important to recognise that where development plan policies are out-of-date this does not mean they have no weight in the decision-making process. The LPAs decision notice refers to Core Strategy Policies SS1, SS2 and SS4. These are the most important policies for determining this appeal proposal.
21. Turning first to the benefits. At one dwelling, the appeal proposal would make only a modest contribution to the shortfall in deliverable housing land supply and such the weight to any social benefit would be limited. As set out above the proposal would have a moderate benefit as a 'self-build' dwelling, the particulars of which could be secured at the 'Technical Details Consent' stage. In terms of economic benefits, the appellant contends that the dwelling would assist in furthering the growth of the smallholding business but there is very little to demonstrate this, such that I can only give this potential economic benefit very limited weight. Similar would apply to the very limited economic and social benefit to supporting facilities in High Kelling as set out in paragraph 8 above. There would also be only limited, short-term economic benefits arising from the construction of one dwelling.
22. With regards to Policies SS1 and SS2 and their approach to carefully managing development in the countryside, various appeal decisions in North Norfolk have been submitted which have dealt with this issue. From my reading of the policies, they appropriately reflect NPPF paragraph 79 to focus rural housing to locations where it will enhance or maintain the vitality of rural communities. Furthermore, Policy SS2 is broadly consistent with NPPF paragraph 80 on what types of isolated housing development should be permitted in the countryside. The policies do not present a blanket ban (or 'red flag') on new housing in the rural areas. They echo: NPPF paragraphs 11(a) and 79 in terms of promoting a sustainable pattern of development, including supporting rural settlements with local services; NPPF paragraphs 78 and 79 in terms of supporting housing developments to meet local needs in rural areas; and NPPF paragraph 174 in terms of recognising the intrinsic character and beauty of the countryside. Of

⁸ APP/Y2620/W/20/3248468, paragraph 29

⁹ APP/Y2620/W/21/3256225, paragraphs 21 and 22

all the recent appeal decisions presented to me, I give particular weight to the recent inquiry decision at Holt¹⁰, given the requisite degree of scrutiny and examination. Similarly, and for the reasons set out above, I share the conclusions of that decision at paragraphs 41-45, that Policies SS1 and SS2 are consistent with the NPPF. These policies should therefore retain significant weight in the decision-making process in terms of securing sustainably located housing development in North Norfolk.

23. In respect of Policy SS4, which is a generic environment policy, the introductory text to the policy identifies the need to reduce carbon emissions and the role of the spatial strategy (Policy SS1) in reducing the need to travel as part of this. This approach is entirely consistent with NPPF paragraph 11(a) which requires all plans to promote a sustainable pattern of development, including amongst others, in order to mitigate climate change. It is also consistent with NPPF paragraph 152 which says the planning system should support the transition to a low carbon future in a changing climate, including, in ways that contribute to radical reductions in greenhouse gas emissions. Accordingly, the environmental objectives of strategic policies SS1 and SS4 are consistent with the NPPF and should be given significant weight.
24. The appeal proposal would not be sustainably located. It would be contrary to relevant development plan policies most important for determining the proposal including the over-arching spatial strategy which seeks to avoid unsustainable development of housing in the countryside, away from existing settlements. Consequently, the harm arising from the conflict with the relevant development plan policies would be significant.
25. I therefore conclude that the modest, cumulative benefits identified would be significantly and demonstrably outweighed by the adverse impacts of the social and environmental harms arising from an isolated dwelling in the countryside which the development plan and national planning policy seeks to avoid. As such there are not the material considerations, including the application of the tilted balance, to indicate that the appeal decision should be other than in accordance with the development plan. Consequently, for the above reasons set out above, and having had regard to all other matters raised, the appeal should be dismissed.

David Spencer

Inspector.

¹⁰ APP/Y2620/W/20/3248468