



Appeal Decision

Site visit made on 30 November 2021

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17/01/2022

Appeal Ref: APP/Y2620/W/21/3276085

Land at Barons Meadow, Barons Hall Lane, Fakenham NR21 8HB

- 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 RPF Norfolk Ltd against the decision of North Norfolk District Council.
 - The application Ref PO/20/0887, dated 4 June 2020, was refused by notice dated 16 December 2020.
 - The development proposed is described as 'Outline planning application for the erection of two detached dwellings'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks outline planning permission with details of access sought for approval. The detailed matters of appearance, landscaping, layout and scale are reserved for subsequent consideration. Therefore, I have considered the footprint and layout of the buildings shown on the proposed site plan on the basis that they are shown for indicative purposes only.
3. In the period since the appeal was submitted the Government has published the revised National Planning Policy Framework July 2021 (the Framework) which is being brought into immediate effect for the purposes of decision-making. The main parties have been provided with an opportunity to comment and I have assessed the proposal on the basis of the Framework as revised.
4. My attention has been drawn to the 'North Norfolk First Draft Local Plan (Part 1) Alternatives Considered' (emerging LP) and in particular Policies SD 1 (Presumption in Favour of Sustainable Development) and SD 3 (Settlement Hierarchy) of this document as well as a proposed housing allocation to the west / south west of the appeal site. However, from the evidence before me the emerging LP is not at an advanced stage. Given that I am unaware of any unresolved objections or requirements for further modifications or consultation, I have only attached limited weight to these policies and the proposed housing allocation in my assessment.

Main Issue

5. The main issue is whether the appeal site would be a suitable location for the proposed development, having regard to the development plan and national policy.

Reasons

6. The evidence before me indicates that the appeal site is located adjacent to but outside the settlement boundary for Fakenham. In this regard, there is no dispute between the main parties that the appeal site sits in an area designated as countryside for the purposes of decision making.
7. Policy SS 1 (Spatial Strategy for North Norfolk) of the North Norfolk Core Strategy (2008) (CS) identifies Fakenham as one of the District's principal settlements where the majority of new commercial and residential development in the area will take place. Outside the settlements listed, the policy confirms that the rest of North Norfolk is designated as countryside and that development will be restricted to particular types of development that would be appropriate in these areas. The supporting text to the policy at Paragraph 2.4.13 confirms the reasons that new market housing in the countryside is restricted, including that it is to ensure a more sustainable pattern of development.
8. Policy SS 2 (Development in the Countryside) of the CS states that in areas designated as countryside, development will be limited to that which requires a rural location. The proposal does not fall under any of the development types listed.
9. Even though the Framework is not explicit in terms of the types of development considered appropriate in the countryside, the list of development types under the above policies is reasonably extensive. The Framework sets out amongst other things that the purpose of the planning system is to contribute to the achievement of sustainable development and there is nothing in the Framework to indicate that the definition of settlement boundaries is no longer a suitable policy response. In this regard, I find that the overall aims of Policies SS1 and SS2 are consistent with the plan-led approach endorsed by the Framework and the proposal's location in the countryside and outside the settlement boundary means it clearly conflicts with the spatial strategy.
10. I acknowledge that the services and facilities available within Fakenham would be easily accessible from the appeal site. The proposal also has the potential to result in some modest economic and social benefits for the area associated with the development of the site and its future occupation. However, the same could be said for many sites which sit adjacent to settlement boundaries. Such factors do not on their own mean that a site is suitably located having regard to the strategic objectives of the LP to direct new market housing to within defined settlement boundaries.
11. The appellant has drawn my attention to a site which lies to the west/south west of the appeal site which is proposed for allocation for 35-55 dwellings in the emerging LP. I acknowledge that such development has the potential to alter the development pattern close to the appeal site. I also accept that the direction of travel in the emerging policies referred to in the 'Preliminary Matters' of this decision is more supportive of small scale development in the countryside on previously developed land which would result in the rounding off of a predominantly built up area. However, there is no certainty at this stage that the policies or proposed allocations in the emerging LP will be adopted in their current form. Therefore, whilst I have given regard to these matters, I afford greater weight to the adopted policies of the development plan.

12. I conclude the countryside is not a suitable location for the development as it would undermine the strategic objectives of the development plan and would conflict with the sustainable development principles and plan-led approach endorsed by the Framework.

Other Considerations

13. My attention has been drawn to another appeal¹ in Holt which was decided on 3 June 2021. This appeal confirmed that the Council was able to demonstrate a 5.16 year housing land supply. There is no substantive evidence before me to indicate that factors, including any effect on housing delivery as a result of the Covid-19 pandemic, have since taken the housing land supply below 5 years. Even if the supply is only marginally above the 5-year requirement, two dwellings would make a limited contribution towards the District's housing requirements.
14. The Framework encourages the use of previously developed land, and sites that are physically well-related to existing settlements where suitable opportunities exist. Annex 2: Glossary of the Framework defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the development land. However, the definition also confirms that it should not be assumed that the whole of the curtilage should be developed.
15. On my site visit I saw the storage building associated with the grass seed business which is sited towards the north western corner of the appeal site. However, the site is predominantly grassed with a pond towards the south eastern corner and mature tree planting towards its boundaries. The layout provided whilst indicative shows that two dwellings along with any outbuildings and areas of hardstanding would be likely to extend into areas of the site that do not display a previously developed appearance. This somewhat diminishes the positive weight that I attach to the use of previously developed land.
16. The Council recently issued a Certificate of Lawful Existing Development² relating to the land which comprises the appeal site. This confirmed that on the balance of probabilities, the land has been used in connection with a grass seed business for a period in excess of 10 years. Having regard to the previous levels and types of traffic associated with the site, the proposal would be likely to have comparatively fewer traffic movements and would mainly relate to domestic sized vehicles as opposed to the sometimes larger vehicles associated with the former business use.
17. However, the appellant has confirmed that the level of trading has reduced and that the business no longer operates at full capacity. This is consistent with my observations on site that any business activity on the site now appears to be low-key. There is no substantive evidence to indicate that there is a significant probability that the grass seed business would return to previous levels of activity should this appeal be dismissed or even if it did that it would be materially harmful given previously established relationships. Furthermore, there is nothing to suggest that the land could be put to an alternative business use without planning permission. Therefore, I only attach limited weight to the

¹ APP/Y2620/W/20/3248468

² LPA ref. CL/21/2576

potential fallback position of the continued use of the site as a grass seed business.

18. I acknowledge that the development would sit in close context to the existing built environment in Fakenham and that the Council has not raised any specific concerns relating to other planning matters including the effect on the character and appearance of the area, neighbouring living conditions, biodiversity, flood risk and highways. However, the acceptability of these other planning requirements carries neutral weight.

Conclusion

19. In accordance with the requirements of s38(6) of the Planning and Compulsory Purchase Act (2004), the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise.
20. Two dwellings would make a limited but positive contribution to the Council's housing requirements. I attach some positive weight to the reuse of previously developed land and the removal of commercial activity from the site, albeit the positive weight I attach to these matters is limited for the reasons already set out above.
21. The above matters need to be considered in the context that the Council can demonstrate a 5-year housing land supply and therefore, there does not appear to be an urgent need to release land outside the settlement boundary for housing. The development of two dwellings in the countryside would conflict with the spatial strategy for the area and for that reason would not deliver a sustainable form of development. This is a matter to which I afford great weight and which tips the balance firmly against the proposal. No further material considerations have been advanced of sufficient weight to justify a decision other than in accordance with the development plan which in terms of the above cited policies the appeal scheme would clearly conflict. Therefore, for the reasons set out, I conclude that this appeal should be dismissed.

M Russell

INSPECTOR