
Appeal Decision

Site visit made on 29 November 2021

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

an Inspector appointed by the Secretary of State

Decision date: 17th January 2022

Appeal Ref: APP/F2605/W/21/3273902

The Oaks, Fakenham Road, Tittleshall, PE32 2PH

- 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 Mike Gathercole against the decision of Breckland Council.
 - The application Ref: 3PL/2021/0041/O, dated 12 January 2021, was refused by notice dated 9 March 2021.
 - The development proposed is a proposed new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks outline planning permission with all matters reserved for future consideration. I have considered the appeal on this basis and have treated the plans as illustrative.
3. A revised National Planning Policy Framework (the Framework) was published on the 20 July 2021. The Framework represents the Government's up to date planning policies and how they should be applied. The Council's decision notice refers to paragraph 127 which has been replaced by paragraph 130 of the Framework. The parties have had opportunity to comment on the revised Framework and its implications of this for their case.

Main Issues

4. The main issues are:-
 - i) whether the appeal site would be an appropriate location for the proposed development having regard to the development plan;
 - ii) the effect of the proposed development on the character and appearance of the area; and
 - iii) the effect of the proposed development on a protected hedgerow.

Reasons

Settlement strategy

5. Policy GEN05 of the Breckland Local Plan (2019)(LP) seeks to steer most new development to Key Settlements, Market Towns, Local Service Centres and Villages with Boundaries in order to protect the intrinsic character and beauty of the countryside. It identifies those areas where growth will be acceptable in principle. The appeal site lies within the settlement of Tittleshall which is

identified as a '*village without a boundary*' and is therefore not a location to which new development is generally directed. However, LP Policy GEN05 is permissive of limited development outside of defined settlement boundaries. Development in such locations will only be acceptable where it is compliant with all relevant policies set out within the development plan.

6. One such policy is LP Policy HOU05 which provides for '*sensitive infilling and rounding off of a cluster of dwellings to an existing highway*' outside of settlement boundaries subject to the satisfaction of several criteria. However, the proposal cannot be described as infilling as it adjoins built development only on one side. The presence of garden land to the opposite side of the site does not provide adequate justification.
7. Similarly, albeit the appeal site can be considered as partially developed land by reason of the site forming part of the existing garden curtilage of The Oaks, the appeal scheme would not amount to rounding off of the settlement. A new dwelling in this location would not complete the local road pattern nor would it complete an existing incomplete group of buildings, rather it would extend built form along Barton's Lane. For these reasons, I conclude that the appeal scheme would fail to satisfy the provisions of LP Policy HOU05.
8. Therefore, the appeal site is not a location to which new development should be directed and to do so would undermine the spatial strategy of the LP. There would be conflict with LP Policies GEN05 and HOU05, the requirements of which are set out above.

Character and appearance

9. The appeal site forms part of the rear garden of The Oaks, a single storey dwelling forming one of a small group of properties positioned in a broadly linear pattern of development to the west side of Fakenham Road. These dwellings mainly occupy large plots, are well spaced and are positioned towards the front of their plots with sizeable gardens to the rear. Garden boundaries are mostly defined by mature hedgerow punctuated with trees, particularly where they adjoin Barton's Lane, a narrow rural lane which is predominantly characterised by open fields, hedgerow and countryside. Overall, the area displays a spacious and rural appearance.
10. Although there is hedgerow along the site's boundary adjacent to the highway, its condition, as observed at the time of my site visit is sparse in parts and together with the existing opening there are partial views of the site from the highway and the countryside to the north. Taken together with the neighbouring garden of Maple Lodge these areas provide a gradual transition between the more built-up parts of Tittleshall and the open countryside to the north and west. The undeveloped and open nature of the site contributes to the open and rural character and setting of the village.
11. Although the appeal scheme is capable of being designed to have a frontage to the highway, the introduction of a new building on the site to the rear of The Oaks would be at odds with the prevailing pattern of linear development. It would intensify the pattern of built form along Barton's Lane 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 distinctive rural character and appearance of Barton's Lane.

12. Based upon my observations, it is likely that some existing hedgerow would need to be removed to facilitate the necessary visibility splays of the vehicular access. The provision of an improved access to serve the proposed development would open up views of the site from Barton's Lane and reduce the extent of screening that soft landscaping could provide.
13. Even if the dwelling were to it were to be single storey as suggested by the appellant, the dwelling is likely to be visible from neighbouring dwellings and their gardens together with public vantage points including along Barton's Lane, which I am advised is used by walkers, including those exercising dogs and horse riders, particularly during the winter months when foliage is less dense. Therefore, the presence of the existing hedgerow, even if it were to be supplemented with additional planting would be insufficient to mitigate the adverse visual impact of a permanent dwelling in this location. In addition, the proposal would be readily visible in views through the access opening.
14. Whilst Taw Brook has an existing access onto Barton's Lane, the dwelling nonetheless reads as part of the group of linear development along Fakenham Road and its presence does not justify the appeal scheme.
15. For these reasons, I conclude that the proposed development would give rise to a significant adverse effect on the character and appearance of the surrounding area. Thus, it would conflict with LP Policies HOU05, GEN02 and COM01. Among other things, these policies require high quality design that respects and is sensitive to the character of the surrounding area. In addition, the proposal would conflict with paragraph 130 of the Framework which seeks to ensure developments are sympathetic to local character including the surrounding built environment and landscape setting.

Hedgerow

16. Whilst matters of access are reserved for future consideration, the appellant confirms that *'access will have to be onto Barton's Lane'¹* and in such circumstances any access, even if it were to utilise the existing opening, would likely result in the removal of some hedgerow, or a considerable reduction in its height.
17. It is the Council's case that the hedgerow is protected as defined by the Hedgerow Regulations 1997. However, the Council's submissions regarding this matter are brief and the appellant's argument on this point is not unreasonable given that, in my view, the hedgerow adjoins garden land.
18. Even if I were minded to conclude that the hedgerow did not meet the criteria to be considered as 'protected' hedgerow, LP Policy ENV 06 nevertheless recognises the importance that hedge and shrub masses contribute to the green infrastructure network and it requires their retention as an integral part of the design of development.
19. It has not been put to me that the long term survival of the hedgerow would be compromised by its age or physical condition. Whilst exceptional and overriding benefits of the appeal scheme in accepting the loss of the hedgerow have not

¹ Appellant Statement of Case paragraph 4.4.

been put to me, the precise extent of hedgerow to be removed or reduced in height is unclear given the outline nature of this proposal. In the absence of a detailed landscaping scheme, which I accept would be capable of forming part of a reserved matters application, any proposed replacement cannot be fully assessed, as part of this appeal, to consider its adequacy in mitigating the impact of the proposal.

20. Therefore, based on the evidence and submissions before me at this time, I am not persuaded that the hedgerow concerned satisfies the requirements of 'protected hedgerow' such that there would be conflict LP Policy ENV06, the aims of which are set out above.

Other Matters

21. Reference has been made to a similar development² at Kenninghall. However, this proposal concerned the replacement of an existing building which the Inspector concluded would amount to a 'rounding off of a hamlet consistent with Policy HOU05 of the LP. This differs from my findings above and consequently the circumstances of that scheme are not directly analogous to the appeal proposal. Reference is also made to a number of other sites within the district where similar development has been approved. However, little detail has been provided regarding these developments. As such, a comparison of these schemes is of limited relevance in this instance and I have considered the appeal before me on its individual planning merits.
22. Whilst matters of layout and scale would be reserved for future consideration as part of a reserved matters application, given the substantial size of the plot I consider that it would be possible for adequate outdoor amenity space to be retained by the host dwelling and that a careful design would ensure the privacy, outlook and light of neighbouring occupiers.
23. I note that the appeal site is not located within a conservation area nor within proximity of any site identified for its special historic or natural relevance. No harm has been identified by the Council with regards to highway safety and ecology. However, the absence of harm is a neutral factor that weighs neither for nor against the proposal.
24. The proposal would avoid the loss of valuable agricultural land and make use of previously developed land, which is supported by the Framework. Future occupants of the proposed dwelling would have access to a daily bus service and the services of nearby Litcham. However, the introduction of one additional dwelling would make only a very modest contribution to housing supply and enhancing or maintaining the vitality of the rural community.
25. Although the appeal scheme could be capable of being constructed as a self-build scheme, which Government policy is strongly supportive of, there is no evidence before me that ensures that it would be self-built. In the absence of such evidence, there would be no restriction preventing the scheme from evolving into a different type of development. I therefore attach minimal weight to this benefit of the proposed scheme.

² APP/F2605/W/20/3259390 - Dam Green Farm, Fersfield Road, Kenninghall.

Conclusion

26. Whilst I have concluded that, as an outline application, there would be no conflict with LP Policy ENV06, there would nevertheless be harm arising as a result of the appeal scheme's effect on the character and appearance of the area and conflict with the spatial strategy of the development plan. Whilst I have had regard to the material considerations in favour of the scheme, these do not outweigh the conflict with the development plan. I therefore conclude that the appeal is dismissed.

E Brownless

INSPECTOR

