



Appeal Decision

Site visit made on 14 February 2022

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25/02/2022

Appeal Ref: APP/L2630/W/21/3281109

Tindall House, Toad Lane, Mundham, Norfolk NR35 2EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs A Green against the decision of South Norfolk District Council.
 - The application Ref 2020/2280, dated 26 November 2020, was refused by notice dated 8 June 2021.
 - The development proposed is the erection of 5 no. eco-friendly dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council issued its decision a revised version of the National Planning Policy Framework (the 'Framework') has been published. The parties had an opportunity to address this through their final comments.

Main Issues

3. The main issues in this appeal are:
 - Whether the appeal site is a suitable location for the proposed development with reference to the spatial strategy in the development plan;
 - The accessibility of services and facilities;
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on highway safety, with particular reference to visibility.

Reasons

The spatial strategy

4. Policy DM 1.3 of the DMP¹ sets out a planned strategy for development in the district. It flows from the policies of the Joint Core Strategy² and seeks to guide new development to sites within defined settlement boundaries to protect the countryside and promote sustainable patterns of development.

¹ South Norfolk Local Plan Development Management Policies Document 2015

² Greater Norwich Development Partnership Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011, amendments adopted January 2014

5. The appeal site is located to the west Thwaite, but it is not physically part of this small village due to the distance and the presence of intervening countryside which is sparsely populated and rural in character. As such, the appeal site is in an isolated location. It is therefore justifiably outside a defined settlement boundary and designated as countryside in the development plan.
6. Policy DM1.3 of the DMP states that development outside defined settlement boundaries will only be granted where specific development management policies allow for it, or there are overriding benefits in terms of the economic, social and environmental dimensions of the proposal. In this context, I have seen nothing of substance to suggest the proposal would adhere to a specific development management policy that would otherwise permit housing in the countryside. As such, the proposal fails the first relevant test in Policy DM1.3.
7. As will become evident, I have engaged the 'tilted balance' in Paragraph 11d) of the Framework. In so doing I have concluded that the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits. It therefore follows that the proposal would not have overriding benefits.
8. Accordingly, the appeal scheme would be contrary to Policy DM1.3 of the DMP and thus harmfully undermine the adopted spatial strategy in the development plan. Consequently, the appeal site would not be a suitable location for the appeal scheme with reference to the spatial strategy in the development plan.

The accessibility of services and facilities

9. The closest settlement to the appeal site is Thwaite, but it is a very small village located some distance away. The services available are few in range. The nearest settlements with a collection of services and facilities include the service villages of Smeeth and Woodton as well as Ditchingham and Lodden. They are around 1.5 to 3 miles away though. This is beyond a comfortable walk, especially when accounting for a return trip. The nature of the walk would also be off putting, being along indirect rural lanes and some apparently busy roads. This would be especially so for those with young children or mobility difficulties. Such a route would be particularly unsuitable during inclement weather or in the dark. As a result, walking is not a realistic regular alternative to private motorised transport.
10. It would be possible to cycle to nearby services on occasion, but the distance and cycling environment, with narrow lanes and fast-moving traffic, would suppress the attractiveness of this mode of transport as well. In any event, given the remoteness of the site it would be unwise to rely on future occupants having the high levels of confidence, fitness and proficiency needed to regularly cycle as an alternative to private motorised transport. Moreover, I have not been presented with evidence demonstrating that cycling is a popular mode of transport amongst existing residents in the wider area, which could otherwise be an indicator that cycling is a locally realistic alternative to car travel for trips such as commuting to work and school.
11. I have not been presented with details of any bus stops/services near to the appeal site other than those in Seething and Woodton, which are not a comfortable walking distance away. The Local Highway Authority justifiably defines a comfortable walk to a bus stop as 800m, which the proposal's siting would exceed by some way. Thus, the evidence before me does not

- demonstrate bus travel to be a realistic alternative to private cars. Similarly, details of any community transport service and how it works are not before me.
12. The Framework identifies ultra-low and zero emission vehicles as a mode of sustainable transport. In this regard it would be possible to construct electric vehicle charging points as part of the development. However, there would be no requirement on future occupants to use electric vehicles. Furthermore, reliance on a single mode of transport would also undermine the personal and economic resilience provided by travel choices.
 13. Thus, the appeal site is in a location remote from everyday services and facilities. The consequence of this is that future occupants would be reliant on private motorised transport. Individual car journeys could be short, but they would soon cumulatively add up over the life of the development. TRICS³ data provided by the Local Highway Authority (LHA) indicates that each home could generate six vehicle movements per weekday. As a result, the miles travelled, and associated carbon emissions, would not be insignificant. Moreover, future occupants would not gain the health benefits from active travel. As a result, the appeal site is poorly located away from services and facilities.
 14. In reaching this view I have carefully considered the list of services and facilities in Paragraph 7.13 of the appellant's appeal statement. However, many of these are some distance from the appeal site or are unlikely to be used regularly, such as a brewery, observatory, or camp site. The facilities are also dispersed around the rural area which would likely encourage car travel.
 15. As a material consideration, the appellant has pointed to Paragraph 105 of the Framework, which states that opportunities to maximise sustainable transport solutions will vary between urban and rural locations. However, I read this as an indication that an element of car travel may be necessary in rural areas, as sustainable transport options in such locations are unlikely to be as comprehensive as in urban areas, and therefore cannot be maximised. This guidance is not, in my view, a promotion of car dependency, which would be the practical effect for the future residents of the appeal scheme.
 16. Notwithstanding that each application should be considered on its own merits, the appellant has referred to several appeal decisions, the full details of which are not before me, including the evidence presented and the cases made. In respect of APP/L2630/W/15/3003743 it is unclear what evidence was available to the Inspector and whether they had regard to the cumulative number of journeys that would occur from siting a residential development 3-4 miles from services and facilities. The same can be said of some of the other decisions referred to. I have already explained that each of the proposed dwellings would likely generate around six trips each weekday, and this would be a significant level of motorised travel over the lifetime of the development.
 17. In respect of APP/F2605/W/16/3148954 the Inspector stated that future residents would be rely on journeys by car for 'the most part', which suggests they would not be entirely car reliant, which would otherwise be the case in respect of the scheme before me. In APP/D305/W/18/3196882 the Inspector found that the site was within a small settlement⁴. This was also the case at

³ Trip Rate Information Computer System

⁴ A similar finding occurred in APP/K2610/W/20/3259971, as the appeal site was close to a settlement

Gusestwick⁵. The Framework generally supports housing in rural settlements. Moreover, the former site was close to a bus stop, as was the case at Brooke⁶. The Brooke site was also close to the services and facilities in the village. That is not the case in respect of the appeal scheme before me. At Adam and Eve House⁷ the appeal site was close to the Bure Valley Railway Path and in respect of Broad Lane⁸, facilities were within walking distance, as was the case at Land East of Oak Dene⁹ and 90 Lower Road¹⁰.

18. The Besthorpe scheme¹¹ was a proposal for a single dwelling within 480m of a bus stop with a regular bus service to the large settlement of Attleborough accessed along a footpath. The site was also found to be close to a settlement. This was also the case at Land at the Manor¹². The Council had only one area of concern and the tilted balance in the Framework was engaged. This is a different set of circumstances to the proposal before me. The appeal decision at Browston¹³ concluded that there would be harm from the site's location remote from services and facilities. None of these decisions suggest I should reach a different conclusion in respect of the proposal before me, because the circumstances are seemingly different.
19. In conclusion, the appeal site would not be well related to services and facilities even when accounting for its rural situation and therefore the proposal would be contrary to Policies 1 and 6 of the JCS¹⁴ and Policy DM3.10(1) of the DMP, which seek to secure development that supports sustainable transport, minimises the need to travel and gives priority to low impact modes of travel such as walking and public transport.

The effect on the character and appearance of the area

20. The appeal site is located next to an existing dwelling and a small brewery but is otherwise in an area dominated by fields, woodland, and hedges. The environs are rural and tranquil in character with a verdant and bucolic appearance. Residential development along Toad Lane is very sparse and where it does infrequently occur usually takes the form of one or two dwellings set in mature and verdant plots. The nearby Seething Airfield incorporates a scattering of buildings, including a museum in the control tower. But this has not significantly altered the overriding rural character of Toad Lane.
21. The appeal scheme is for the erection of five reasonably large homes and their associated garages arranged in a cul-de-sac served by a long access road. As a comparatively large group of dwellings the appeal scheme would be out of place in the context of Toad Lane. It would also have a discordant suburban character given the layout and proliferation of garages. This would be the case despite the presence of some pleasing landscaping details along the access drive, which would include wildflower meadows and trees.

⁵ APP/K2610/W/20/3260052

⁶ See Paragraph 7.30 of the appellant's appeal statement

⁷ APP/K2610/W/20/3259971

⁸ APP/K2610/W/20/3264372

⁹ APP/K2610/W/20/3255135

¹⁰ APP/K2610/W/21/3270643

¹¹ APP/F2605/W/18/3198911

¹² APP/L2630/W/20/3263886

¹³ APP/U2615/W/19/3227820

¹⁴ Greater Norwich Development Partnership Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011, amendments adopted January 2014

22. The new homes would be visible from Toad Lane despite the setback and extent of landscaping. In any event, existing soft landscaping would be eroded by the construction of the new access road and the establishment of visibility splays. Two of the properties would be single storey but the development overall would still be visible from the lane where the encroachment into the countryside would appear strident and out of place.
23. The proposal would be low in density, but it would project out into the undeveloped land beyond Tindall House in a sprawling and incongruous way. Some of the properties would have a barn style aesthetic, but due to the modern detailing¹⁵ and suburban layout, the development would not appear convincingly as a group of buildings in a farmstead context. Close boarded fencing would be a further suburbanising visual detractor, but I share the view of the appellant that it could be conditioned out in lieu of hedges had the scheme been otherwise acceptable.
24. In conclusion, the proposal would significantly harm the character and appearance of the area. It would therefore be at odds with Policies 1 and 2 of the JCS and Policies DM1.4, DM3.8 and DM4.9 of the DMP, which together seek to secure high quality contextually appropriate design.

The effect on the highway network and highway safety

25. Toad Lane is reasonably straight in the vicinity of the appeal site and is subject to a 60mph speed limit. However, it is a narrow rural thoroughfare flanked along much of its route by thin highway verges and thick hedges. Accordingly, this side friction means the recorded 85th percentile speed is around 39mph (62 km/h) and 40.3mph (64.85 km/h). Guidance in Manual for Streets states that where the 85th percentile speed is over 60 km/h, it may be appropriate to use longer safe stopping distances, as set out in the Design Manual for Roads and Bridges (DMRB). Local guidance prepared by Norfolk County Council also states that a street becomes a road when the 85th percentile speed exceeds 60 km/h.
26. However, Manual for Streets 2 states that unless there is local evidence to the contrary, a reduction in visibility below recommended levels will not necessarily lead to a significant problem. Evidence supplied by the appellant indicates that the lane is lightly trafficked, despite being designated as a 3B1 HGV Access Route, and has been subject to only one accident in the past 22 years. The accident was not related to visibility at an access. Accordingly, local evidence indicates there is no significant problem.
27. Given the above, the Council, informed by the LHA, are seeking visibility splays based on the DMRB but reduced, due to the site context, to the 'one step below standard' of 90m. The appeal scheme could broadly achieve this to the east as there would be an 87m splay. However, to the west the splay would be 57m. This would be close to the desired visibility threshold in Manual for Streets but not the one step below DMRB standard of 90m.
28. I share the view of the appellant that it would be overly onerous to apply the 90m visibility splay standards derived from the DMRB in this instance. This is because the guidance in Manual for Streets would be more appropriate, as Toad Lane is not a truck road and is instead lightly trafficked and rural in nature. A balance also needs to be struck between the risk of an accident and

¹⁵ Such as balconies, large areas of glazing and domestic looking windows

the impact on the character and appearance of the area from requiring extensive visibility splays. In this instance the balance is towards the shorter splays. Moreover, the splay to the west would be the non-critical direction and could therefore be calculated as being 79m if taken to the centreline of the carriageway. This provides me with some added reassurance that visibility at the access would be adequate. The Tindall Brewery entrance is also substandard by some way but has apparently operated without incident.

29. As a result, I am satisfied the proposal would provide a proportionately safe and suitable access because there would be adequate intervisibility between motorists. Accordingly, I conclude the proposal would not harm highway safety and therefore a conflict with Policy DM3.11 of the DMP would not occur.

Other Considerations

30. The appellant submits that the tilted balance in Paragraph 11(d) of the Framework should be applied because Policy DM1.3 is out of date due to being overtaken by national policy in the Framework. However, the Framework does not prohibit the use of settlement boundaries and Policy DM1.3 advocates an approach that seeks to balance the need for rural housing whilst recognising the intrinsic character and beauty of the countryside and promoting sustainable transport. This balanced approach is therefore broadly consistent with the Framework. As a result, Policy DM1.3 is not out of date.
31. Even if it were, Policies 1, 2 and 6 of the JCS and Policies DM1.4, DM3.8, DM3.10 and DM4.9 of the DMP are also policies most relevant for determining the application and are broadly consistent with the Framework. Thus, as a collective basket, the policies most relevant for determining the application are not of date. The appellant's reference to an appeal decision at Horsford¹⁶ is of little relevance because Policy GC2 does not apply in South Norfolk. Nor have I seen the evidence that was presented to that Inspector.
32. The appellant also suggests that the Council are currently unable to demonstrate a five-year housing land supply. This proposition is supported by a technical assessment that submits the supply is 4.06yrs when adjusted to take account of the deliverability of sites, optimism bias, the windfall contribution and purpose-built student accommodation. The Council maintains that it has a five-year supply¹⁷ but has not rebutted these points. Thus, there is ambiguity over the five-year housing land supply position and therefore I have taken a precautionary approach and adopted the appellant's position for the purposes of my assessment. In such circumstances, Paragraph 11 of the Framework states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole.
33. A rigorous application of Policy DM1.3 would frustrate attempts to address the Council's current housing supply deficit. Hence, the conflict with the spatial strategy does not carry full weight. However, as the policy is broadly consistent with the Framework for the reasons already set out, the conflict with it carries moderate weight. The foregoing is of note because the proposal would not gather direct support from Paragraph 79 of the Framework, which seeks to

¹⁶ APP/K2610/W/20/3255135

¹⁷ A point supported in APP/L2630/W/20/3263037, APP/L2630/W/20/3263836 and APP/L2630/W/20/3261262. But it is unclear if the Inspectors in these cases grappled with the points the appellant has put to me.

deliver housing where it would enhance or maintain rural communities or provide opportunities for villages to grow and thrive. This is because the appeal site, although near a couple of buildings, is not physically part of a discernible settlement, rural community, or village, the nearest being Thwaite. In fact, the proposed dwellings would be isolated within the meaning of Paragraph 80 without adequate justification. Thus, in the context of this appeal, the development plan is not preventing housing that would otherwise be permitted by the rural housing policies of the Framework. For these reasons the guidance in the Planning Practice Guide¹⁸ is not especially relevant.

34. In addition, the proposal would significantly harm the character and appearance of the area contrary to development plan policies I have already set out. These policies are consistent with Paragraph 130 of the Framework, which seeks to secure development that is sympathetic to local character. Similarly, Policies 1 and 6 of the JCS and Policy DM3.10 of the DMP are consistent with the Framework's aim to promote sustainable transport. As a result, I afford the adverse impacts of the proposal significant weight.
35. Weighed against this is the spend from future residents, which may modestly support businesses and services in the area, albeit from a remote base. However, the practical effect of this has not been demonstrated. For example, evidence has not been provided to suggest local services and facilities are suffering for lack of patronage. Moreover, dispersing homes into the countryside could work against the economy of service provision. The support to the construction industry would be modest in scale and short lived. The economic benefits would therefore be of limited weight.
36. There may be some social benefits to the vitality of the rural community from future occupants joining local clubs and providing community capital. However, the evidence before me does not demonstrate there is a pressing need for this. As a result, this would also be a limited benefit, especially as the houses would be remote from any discernible settlement or community.
37. The contribution of five new windfall homes that could be constructed quickly would assist the Council in remedying the apparent housing deficit and help achieve the Government's aim to significantly boost housing supply, especially in the context of needing to respond to the Covid 19 pandemic. Given the modest scale of the proposal, the benefit would be of moderate weight. Furthermore, the proposal could involve measures that provide some modest net gains to biodiversity.
38. It is intended that the proposal would have a high environmental performance by incorporating several energy saving measures such as extra insulation and solar panels. However, substantive evidence is not before me to demonstrate the proposal would involve outstanding or innovative designs or that these measures would do more than partially mitigate the environmental impacts of constructing the dwellings. As a result, this is a neutral matter in the balance. The proposal is promoted as a 'self-build' development, but I have not been provided with details of any shortfall in this type of housing and, in any event,

¹⁸ Paragraph: 009 Reference ID: 67-009-20190722 - *that a wide range of settlements can play a role in delivering sustainable development in rural areas and therefore blanket policies restricting housing development in some types of settlement will need to be supported by robust evidence of their appropriateness.* The appeal site is not, however, in a settlement.

there is no robust mechanism before me to secure the houses as such¹⁹. As a result, this is a benefit of limited weight.

39. The proposal could facilitate employees of Tindall Brewery living close to their place of work, but there is no substantive evidence before me to indicate it is essential for them to do so for the proper functioning of the business. It is therefore a matter of very limited weight. The proposal would result in improvements to visibility at the existing Tindall Brewery access, but this attracts only limited weight because substantive evidence does not indicate that the use of the access has caused accidents.
40. Accordingly, the adverse impacts of the proposal would significantly and demonstrably outweigh its overall cumulative benefits. This does not indicate that the appeal should be determined otherwise than in accordance with the development plan.

Conclusion

41. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal has been dismissed.

Graham Chamberlain
INSPECTOR

¹⁹ In APP/L2630/W/20/3258481 a unilateral undertaking had been submitted to secure the homes for self-builders.