



Appeal Decision

Site visit made on 21 February 2022

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

an Inspector appointed by the Secretary of State

Decision date: 01 March 2022

Appeal Ref: APP/F2605/W/21/3276116

Woodfield House, Herne Lane, Beeston, PE32 2NE

- 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 Mr Henry Dennett against the decision of Breckland Council.
 - The application Ref: 3PL/2020/1387/F, dated 2 December 2020, was refused by notice dated 13 January 2021.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:-
 - i) whether the appeal site is a suitable location for residential development having regard to the settlement strategy of the development plan and the accessibility of services and facilities; and
 - ii) the effect of the proposed development on protected species.

Reasons

Settlement strategy

3. Policy GEN05 of the Breckland Local Plan (2019)(LP) directs new development to be located within settlement boundaries. Beeston is identified as a village with a boundary and the appeal site is located outside of its defined boundary. Therefore, for the purposes of applying planning policy, the appeal site lies within an area designated as countryside.
4. LP Policy HOU04 is permissive of some limited development beyond the settlement boundary although it must be located immediately adjacent to it. Although the appellant suggests that the appeal site forms part of a cluster of existing dwellings in a village fringe location, the appeal site is located some distance away from the defined boundary.
5. Furthermore, I consider that the appeal site is not well connected to the community as is required by LP Policy HOU04. Notwithstanding the presence of some nearby dwellings, the appeal site is located some 700 metres from the village, taking the appellant's measurements, which have not been disputed by the Council. In order to access the limited range of services and facilities within Beeston, the route would be along narrow rural lanes with a general absence of lighting and pedestrian footpaths. Pedestrians would need to walk within the

highway and, in the event of a passing vehicle, safe refuge would need to be taken within grass verges, some of which I observed to be narrow and overgrown in places. It seems to me that it would be highly unlikely that anyone with a young child, pushchair or wheelchair would attempt to walk these routes and the nature of the route would not encourage pedestrian use, particularly during inclement weather or at night.

6. Whilst the distance and nature of the route may not dissuade cyclists from accessing the village, Beeston consists of a limited range of services and facilities. These include a primary school, village hall, playing fields and a public house with an integral café and shop. Some limited employment opportunities are available nearby. Whilst these services and facilities would be capable of meeting some limited day to day needs of any future occupiers of the proposed dwelling, it is likely that future occupants would be likely to need to travel further afield to access a more comprehensive range of services and facilities. Whilst I am advised that Dereham comprises a wider range of services and facilities, it would be accessed via the A47 and a short car journey would be necessary. It has not been put to me that this route would encourage use by any sustainable modes of transport.
7. The National Planning Policy Framework (the Framework) recognises that opportunities to maximise sustainable transport solutions will not be the same in rural areas as in urban locations. Nevertheless, by reason of my findings above, I consider the location is not well served in terms of sustainable modes of transport and therefore, it is likely that the majority of journeys by future occupiers of the proposed dwelling would be made by private motor vehicle.
8. By reason of the above, I consider that the appeal proposal fails to satisfy the requirements of LP Policy HOU04. It follows that in the absence of anything to suggest that the appeal scheme would be consistent with any exceptional categories of development within the countryside as specified within LP Policy GEN05, I therefore find that the appeal site would not be a suitable location for a new dwelling given its inaccessibility to services and facilities and an undue reliance on the use of a private motor vehicle.
9. Accordingly, the proposal would fail to accord with LP Policies GEN01, GEN03, GEN05, HOU02 and HOU04 insofar as these policies seek to direct development towards the most sustainable locations in accordance with the settlement hierarchy. In addition, the proposal would fail to accord with the aims of the Framework insofar as it seeks to minimise the need to travel and offer a genuine choice of transport modes.

Protected species

10. Circular 06/2005 states that the presence of a protected species is a material consideration when a proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to state that it 'is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposal, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'. This is in tune with the Framework's aims to protect and enhance biodiversity. LP Policy ENV02 concerns the protection and enhancement of biodiversity and has similar aims to the Framework.

11. The circular sets out an expectation that the potential impact of the proposed scheme is well understood before planning permission can be safely granted. However, it also advises that ecological surveys should only be required where clearly justified, for instance, where there is a reasonable likelihood of species being present and affected by the proposal.
12. As part of the appeal, the appellant has undertaken a Preliminary Ecology Assessment (PEA)(April 2021). Whilst the existing building is noted to hold negligible potential for roosting bats, the PEA identifies that the site's remaining trees may provide bat roost and foraging habitat and given the presence of nearby water features further survey work for great crested newts is required to ascertain their status on the site and assess the impact of the proposed development. In addition, the barn owl box affixed to the rear of the building had not been properly surveyed.
13. Although the appeal scheme would retain the existing site trees and include measures such as additional planting, owl and bat boxes and hibernaculum, the PEA advises that the development has the potential to result in a number of negative impacts on local biological receptors and that further surveys are required to inform an impact assessment for some species, in particular great crested newts and bats.
14. I accept that there may be cases where it would be appropriate to deal with ecology matters by condition(s). However, given the potential for such species to be present and in adopting the precautionary principle enshrined in the Habitats Regulations, I consider that it needs to be clearly demonstrated why the proposed development would not have a detrimental effect on local habitat at this stage.
15. Without any evidence to the contrary, I therefore conclude that the proposed development would be in conflict with LP Policy ENV02 which requires development with the potential to affect biodiversity to demonstrate how such effects have been considered, by firstly demonstrating how effects have been avoided, and then how unavoidable effects have been minimised. In addition, the appeal scheme is contrary to the aims of the Framework which seeks to minimise the impact of development on biodiversity and halt its overall decline.

Other Matters

16. Reference has been made to several examples of development, both residential and commercial, outside of the defined settlement boundary for Beeston. There is limited information before me concerning the commercial scheme¹ and in any event, a commercial development is not analogous to the appeal scheme before me.
17. In addition, the approved housing scheme² was determined in accordance with policies of a superseded local plan and at a time when the Council were unable to demonstrate a five-year supply of housing. As such, the weight to be applied to any conflict with the development plan would have been different. As the Council are presently able to demonstrate an adequate five year housing land supply position, I attach full weight to the policies of the development plan. As such, a comparison between the two schemes is of limited relevance in this

¹ Planning Reference: 3PL/2019/0619/F

² Planning Reference: 3PL/2016/0269/O

instance and I have determined the appeal before me on its individual planning merits.

18. No adverse impact has been identified by the Council on the character and appearance of the area, the living conditions of neighbouring occupiers and highway safety. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.
19. One additional dwelling would make a negligible contribution towards the government's aim to boost housing supply. Whilst there would be economic benefits arising from the construction phase and through spending in services and facilities within the area, the benefits associated with the provision of one additional dwelling are very limited.
20. I note that the proposed dwelling would enable the appellant to downsize to a smaller property. Whilst the proposed dwelling would be capable of adaptation to meet changing future needs, personal circumstances rarely outweigh planning considerations and, in this instance, do not outweigh the harm I have outlined above.

Conclusion

21. In accordance with s.38(6) of the Planning and Compulsory Purchase Act, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Where a proposal conflicts with an up-to-date development plan, planning permission should not usually be granted. The proposed development would be contrary to LP Policies GEN01, GEN03, GEN05, HOU02, HOU04 and ENV02. The benefits of the proposed scheme would carry limited weight and they would not be sufficient to outweigh the conflict with the development plan.
22. For the reasons given above, the appeal is dismissed

E Brownless

INSPECTOR