



Appeal Decision

Site visit made on 7 March 2022

By Philip Mileham BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2022

Appeal Ref: APP/Y2620/W/21/3280566

Land off Sea Palling Road, Ingham, NR12 0TP, 639793, 326647

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Tom Coller against North Norfolk District Council.
 - The application Ref PF/21/0797, is dated 17 November 2019.
 - The development proposed is full planning for single detached dwelling, new driveway and access, tree and hedgerow planting and pond.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal has been made against a failure of the Local Planning Authority (LPA) to give notice within the prescribed period of its decision. However, the LPA has provided an indication of the matters in dispute and I have had regard to these issues in reaching my decision.
3. An application for costs had been made at the time the appeal was submitted but has subsequently been withdrawn, and as a result, I have not considered this matter further.
4. The appellant has submitted a draft unilateral undertaking that should this appeal be allowed and permission granted, the fallback would not be implemented and I have had regard to this below.

Main Issues

5. The main issues are:
 - Whether the proposal is in a suitable location for a new dwelling;
 - The effect of the proposed development on the character and appearance of the area; and
 - Whether sufficient information has been submitted to demonstrate that the proposed development would be located in an area at lowest possible risk of flooding.

Reasons

Suitable location

6. The appeal site is an area of agricultural land located outside of the village of Ingham. The site is adjacent to an unmade farm track and is partly bounded to the east by a mature hedge. There is no dispute between the parties that the proposed dwelling would be located outside of any settlement boundary. Policy SS1 of the adopted North Norfolk Core Strategy (2008) (NNCS) indicates that outside of designated settlements, development will be considered to be within the countryside, and as a result, in an area where new development will be restricted to particular types of development to support the rural economy, meet affordable housing needs and provide for renewable energy. Policy SS2 of the NNCS sets out the types of development that will be permitted in the countryside; however, this does not include the provision of market housing such as the appeal proposal. As such, the proposed development would fail to accord with the requirements of policies SS1 and SS2 of the NNCS.
7. The site is approximately 2.6km from the town of Stalham which has a range of services and facilities. Whilst there is a Public House around 800 metres from the site, and a farm shop 1,800 metres from the site, there would be no other services or facilities nearby. There is no nearby bus stop or regular bus services to larger settlements with a range of facilities. In addition, there is footpath or cycleway evident to link the site with the main part of the village of Ingham or the town of Stalham and no evidence of any streetlighting along Sea Palling Road which significantly reduces the attractiveness of the road for either walking or cycling, particularly outside daylight hours. As a result, future occupiers of the proposed dwelling would be heavily reliant on private vehicles in order to gain access to day-to-day services and facilities in larger settlements. Over time, the cumulative number of private vehicle trips from the proposed dwelling to access such services and facilities would be significant.
8. The appellant considers that a fallback exists for the conversion of a barn to a dwelling on a site in their ownership at Manor House Farm which was granted prior approval under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). The appellant has also submitted a draft Unilateral Undertaking which indicates that should this appeal be allowed and permission granted, the fallback would not be implemented and permitted development rights are proposed to be given up on the buildings. Therefore, the potential trips generated by the proposed development could be neutralised if the fallback permission were not implemented, mitigating the aforementioned harm in terms of private vehicle movements.
9. The proposed development would not be located in close proximity to any existing development, with the nearest dwelling around 200 metres away. As such, I consider the proposal would result in an isolated dwelling which paragraph 80 of the National Planning Policy Framework (NPPF) seeks to avoid. Furthermore, the proposal would not accord with the circumstances which may support isolated dwellings as set out in criteria a) to e) of paragraph 80 of the NPPF.
10. In light of the above, I conclude that the proposal would not be in a suitable location for new a new dwelling. As such, it would fail to accord with Policies SS1 and SS2 of the NNCS for the reasons set out above.
11. The proposal would also fail to accord with paragraph 80 of the NPPF for the reasons set out above.

Character and appearance

12. The appeal site is an area of agricultural land with some limited screening present along its eastern side boundary adjacent to the farm track. Policy EN2 of the NNCS indicates that proposals should be informed by, and sympathetic to the character areas identified in the North Norfolk Landscape Character Assessment Supplementary Planning Document (2021) (SPD). The site would be located within the coastal plain landscape character type to which the SPD indicates that the key characteristics of this landscape area include, amongst other things, flat terrain, a rural landscape in which arable land use dominates, a very open large-scale landscape with large fields bounded by ditches and banks often without hedges and low levels of woodland cover.
13. The proposed dwelling would result in a detached two-storey dwelling with a steep pitched roof and a detached garage. Due to the scale and height of the proposed dwelling, the flat topography and long views, I consider it would be highly visible from Sea Palling Road. The proposed dwelling would therefore appear as a prominent feature in the otherwise open rural landscape. Whilst significant tree and hedge planting is proposed to the frontage of the dwelling which would provide some screening from views from Sea Palling Road, this would itself appear uncharacteristic. When compared to the surrounding hedgerows which the LCA indicates are characteristic of the area, the frontage landscaping would appear discordant and at odds with the openness of the landscape. Furthermore, such planting would take a significant period of time to become established and as such, the proposal would appear prominent for a considerable period of time.
14. The fallback described above is capable of implementation in that there is an extant consent with sufficient time remaining in order to commence works. However, the fallback is for the conversion of an existing rural building which is located as part of a group of buildings at Manor House Farm which is several hundred metres away from the appeal site. The fallback being a conversion of an existing building would not result in the level of prominence and harm to the openness of the area as the proposed development due to its relationship with the existing cluster of buildings and screening by existing development. As a result, I consider the fallback would have a more limited impact on the character and appearance of the area than the appeal proposal, and I therefore consider it would have limited weight.
15. In light of the above, I conclude that the proposed development would result in harm to the character and appearance of the area. As such, it would fail to accord with Policy EN2 of the NNCS which states that development proposals should demonstrate that their location, scale, design and materials will protect, conserve and, where possible, enhance the special qualities and local distinctiveness of the area.

Flood risk

16. The appeal proposal is located within Flood Zone 3a which the Planning Practice Guidance (PPG) indicates that development in such areas would be at high probability of flooding, and as a result, the site has been identified as having a more than 1:200 annual probability of tidal flooding. As the proposal is for residential development, having regard to the Flood Risk Vulnerability Classification set out in the PPG, this results in the end use being classified as a more vulnerable use. More vulnerable uses in Flood Zone 3a are required by

the NPPF to provides a site-specific Flood Risk Assessment (FRA) and to satisfy the sequential and exceptions tests as applicable.

17. There is no evidence before me to confirm that a sequential test, and subsequent exceptions test as required by the NPPF and Policy EN10 of the NNCS has been undertaken. As such, I have no evidence to demonstrate that the proposed development has been directed away from areas at highest risk of flooding. I note that the Environment Agency has not raised concern in respect of the appellant's FRA findings the residual risk of flooding would be minimal. Nonetheless, the sequential approach is required to be undertaken before giving consideration of whether there would be any residual risk of flooding.
18. The appellant has indicated that the submitted legal agreement to not implement the fallback described above would effectively replace one residential unit in flood zone 3a with another. However, the consideration of the sequential test is not a matter that falls within the scope of considerations within Class Q of the GDPO so this would not have been undertaken. As such, there is no evidence the proposed development before me has been directed to areas at the lowest risk of flooding.
19. In light of the above, I conclude that there is insufficient information to demonstrate that the proposed development would be located in an area at lowest possible risk of flooding. As such, it would fail to accord with Policy EN10 of the NNCS which states, amongst other things, that in Flood Zone 3a, new development will be restricted to less vulnerable uses where the sequential test has been passed.
20. The proposal would also fail to accord with the requirements of paragraph 162 of the NPPF which indicates the aim of the sequential test is to steer development to areas at lowest risk of flooding from any source.

Other Matters

21. The proposed development would result in economic benefits arising from its construction and in the supply of materials. The proposal would have environmental benefits through the proposed tree and hedge planting as well as through the provision of a more energy efficient design and construction than the fallback. There would also be social benefits through future occupiers engaging in community activities and supporting local businesses. The proposal would also make a positive contribution to meeting housing need in the local area.
22. Notwithstanding the above, the Unilateral Undertaking not to implement the fallback would mitigate the economic and social benefits as there would be no net gain in the number of dwellings in the area, albeit there would still be environmental benefits as described above. However, evidence submitted by the Council indicates that there is an outstanding party that holds a charge on the fallback land, and as such, if the fallback land were to revert into their ownership they would not be bound by the undertaking. As such, I have concerns that the Unilateral Undertaking would not be enforceable.

Conclusion and planning balance

23. In light of the above, the appeal proposal would fail to accord with a number of policies in the development plan as well as the requirements of the NPPF.

Although a fallback has been identified, due to it having a lesser impact on the character and appearance of the area than the appeal proposal I consider that it should be afforded limited weight in this regard. Furthermore, due to the concerns in respect of the enforceability of the submitted Unilateral Undertaking, it is afforded very limited weight.

24. Whilst the proposed development would result in social, economic and environmental benefits, as the proposed development is for a single dwelling, these would be limited and not sufficient to outweigh the harms I have identified and the conflict with the development plan when read as a whole.
25. For the reasons given above I conclude that the appeal should be dismissed.

Philip Mileham

INSPECTOR