



Appeal Decision

Site visit made on 27 May 2022

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21ST June 2021

Appeal Ref: APP/V0510/W/21/3284284

Land South of No 25 Pymoor Lane, Pymoor, Ely CB6 2EE.

- 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 J Everett and Ms A Miller against the decision of East Cambridgeshire District Council.
 - The application Ref 21/00412/FUL dated 25 March 2021, was refused by notice dated 9 July 2021.
 - The development proposed is construction of 4 bed dwelling (previously approved 19/00238/FUL).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the appeal site is an appropriate location for housing development in terms of the development plan and its impact on settlement and countryside character.

Reasons

3. The appeal site sits on the south side of Pymoor Lane outside the development envelope of Pymoor identified in the *East Cambridgeshire Local Plan* (ECLP). The limit of the development envelope lies on the east side of No 14 after which development is sporadic, comprised of only two recently constructed dwellings (one still under construction). These and the appeal site had the benefit of planning permission when the Council could not demonstrate a 5 year supply of housing. Whereas the two plots now constructed went on to discharge conditions whilst the planning permission was still live, the appeal site permission expired and no extant permission exists.
4. The ECLP at Policy GROWTH 2 sets out the locational strategy for development in the district. Outside defined development envelopes development will be more strictly controlled with regard to protecting the countryside and the setting of towns and villages with residential development restricted to affordable housing, dwellings for essential rural workers and extension and replacement of dwellings in the countryside. None of these categories relate to the appeal proposal.
5. Although it has been put to me that the dwelling is intended to be a self-build dwelling and therefore likely to meet a local need, self-build is not a category recognised in Policy GROWTH 2 and, even if it were, no mechanism has been offered by the appellant in line with the *Custom and Self Build Housing Supplementary Planning Document* (SPD) to ensure the dwelling would be self-built and would be built to meet local needs only.

6. I have been invited to conclude that Policy GROWTH 2 is not consistent with the *National Planning Policy Framework* (the Framework) as the Framework is more flexible and no longer seeks to protect the countryside for its own sake. The appellant has referred me to two recent appeal decisions where Inspectors have concluded that elements of GROWTH 2 are no longer consistent. Whilst I note these, I am not persuaded that they are directly comparable. In respect of APP/V0510/W/20/3261587, for example, a large part of the site was reportedly within the development envelope which would not be the case with the appeal site.
7. I accept that the Framework is slightly more flexible in respect of rural housing, in allowing housing where it is likely to enhance or maintain the vitality of rural communities, supporting local services and facilities in nearby villages or groups of villages. However, in Pymoor's case, notwithstanding the Council's apparent position that the village is a sustainable location for development, the fact remains that there are minimal services in the village other than recreation facilities and a village hall which development could support. The nearest settlements with a reasonable level of services are Little Downham c 3 miles distant and Littleport at approximately 5 miles. I am not persuaded that one house in this context would achieve any significant benefit to village services either in Pymoor or elsewhere and the house would be largely dependent on travel by private car to access services.
8. The Framework does in any event continue to require policies and decisions to recognise the intrinsic character and beauty of the countryside and even the encouragement to make effective use of land in Section 11 is caveated at Paragraph 124 by the requirement for decisions to consider the desirability of maintaining an area's prevailing character and setting.
9. As has been concluded by a number of Inspectors in previous appeals, the general objectives of Policy GROWTH 2 to manage patterns of growth and protect the setting of towns and villages in East Cambridgeshire are consistent with the Framework. The Council's locational strategy of focussing development on Ely, Littleport and Soham and restricting development in smaller settlements and outside development envelopes is still a valid objective that is not inappropriate or out of date in the context of the Framework.
10. That being the case, as set out in Paragraph 12 of the Framework, where a planning application conflicts with an up-to-date development plan, permission should not usually be granted other than if material considerations indicate that the plan should not be followed.
11. It has been put to me that as plots on either side of the appeal site are developed with a similar scale and design of properties that the impact on the countryside and settlement character would be minimal. However, as stated above, the development on the south side of Pymoor Lane even with the recently developed plots remains sporadic. Were the appeal to be allowed and the appeal site developed as proposed there is a reasonable prospect of similar development being repeated on the remaining land between the current development envelope boundary and the house under construction west of the appeal site which would be difficult for the LPA to resist. The result of this would be a change in the character of Pymoor Lane and the settlement edge from the current sporadically developed lane to a continuously built-up frontage. This would constitute a material and adverse change to the countryside and settlement character in this part of Pymoor.
12. The *National Planning Policy Framework* (the Framework) at Paragraph 130 requires that developments must be sympathetic to local character to create high

quality buildings and spaces amongst other things and in these respects the proposal fails. Policies ENV1 and ENV2 of the ECLP reflects the Framework and require development where possible to enhance the settlement edge and the wider landscape setting and ensure that opportunities are taken to enhance or enrich the character, appearance and quality of an area respectively. Quite apart from the in principle conflict with Policy GROWTH 2 by proposing development in a location where it would not be appropriate, the form and nature of development in intensifying development on Pymoor Lane contrary to its character is at odds with policies ENV1 and ENV2.

Other Matters

13. I accept that the proposal would provide an additional dwelling and make a very minor contribution to housing supply. However, unlike the situation that applied when permission was first granted on the appeal site, additional provision is not required as the Council reportedly has around 7 years supply of housing and its performance against the Housing Delivery Target, as at 2020, is standing at 87%. Although it has been put to me that the Council cannot convincingly demonstrate a 5 year supply, no specific evidence has been presented to substantiate this claim. It is clear from the evidence before me that the current ECLP policies influencing housing provision are not impeding supply and those policies, including the locational strategy within GROWTH 2, are not out of date. Paragraph 11 of the Framework and the 'tilted balance' is not therefore engaged.
14. I note that the appellants are in a situation where they purchased the land believing, in good faith, that permission was in place when in fact that was not the case. However, this in itself is not sufficient reason to override adopted ECLP policies, particularly where no attempt has been made to comply with policy GROWTH 2 by presenting a legal means to guarantee that the site is developed as a self-build plot to provide affordable housing to meet local need only. I acknowledge that the appellant agreed they would accept a controlling condition but I am not satisfied that a condition would be appropriate. In the circumstances, such control would have had to be provided through a S106 planning obligation and none is before me.

The Planning Balance

15. In a situation where Paragraph 11 of the Framework is not engaged the requirements of Paragraph 12 stand. I am not persuaded that the material considerations of a very modest gain in housing provision carry sufficient weight to warrant a departure from the adopted policies of the ECLP. Moreover, just because other development has taken place in the vicinity of the appeal site, as an exception to the ECLP policies, would not be reason to compound this by granting a further permission when the housing need that justified those permissions is no longer an issue. To do so would undermine the plan-led system and lead to an ad hoc approach to planning, destroying consistency. Accordingly, in accordance with Paragraph 12 of the Framework the appeal should be dismissed.

Conclusion

16. In reaching my decision I have had regard to the matters before me and for the reasons above the appeal should be dismissed.

P. D. Biggers

INSPECTOR