



Appeal Decision

Site visit made on 5 August 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022.

Appeal Ref: APP/E9505/W/22/3292073

Land adjacent to and north west of The Cottage, Low Road, Shipmeadow, NR34 8HP

- 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 M Gladwell and Mr R Remblance against the decision of the Broads Authority.
 - The application Ref. BA/2021/0263/OUT dated 8 July 2021, was refused by notice dated 11 January 2022.
 - The development proposed is 1 No. dwelling, including means of access.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application was in outline with access and layout ticked in section 4 of the application form to be considered, and appearance, landscaping and scale being matters left for later determination. Although not stated in the description of the development, I note that under section 15 of the application form it is stated that a 2 bedroom dwelling is proposed.

Main Issues

3. The main issues in this case are: i) the suitability of the location of the site for residential development; and ii) the suitability of the site for a dwelling, in terms of floorspace that could be accommodated.

Reasons

The suitability of the location of the site for residential development

4. The site is an area of open land, mainly rough grassland, situated between the 2 residential curtilages of The Cottage, to the south-east and Little Barn to the north-west. It fronts onto Low Road which is a narrow country lane which describes an approximate arc, meeting the B1062 at both ends. The appeal site is about 300m from the junction with the B1062 at its eastern end. This part of Low Road has a small collection of dwellings along it, numbering not much more than a dozen or so. The B1062 runs through mainly open countryside, joining Beccles, about 4½ miles to the east, and Bungay 2½ miles to the west. The site is outside any defined settlement boundary (SB), the nearest SB in the area of the Broads Authority being that of Oulton Board, almost 9 miles away to the east. However, both Beccles and Bungay are market towns with a good range of services and facilities.

5. The policies cited in the refusal reason than give rise to this issue are Policies SP15 and DM35 of the Local Plan for the Broads adopted in May, 2019 (LP2019). I note that the adoption was after the first revision to the National Planning Policy Framework (the Framework) was published in February 2019, but it would have been examined under the original 2012 version – indeed the text under Policy SP15 makes reference to the 2012 version.
6. Policy SP15 is titled 'Residential development' and sets out a housing need, the type of new homes to meet local needs, the protection of European Sites, and a spatial strategy at paragraph d). It is sub-paragraphs d) i), iii) and iv), that need consideration in this case [(ii) deals with brownfield sites in specific localities] which indicate locations where development to meet the housing requirement will be directed. I set them out in full:
*"i) Development proposals will be located to protect the countryside from inappropriate uses to achieve sustainable patterns of development, by concentrating development in locations with local facilities, high levels of accessibility and where previously developed land is utilised; or
iii) In relation to windfall, those areas within development boundaries as detailed in policy DM35; or
iv) Housing will only be permitted elsewhere where it is necessary, and subsequently retained, in connection with rural enterprises (DM38), replacement dwellings (DM40) or to provide affordable housing where local need has been demonstrated in District Councils' or local housing needs surveys".*
7. Policy DM35 'Residential development within defined Development Boundaries' states that: *"New residential development will only be permitted within defined development boundaries, and must be compatible with other policies of the Development Plan. Development will be of a scale that is suitable and appropriate for the size of the site and settlement, and will reflect the character of the area. Development Boundaries are identified on the policies maps for the following settlement areas. a) Horning, b) Oulton Broad, c) Thorpe St Andrew, and d) Wroxham and Hoveton".* Within the reasoned justification for this policy it is stated *"Outside the defined Development Boundaries, new residential development will not be permitted except in the circumstances defined in the other housing policies".*
8. To my mind these policies are abundantly clear, they *"protect the countryside from inappropriate uses to achieve sustainable patterns of development"*, permit housing *"elsewhere where it is necessary, ... in connection with rural enterprises"*, only permit residential development *"within defined development boundaries"*, and will not permit new residential development *"Outside the defined Development Boundaries"* (the last of these from the reasoned justification – which is part of the Plan). These are the policies, as far as this appeal is concerned, that are most important for determining the outcome of this issue.
9. Whilst the LP2019 was adopted under the policies of the 2012 Framework, in respect of the specifics in this case, I consider that the aims of these policies are broadly in line with the 2021 Framework, particularly with section 5 'Delivering a sufficient supply of homes' and specifically the subsection 'Rural housing'. In that subsection, having dealt with rural exceptions sites for

affordable housing, paragraph 79 sets out what I consider to be the essence of the Framework's policy for new general housing in the countryside. It states: *"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby"*. The crux of this is that the emphasis is on villages. The appeal site is not close enough to be considered able to 'support services in a village nearby' in any meaningful sense.

10. It is then necessary to look at the following paragraph, 80, the 'isolated homes in the countryside' paragraph. The courts have handed down the meaning of isolated homes. The judgement in the case of Braintree District Council ([2018] EWCA Civ 610), endorsed in the case of City & Country Bramshill Limited ([2021] EWCA Civ 320), determined that the meaning of isolated is *"whether [the development] would be physically isolated, in the sense of being isolated from a settlement"*. It is clear that the appeal site is outside any settlement boundary: the question arises as to whether it is in any other form of settlement, such as a hamlet. I consider that the group of houses and other development within which the appeal site sits is a small settlement, that probably comes within the term 'hamlet'. It is therefore within a settlement and therefore is not isolated. It is thus not covered by any of the exceptional circumstances set out in paragraph 80. The site is simply subject to the development plan policies, and those of the Framework, that I have referred to, which are directed against new general housing in the countryside.
11. I consider that the reference on behalf of the appellants to the subdivision of an existing residential building is misplaced. There is no existing residential building. The proposal is not one of subdividing The Cottage, and the existence of the footings that have been uncovered, that appear to be the remains of a building adjoining The Cottage, cannot be prayed in aid of subdivision because the building no longer exists; and in any event the proposal is for a new stand-alone dwelling, in no sense a subdivision.
12. That necessarily leads me to consider what is said in the appellants' case relating to Framework paragraph 11.b)i, and the matter of 'hiding behind' the status of the Broads Authority as set out in footnote 7. In the circumstances of this case, this is potentially relevant in relation to "policies which are most important for determining the application are out-of-date", in respect of which it is necessary to look at footnote 8 which states *"This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years"*.
13. As set out in the officer's report, *"By creating a Special Statutory Authority, the Government has recognised that the Broads Executive Area needs the same level of protection from inappropriate development as the National Parks. For this reason, unlike District and Borough Local Planning Authorities (LPAs), it does not have a requirement to fulfil an annual housing target"* (going on to

*argue that it has an over provision of dwellings)*¹. This fact, of not having a requirement to fulfil an annual housing target, is not challenged by the appellants. Rather, reference is made to the court of appeal judgement *Monkhill Ltd v SSHCLG* [2021] EWCA Civ74.

14. At paragraph 4 of this judgement it is said that *"Monkhill's single ground of appeal gives rise to one principal issue for us to decide: whether the inspector was wrong to interpret the first sentence of paragraph 172 of the NPPF, which says "great weight should be given to conserving and enhancing landscape and scenic beauty" in an AONB, as a policy whose application is capable of providing "a clear reason for refusing" planning permission under paragraph 11d)i of the NPPF"*. That, it seems to me, is an entirely different matter to the first reason for refusal in this case. The council's case is not that the proposed dwelling would not conserve and enhance the natural beauty, wildlife and cultural heritage of the Broads, but is simply framed on the basis that the site is in the countryside and is not a sustainable location and is contrary to particular policies that go to that point.
15. As to the 'local needs' point of the appellant's argument, in the circumstances of this case and in light of the policies, this simply means that there has not been a demonstration that the dwelling is necessary, for such reason as in connection with rural enterprises.
16. Finally, of the appellants' contentions, I need to come back to the foundations that have been uncovered on the site. Firstly, these do not amount to an existing building, but can only be regarded as evidence of an abandoned building. Further, had the soil and grass not been scraped off the bricks that have been revealed, it is clear that the site is land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape. I do not regard the site as meeting the Framework's definition of previously developed land.
17. My conclusion on this issue is that the proposal does not meet the relevant policies of the development plan, which is harm in itself. Furthermore, and in accordance with the underlying reasons for the policy, the site is a location with no local services and facilities, and a deficiency of transport options. I appreciate that the application site is located 25m from the public rights of way network that links with the Angles Way offering a 2.5 mile walk into the centre of Beccles; that the Sustrans Cycle Route 1 can be accessed via Ringsfield 1.8 miles to the south east, Sustrans Route 40 3.8 miles to the south west, linking to Beccles and Bungay respectively; and that the closest bus stop is 'Council Houses' Shipmeadow, 450m and a five-minute walk down Low Road and a short walk along the segregated footpath by the B1062. Furthermore the No.580 route Bungay – Beccles – Yarmouth operates Monday to Saturday with buses hourly between 07:13 and 16:32. I should also note that it appeared that Mr Remblance, one of the appellants, arrived at the site visit by bicycle. However, none of these facts persuade me that, for most journeys, motor vehicles would not be the prime means of accessing services and facilities for day-to-day living.

¹ I should note in passing that the council has supplied, as an appendix to its statement of case, a document of the 5-year supply at 13 June 2022 which shows a worst case of a housing land supply of 5.44 years (on the basis of the Sedgefield approach).

18. Mention is made of the installation of electricity charging points for hybrid or full battery powered vehicles. That would be a contribution to sustainability, but for a variety of reasons, including public health, the aim is, wherever possible, that the siting of development should encourage walking and cycling as a favoured means of getting about – see Framework section 8 ‘Promoting healthy and safe communities’, paragraph 92; and section 9 ‘Promoting sustainable transport, paragraphs 104 and 106.
19. These considerations amount to substantial reasons for refusing planning permission. In reaching my conclusions on this issue I have taken account of the appeal decisions (APP/K2610/W/20/3251549 and APP/K2610/W/20/3260052) referred to by the appellants, but I consider that they are not helpful since they do not relate to locations comparable to the appeal site, or were governed by different policies and circumstances.
- The suitability of the site for a dwelling, in terms of floorspace that could be accommodated
20. The officer’s report in respect of this issue takes as its starting point that the proposed building is single storey. This appears to be an assumption without basis as the application does not specify whether the proposed dwelling is intended to be a bungalow or a 2 storey structure. However, the Design and Access Statement makes the point that “ *... the applicant would be amenable to a ‘chalet style’ one and a half storey dwelling or indeed a bungalow*”.
21. As to the possibility of a single storey dwelling, the external size of the footprint, which is dimensioned, suggest a dwelling of 46.9 m². The internal dimensions would be somewhat smaller, and therefore set against the Technical Housing Standards - nationally described space standard, there appears to be a significant shortfall. These standards specify, for a single storey 2-bed dwelling, a minimum gross internal area of 61sqm for a 3 person dwelling and 70sqm for a 4 person dwelling. However, I am not convinced that a ‘chalet style’ dwelling could not be designed, with 2 bedrooms, which could be for 3 persons, without unreasonable impact on the living conditions of the neighbours at The Cottage, or those at the more secluded and remote Little Barn. In view of the fact that I am refusing to grant planning permission on the first issue, I consider that this is as far as I need to go in concluding on the suitability of the site for a dwelling, in terms of floorspace that could be accommodated.

Conclusions

22. For the reasons set out in respect of the first issue, I find that the appeal site is not a suitable location for residential development when judged against policies SP15 and DM35 of the Local Plan for the Broads, since it is not within a defined settlement boundary, is in an area without local services and facilities, does not meet any need for a dwelling to be sited there, and that it would rely primarily on unsustainable modes of transport for most everyday needs. I will therefore dismiss the appeal.

Terrence Kemmann-Lane

INSPECTOR