



Appeal Decision

Site visit made on 7 September 2022

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th November 2022

Appeal Ref: APP/F2605/W/22/3290899

Land at Frogs Hall Lane, Swanton Morley, Dereham, Norfolk

Easting (x) 602230 Northing (y) 316022

- 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 Richard Kenyon against the decision of Breckland Council.
 - The application Ref 3PL/2021/0051/F, dated 21 December 2020, was refused by notice dated 10 September 2021.
 - The development proposed is described as 'whole life zero-carbon dwelling with detached garage set within a substantial natural landscaping and ecological enhancements scheme to meet the tests of NPPF Paragraph 79(e)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site address given on the planning application form is incomplete. For the purposes of my banner heading, I have used the site address given on the appeal form.
3. As part of their appeal submission, the appellant has provided revised drawings showing the wider field edged in red and the proposed domestic curtilage edged in turquoise (revisions G). On the basis that the original submission included a site location plan (Drawing no 0100 Rev) outlining the wider field, that all this land is in the appellant's ownership and that there have been no changes to the proposals for a dwelling or the landscape and ecological proposals to the wider site, I am satisfied that no party would be prejudiced by me taking these revised drawings into account as part of my assessment. I have therefore determined this appeal on the basis of these amended plans.

Main Issues

4. The main issues are:
 - (i) whether the appeal site would be a suitable location for the development having regard to the development plan and national policy; and
 - (ii) the effect of the proposal on the character and appearance of the area, including landscape character.

Reasons

Location

5. Policy GEN 03 of the Breckland Local Plan (2019) (LP) sets out a settlement hierarchy for the area and lists Swanton Morley amongst its 'Local Service Centres'. HOU 02 (Level and Location of Growth) of the LP sets out minimum targets for housing growth across the district. For Swanton Morley it confirms a figure of 184 houses. The Council has confirmed that Swanton Morley has a supply of 392 dwellings when housing completions, commitments and allocations are taken into account. This significantly exceeds the minimum target and the appellant has not put forward any counter-evidence to dispute this.
6. The appeal site is set a significant distance away from the settlement boundary for Swanton Morley as identified in Map 4 of the Swanton Morley Neighbourhood Plan (made 2019) (NP). Policy HOU 03 of the LP confirms that development outside of the boundaries of Local Service Centres will normally be resisted where the Local Plan housing target is provided for unless supported by other policies within the Local Plan. Given the site's location away from the defined settlement and that the housing target has evidently been provided for, the proposal cannot meet all of the necessary criteria under this policy.
7. In terms of other relevant policies, Policy 1 (Protecting the Identity of Swanton Morley) of the NP confirms that development outside the settlement boundary will not be supported other than in 5 specific circumstances. There are no exceptions under this policy for new market housing such as that proposed.
8. Having regard to the definition in the National Planning Policy Framework (the Framework), I find that the site is not isolated given its close proximity to other dwellings. The limited level of services and facilities available within Swanton Morley are in reasonable proximity to the appeal site. However, the site is connected to this nearby settlement by rural lanes, sections of which have no lighting or footpath. This means that cycling or walking would not always be convenient, particularly during hours of darkness. Therefore, it is likely that there would be a heavy reliance on the private motor vehicle. These accessibility constraints add to my concerns in respect of the conflict with the strategic objectives of the LP and the plan-led approach endorsed by the Framework.
9. I conclude the site is not a suitable location for the development. The development proposal would undermine and conflict with the strategic and sustainable objectives of Policies HOU 02 (Level and Location of Growth) and HOU 03 (Development Outside of the Boundaries of Local Service Centres) of the LP, Policy 1 (Protecting the Identity of Swanton Morley) of the NP and the Framework. Consequently, I find that in this case the development outside the defined boundary should be resisted in accordance with Policy HOU 03 unless of course other policies in the LP specifically support it. I have considered whether there are other policies supporting the development amongst the 'other considerations' below.

Character and appearance

10. The appeal site is an overgrown field accessed by a field gate and with mature trees and hedgerows to its perimeter. There are existing dwellings on Frogs Hall Lane in close proximity to the site. Those to the immediate west of the site, towards the junction with Woodgate Road are closely aligned with each other and have similarly proportioned plots. The layout and spacing of the dwellings on the opposite side of Frogs Hall Lane together with the appeal site form part of a distinctly rural character. Existing buildings on Frogs Hall Lane are located in close proximity to front boundaries. The local vernacular includes varying roof pitches and traditional materials, with pantile roofs and flint or weathered brick elevations commonplace.
11. The appellant's Landscape and Visual Appraisal (January 2022) (LVA) confirms, amongst other things, that the Breckland District Landscape Character Assessment (LCA) identifies the site as being located within the River Wensum and Tud Tributary Farmland landscape character type. The LVA describes this as a predominantly arable landscape where small areas of pasture and field boundaries with hedge trees are recognised features that provide spatial enclosure. This is also consistent with my own observations on site.
12. The dwelling would be sited further back from the road than surrounding dwellings. Regardless of the domestic curtilage identified, the wider plot means it would also sit within much more substantial landscaped grounds than other dwellings on Frogs Hall Lane. Together with the unique design of the dwelling, including its use of uncharacteristic materials, these aspects of the proposal would significantly differentiate it from the prevailing characteristics of the area's existing dwellings.
13. I agree with the LVA that the site's substantial boundary vegetation greatly reduces the potential zone of visual influence. The position of the dwelling set back from the front boundary on Frogs Hall Lane, its stepped proportions including single storey elements, the natural tones of the facing materials, the extent of the boundary vegetation that would remain to the external boundaries and the supplementary planting that would take place would all assist in helping to assimilate the proposal into the street scene and the wider landscape.
14. The domestic nature of the development including any associated vehicles or other residential paraphernalia would be likely to be evident to passers-by at the site entrance. However, the landscape and design features described would soften the visual impact of the development across the wider frontage on Frogs Hall Lane and in any glimpsed views over vegetation from further afield. This would ensure that overall the rural character of the countryside would only be eroded to a limited degree both in close up views along Frogs Hall Lane and in vistas within the wider landscape.
15. Overall, I conclude that, the development would result in some limited harm to the character and appearance of the area, and this takes into account landscape character to which the harm would be limited adverse. In these respects, there would be some limited conflict with the local character and landscape requirements of Policies GEN 02 (Promoting High Quality Design), COM 01 (Design), HOU06 (Principle of New Housing) and ENV05 (Protection and Enhancement of the Landscape) of the LP and Policy 11 (Design of Development) of the NP.

Other Considerations

16. Since the planning application which led to this appeal was submitted, the Framework has been updated. Paragraph 79 (e) as referred to in the description of the proposal, is now Paragraph 80 (e). However, as I have already found that the site is not isolated, I agree with the Council that the proposal does not fall to be considered under this part of the Framework.
17. Paragraph 134 of the Framework states amongst other things that significant weight should be given to outstanding or innovative designs which promote high levels of sustainability. Policy GEN 02 of the LP also confirms that innovative and contemporary design where it enhances sustainability will be encouraged.
18. The dwelling would have an irregular footprint and would range between single-storey and two-storeys in height. A mix of flat green living roofs and pitched roof elements at varying heights would be incorporated. Its external facing materials would include walls in natural cork cladding with 'sweet chestnut' fins and a 'growing trellis'. 'Western red cedar shakes' would be applied to the pitched roofs. Timber framed triple glazed doors and windows are proposed. There would be a powder coated steel bridge and balustrade connecting a home office above the detached garage and a first floor living room. These aspects of the design would allude to a domestic use but would give it individuality and the material pallet would give the building a natural aesthetic.
19. However, the internal spaces would consist of a series of conventional rooms. In that regard, I find that when the dwelling is considered in isolation from its wider context, the good quality of the external architecture does fully translate through to the inside of the building. Taken together, I am not persuaded that the overall design would be outstanding.
20. The sustainability credentials of the dwelling primarily focus on its construction which would utilise cork both as cladding and as an insulation layer. During the application process the appellant confirmed they were not proposing that the use of cork as a building material alone was grounds for innovation but that it would be used in combination with other technologies with the target of being a whole life zero carbon dwelling. I have seen the support from the Sustainable Research Institute (SRI) at the University of East London. In that regard, the building's low embodied carbon, thermal performance, dismantlable capabilities ready for the circular economy and its largely compostable properties at the end of its life would all be commendable.
21. The appellant's Unilateral Undertaking (dated 27 June 2022) (UU), provided as part of this appeal, includes a provision for the owner to pay the Council a carbon dioxide offsetting contribution within 1 month of the 30th anniversary of the first occupation of the dwelling if the target of the dwelling becoming a whole life zero carbon building is not achieved. Calculations towards achieving net zero carbon would also take into account the offsetting of carbon dioxide emissions from the landscaping and ecological enhancements proposed.
22. The period for compliance is extensive and therein lies the possibility that the dwelling could contribute to carbon emissions in the immediate and longer term. Furthermore, when considered against the nationwide target for net zero carbon by 2050, the timescales for compliance are not particularly ambitious.

This significantly diminishes any positive weight I attach to the dwelling's sustainability credentials and as a result I am not persuaded that it would be truly innovative. However, I nonetheless attach moderate weight to the potential of the single dwelling to make some contribution towards cutting greenhouse emissions.

23. The appellant has indicated that they would be agreeable to a condition requiring a scheme to make the site available for educational and scientific purposes during the construction phase and for a minimum of 2 visits per year for a period of 5 years. This condition would also require, amongst other things, a website to be set up as well as a requirement for the dwelling and its gardens to be entered into the National Open Garden Scheme or any alternative scheme for a minimum of 5 years. Bearing in mind my conclusions on the dwellings design and sustainability credentials, I only attach modest weight to the potential educational and scientific benefits.
24. Policy ENV 02 (Biodiversity protection and enhancement) of the LP states amongst other things that all development should demonstrate how net gains for biodiversity are being secured as part of the development. From the uncontested calculated figures put forward by the appellant, the suite of landscaping and ecological works proposed would result in substantial net gains for biodiversity on the site. However, in the context of the site's size and that the primary objective of the proposal is to provide a dwelling, the biodiversity benefits that could be secured would not be of a significant magnitude. Overall, I attach some positive weight to the potential net gains insofar as they would improve biodiversity in and around the development in accordance with Policy ENV 02 of the LP and the Framework.
25. The development of a single dwelling would make a positive albeit very modest contribution to the Council's housing stock. This is in the context that I have not been made aware that the local planning authority cannot demonstrate a deliverable five-year supply of housing sites in the area and hence the evidence is that there is not an urgent need to release further sites for housing at this stage. The development has the potential to bring some limited economic and social benefits to the local area through its construction and through the use of local services and facilities by future occupants.
26. Whether or not the development is acceptable in respect of other matters such as highway safety, neighbouring amenity, drainage and contamination, these are usually expected development management requirements and carry neutral weight in the balance.

Other Matters

27. Since the Council issued its decision, Natural England (NE) has issued its overarching advice in respect of 'Nutrient Neutrality'. The Council has confirmed that Natural England has advised that new development including new homes within the catchment of the protected habitats of the River Wensum Special Area of Conservation and the Broads Special Area of Conservation and Ramsar site have the potential to lead to significant environmental effects with regards to nutrient pollution.
28. The Conservation of Species and Habitats Regulations 2017 (the Habitats Regulations) require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected sites, either alone

or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.

29. Had I been minded to allow the appeal, it would have been necessary to establish whether the proposal on its own or in combination with other projects would be likely have significant environmental effects on the integrity of the European sites including whether mitigation to achieve nutrient neutrality would be necessary and could be achieved. I have seen the suggested 'Nutrient mitigation measures' included within the appellant's UU. However, before determining whether such measures would be appropriate, a Habitats Regulations Assessment would usually be required and this would need to be informed by the Nutrient Neutrality Methodology within NE's overarching advice.
30. Furthermore, the Council has advised that the Norfolk Green Infrastructure and Recreational Impact Avoidance Mitigation Strategy sets out a requirement for a tariff to mitigate the recreational effects of development affecting all Natura 2000 Habitat Sites in Norfolk. This equates to £185.93 per dwelling. The appellant has included provision for such a payment to be made within the UU which has been provided as part of this appeal.
31. In any case, it has not been necessary for me to pursue these matters any further as a finding that the proposal would not have an adverse effect on the integrity of the European sites, with or without any mitigation, would be a neutral matter in the planning balance. Furthermore, I am dismissing the appeal for other reasons and so this is another reason why it has not been necessary for me to consider this matter any further.

Conclusion

32. Paragraph 12 of the Framework confirms amongst other things that the development plan is the starting point for decision making and where a planning application conflicts with an up-to-date development plan, permission should not usually be granted unless material considerations in a particular case indicate that the plan should not be followed.
33. There is no dispute that the local planning authority is able to demonstrate a five-year housing land supply. I have concluded that the appeal site would not be an appropriate location for the development having regard to the strategic approach in the development plan for distributing housing growth. I have also found that there would be some limited harm to the character and appearance of the area, including to landscape character. In the context of the Council's positive housing land supply position, the conflict with the development plan amounts to very significant harm. The other considerations put forward do not clearly outweigh this conflict.
34. Therefore, and for the above reasons, on balance I conclude that the appeal should be dismissed.

M Russell

INSPECTOR