



Appeal Decision

Site visit made on 21 November 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2022

Appeal Ref: APP/Y2620/W/22/3291709

Land opposite Copperfield, Watering Pit Lane, Tunstead NR12 8EN

- 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 M. and Mrs J. Rackham against the decision of North Norfolk District Council.
 - The application Ref PF/21/2394, dated 3 September 2021, was refused by notice dated 23 December 2021.
 - The development proposed is a Self-Build single dwelling with detached garage. Associated landscaping. Extinguishing a dead-end footpath.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the appeal site would be a suitable location for the proposed development with reference to the spatial strategy in the development plan, and its accessibility to local services and facilities;
 - the effect of the proposed development on the character and appearance of the site and its surroundings;
 - the effect of the proposed development on highway safety; and
 - the benefits of the scheme.

Reasons

Location and Accessibility

3. The appeal site concerns a large paddock of land situated east of Wateringpit Lane, north of the linear arrangement of houses in Market Street, at the centre of the village of Tunstead. This is not one of the settlements listed in Policy SS1 of the North Norfolk Local Development Framework Core Strategy¹ (CS) and is therefore designated as countryside, where development is restricted to particular types to support the rural economy, meet affordable housing needs, and provide renewable energy. Given that the proposed use of the site would be for a dwelling, it would not meet any of the criteria for development permitted within the countryside, as expressed in CS Policies SS1 and SS2.

¹ September 2008.

4. The site could not be said to be isolated in the language of the Framework, but it would do little more than add to existing development in the countryside. Tunstead is served by a limited range of services and facilities, including a public house and primary school. I have been referred to the presence of shops to the east, at Wroxham Barns, but there is no substantive evidence before me as to how these would meet the day-to-day needs of future occupiers of the site. They would therefore be highly likely to need to travel regularly to other settlements to access other education, employment, healthcare, leisure, and retail. Hoveton offers a good range of services and facilities, including a railway station, but this is some distance away and the local road network lacks street lighting and dedicated footways for the whole of the route. Accordingly, the opportunities to walk or cycle to the services and facilities available there would not be convenient or realistic ones, particularly after dark or in bad weather.
5. The appellant accepts there would be a reliance on private motorised transport to make such journeys, many of which may be shorter, to nearby settlements. A greater dependency on car use is also inevitable in more rural locations. The proposal would include means to charge electric vehicles off-grid, which is deemed to be a sustainable mode of transport by the Framework and more likely be energy efficient than bus journeys. While the appellants may already own a hybrid vehicle, there would be nothing to compel them to utilise electric vehicles. The bus services available to Hoveton are also infrequent, so would be unlikely to discourage use of vehicles. The cumulative effect of allowing developments in locations such as the proposal would therefore be likely to increase the amount of unsustainable journeys made.
6. I note that the Framework states that development in one village can support services in a village nearby, but Hoveton is not a small settlement, so it would not fit this criterion.
7. The proposal would not share any similarities with the appeal sites at North Walsham² and Salhouse³ respectively. The former is identified in the CS as a Principal Settlement identified for significant levels of growth and included the demolition of buildings amongst existing development in the countryside. Unlike that case, the proposed development would significantly undermine the Council's overall strategy for development. The latter relates to a Service Village, where land is allocated for small-scale housing and which has more services and facilities than the proposal. The Inspector referred to travel to nearby shops requiring short car journeys within the settlement, not elsewhere. It is also served by a railway station.
8. I have afforded limited weight to the argument that the proposal should be permitted in this particular location in favour of one within an allocated settlement to increase the potential for affordable housing to be provided on schemes in such settlements. This would undermine the Council's settlement hierarchy and there is no substantive evidence before me of any sites available in such locations that would accommodate the land required for the proposal.
9. For these reasons, I conclude that the appeal site would not be a suitable location for the proposed development, having regard to the Council's spatial strategy and its accessibility to services and facilities. Hence, it would conflict with CS Policies SS1 and SS2 and paragraphs 79 and 105 of the Framework, to

² Appeal Reference: APP/Y2620/W/21/3268526 - The Stables, Bacton Rd, North Walsham.

³ Appeal Reference: APP/K2610/W/18/3196121 - Land adjacent Station Lodge, Howlett's Loke, Salhouse.

which I have also been referred. This would therefore be harmful to the consistency and relative certainty that should flow from the plan led system.

10. I have been referred to the supporting text to Policy SS2, but I have not given it the same force as the policy, as to do so would conflict with the policy itself, particularly as it contains a number of additional criteria not referred to in the policy text. Put simply, the supporting text does not trump the policies.

Character and Appearance

11. The dwellings in Tunstead are generally situated in close proximity of Market Street, the principal route through the village. They are therefore primarily arranged in a linear form in relation to the streets, but interspersed with some properties in backland positions, including those behind the public house north of the site. Along with their plot size and shape, the design of dwellings varies greatly, but the materials of construction of those east of Market Street are generally consistent in their use of red brick and dark or red coloured tiles or slates. There are also various traditional barns and other agricultural buildings located at the outer edges of the village, some of which have been converted to residential use. These features contribute positively to the character and appearance of the area, including its quality and local distinctiveness.
12. Although the proposed dwelling would be set back some distance from Wateringpit Lane it would, nevertheless, be accessed from and have a frontage with the lane. The layout of the proposal would therefore follow the established grain of development in the village.
13. The proposal has been designed in response to typical Norfolk barns, including those found in the village. The buildings to which I have been referred are characterful and their materials of construction and the relationships of solid and voids therein add visual interest to their compositions. Their detailing is also often simple but apparent and they are constructed of dark stained timber cladding and red tiles and brickwork. Furthermore, the photographs in the appellants' Statement of Case (SoC) demonstrate the buildings in Market Street are largely unassuming, when seen from beyond the village. The Annex, to the south, relates to an existing dwelling so is an outlier in relation to the other former and current agricultural buildings nearby.
14. Although the layout of the proposed dwelling could be said to reflect some of the characteristics of a group of farm buildings, its form and appearance would share very few characteristics with a traditional farm building. The historic referencing to an agricultural barn unravels in order to meet Passivhaus principles and accommodate its materials, namely dark brick and render.
15. Aside from the projecting brick detailing to its gables, I find the proposal to lack visual stimulation. In particular, the principal two-storey range lacks successful architectural detailing. The use of standard soldier courses adds little to the composition of the elevations and render is not uncharacteristic of barns.
16. The original use and form of many farm buildings often dictated that the external northern façade was primarily solid to maintain heat within the building and protect it from weather. I appreciate that a balance needs to be struck to create a Passivhaus, but the overall size, nature, and arrangement of window openings would contrast significantly from the narrative and present a poorly conceived and overtly domestic exterior.

17. The appellants' Design and Access Statement (D&AS) and SoC introduce the notion that the single storey ranges parallel to the main building are inspired by passing railway carriages, including use of dark vertical timber cladding. They do not explore this concept in any great detail and, in my experience, railway carriages finished in wood tend to be constructed with a smooth finish to be weathertight and durable. The use of vertical weatherboarding in this context is therefore a somewhat dubious approach and one which would be unlikely to be appreciated as a contemporary styling of the same. The use of vertical boarding is also questionable, as the North Norfolk Design Guide states weatherboarding is normally horizontal on farm buildings and the scheme is influenced by the architecture of barns.
18. I have no reason to doubt the biodiversity credentials of the proposal in relation to, amongst other things, the creation of a new pond, wildflower meadow, additional tree planting through an orchard and other replacement trees, and improvement of existing hedges and new hedge planting. This would supplement existing mature planting around the site but, when this would not be in leaf during autumn and winter, there would be a greater visibility of the proposal. The landscaping around the site would therefore be unlikely to have a meaningful effect in softening the scale and appearance of the proposed dwelling. The use of dark brick and light-coloured render in its construction would add to its prominence and mean it would stand out as a strident built incursion into the countryside. It would also be visible through and around the proposed access from Wateringpit Lane.
19. I am referred to the exception for houses in isolated locations in Framework paragraph 80(e), but the site is not isolated. This aspect of the Framework is therefore not relevant to the proposal. Furthermore, while the proposal is likely to be constructed to a high standard using Passivhaus principles, its design is poorly conceived and would not amount to be outstanding or innovative as alluded to in paragraph 134 of the Framework.
20. I appreciate that the appeal site at South Norfolk⁴ also concerned a paddock still in use, but it is not a decision that would alter my view regarding the proposal, particularly as the Inspector for that case also identified harm to character and appearance, but suggested it was limited and localised.
21. Despite my finding in relation to the settlement pattern of the village, I conclude that the proposed development would have a significantly harmful effect on the character and appearance of the site and its surroundings, in conflict with CS Policies EN2 and EN4.

Highway Safety

22. Market Street is designated as a Local Access Route by the local highway authority (LHA), as it carries local traffic from main centres and the distributor routes to all significant communities. The latest speed survey evidence provided by the LHA has assessed speeds on this road to be in the region of 39 mph towards the junction with Wateringpit Lane, but Parish Council evidence suggests this to be lower than 35 mph.
23. The hedges along the road frontage are set to the edge of the narrow highway verge but appear to be maintained in good condition and visibility is not

⁴ Appeal Reference: APP/L2630/W/18/3209464 - Heath Loke, Poringland.

impeded along the highway verge. Nevertheless, visibility that can be achieved to the north onto Market Street from 2.4m back of the highway edge is significantly below what is expected by *Manual for Streets*⁵ (MfS) for the local speed limit of 30 mph or the recorded speeds. Furthermore, the visibility splays shown on application drawing are to or beyond the offside of southbound vehicles, so drivers of vehicles waiting in Wateringpit Lane would be unable to see vehicles, cyclists or pedestrians approaching in the area closer to the nearside of the carriageway.

24. I have not been referred to any accidents in relation to the junction, but I exercise caution in relation to the absence of recorded accidents, as not all accidents are reported and while they may not have occurred in the past they could in the future, particularly with greater use associated with the proposal.
25. I accept that the junction is already below the standards set out above and the appellants may already use it to visit the site. However, the proposal would lead to the permanent intensification of the use of Wateringpit Lane by occupants of a separate dwelling, which the appellants suggest could include multiple generations. The likely reliance on private motorised transport I referred to above would also increase the risk to users of the highway.
26. Wateringpit Lane only serves a small number of properties and vehicle speeds are likely to be low, but its carriageway is narrow and unlit. The opportunities for vehicles to pass are therefore limited to the driveways of existing properties and field accesses. These are not suitable for two large vehicles to pass, so they may need to reverse to enable passing or result in overrunning of the highway verges. The proposal could therefore intensify the extent of such manoeuvres made and worsen road conditions on the lane. The grass verges to either side are also raised in places and uneven, so would also not offer safe refuge for pedestrians in the lane that may meet vehicles in between accesses, particularly those in a wheelchair or persons with prams and especially in dark or inclement weather.
27. The proposal includes a passing place and lorry turning head, but this is partly shown to be through the gate serving the site and the application drawings do not include vehicle tracking to demonstrate whether it would operate effectively. It is therefore only likely to have a limited effect in alleviating the issues that already effect the lane, as only cars would be able to turn. These would also likely be exacerbated by the proposal, as the carriageway would retain its existing characteristics for the remainder of its length. It is unlikely that vehicles would travel regularly beyond the site too, as signage suggests the carriageway is not suitable for motors beyond the level crossing.
28. I have been referred to the *HS2 – Rural Design Criteria Appendix A* in relation to single track roads. While this does not directly applying to the geographical context of the appeal and I have no reason to dispute its conclusions, evidence before me suggests that the carriageway is narrower than the 3.5 metres required by the guidance.
29. I am also referred to the Salhouse appeal for this main issue and there are a number of similarities between the sites. The Inspector for that appeal arrived at a different conclusion regarding the effect of the nature of the access on road users. However, it is not wholly comparable with the appeal before me, as

⁵ Department for Transport (2007).

visibility was able to be improved with that proposal, which is not the case here. I have therefore had regard to the specific highway considerations pertaining to the site.

30. For the above reasons, the intensification of the lane would be likely to increase the potential danger and inconvenience to other road users. Hence, I conclude that the proposed development would have a significantly detrimental effect on highway safety, in conflict with the aims of CS Policy CT5.

Benefits of the Scheme

Self-Build and Custom Housing

31. The appellants have advanced a case that the proposal would be a self-build project. Paragraph 62 of the Framework requires that planning policies should reflect the needs of people wishing to commission or build their own homes. The appellant has also highlighted the Council's responsibility under the Self Build and Custom Housebuilding Act 2015 (the Act) to provide enough suitable permissions to meet identified demand for North Norfolk.
32. The evidence before me appears to suggest the Council has not granted any permissions for such housing, as required by the legislation, a point not disputed by the Council. This is therefore a serious concern and demonstrates it is failing in its responsibilities.
33. Although the appellants may not be recorded on the Council's self-build and custom housebuilding register, the proposal is for full details of the dwelling that would be occupied by the appellants. As they have therefore had primary input into its final design and layout, it would qualify as self or custom build.
34. I am mindful of the clear shortfall in provision of self-build and custom housing plots. However, unlike the appeal at Droitwich Spa⁶, the appeal before me is not supported by a legal mechanism, such as a planning obligation, to ensure compliance with the provisions of the Act and provide certainty that the proposal would be a self-build project, as promoted by the appellants. No suggestion has also been made as to how this could otherwise be secured.
35. Furthermore, even if the proposal was provided as a self-build house for the appellants, the contribution to the overall demand for such housing would be limited.

Other Benefits

36. The proposal would also add to the overall supply of housing in the district on a small site, which the Framework recognises as being more likely to be built-out relatively quickly. The proposed dwelling could be a multi-generational home, which allows older generations to be supported and cared for within the family home. This would reduce the burden on services elsewhere. Nevertheless, the magnitude of the contributions would be modest, so these social benefits would attract limited weight in this regard.
37. The proposed dwelling would also be designed to exceed Building Regulations and target Passivhaus standards. Its sustainability performance could therefore set it apart from most housing expected to be built in North Norfolk, which could set a precedent for future development. It would be constructed of

⁶ Appeal Ref: APP/H1840/W/19/3241879 - Corner Mead, Newland Lane, Droitwich Spa.

sustainable materials, with reduced waste, and some of the energy required by the property and electric vehicles would be generated by the solar arrays in the site and collected to storage batteries. This would accord with CS Policies EN6 and ENV9 and help to meet carbon reductions set as a legislative target by the Government and contribute to addressing UK and local climate emergencies. Nonetheless, these benefits would be limited in scale and kind, so only of moderate weight.

38. The proposed landscaping and biodiversity enhancement for declining and protected species would be beneficial to the immediate setting and ecological value of the site, in accordance with CS Policy ENV1 and local and national strategies and legislation for biodiversity and the environment⁷. The surface water drainage scheme for the site, including a pond, would reduce the existing greenfield discharge rate from the site. This would reduce the potential for flooding from the site to neighbouring land and buildings, in accordance with CS Policy ENV12. These benefits would amount to environmental gains of moderate weight.
39. The proposed dwelling would also have an off-grid foul-drainage system. This is not uncommon in rural areas, but it would reduce the burden on the foul drainage system within the village, which would be a social benefit of limited weight to residents of the village. There would also be short-term benefits to the economy during the construction of the development, but these would be limited in scale and kind.
40. While the proposal may result in a more efficient use of the site, for the reasons outlined in the second main issue, it would not safeguard and improve this particular environment, a key component of the Framework's objective of making effective use of land, or CS Policy H07 referred to in the D&AS.
41. The proposal would lead to closure of the dead-end footpath within the site. While this could reduce trespassing and anti-social behaviour within the site, in accordance with CS Policy S8, this could be achieved by other means without the proposed dwelling and other associated works.

Other Matters

42. The site is located within the Zone of Influence for recreational impacts from residential development for the Norfolk Coast Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site; The Broads SAC, SPA and Ramsar site; and The Wash and North Norfolk Coast SPA. Natural England (NE) recently updated the conservation status of the River Wensum SAC and The Broads sites, with respect to Nutrient Neutrality with the catchment area for these sites. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates that the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposed development. Therefore, given my overall conclusion on the main issue, it is not necessary for me to consider this matter in any further detail.

Planning Balance

43. The evidence submitted by the appellants demonstrates that the Council is likely to only be able to demonstrate somewhere between four- and five-years

⁷ Including the North Norfolk Environment Charter; Natural Environment and Rural Communities Act 2006; and the UK & Norfolk Biodiversity Action Plan.

supply of deliverable housing sites. This point is not disputed by the Council. The evidence in this case therefore establishes that the Council cannot demonstrate a five-year supply of deliverable housing sites. The policies which are most important for determining the appeal are therefore out-of-date. In such circumstances, permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

44. The development plan for the area includes the CS. Policy SS1 relates to the spatial strategy for North Norfolk and identifies that development, including housing, should be distributed in accordance with the settlement hierarchy. Both it and Policy SS2 refer to development outside of settlement boundaries and restrict the types of development that are appropriate there.
45. In isolation of other considerations, the approach to the protection of the countryside and restriction of development in such locations would not be wholly aligned with the more flexible and balanced approach implicit in the objectives outlined in the Framework. This point was repeated by the Inspector at North Walsham. It does not fundamentally undermine its continued relevance, particularly as the supporting text in paragraph 2.4.12 of the CS sets out a clear rationale for needing to protect countryside areas. This differs only slightly from the aim in the Framework to recognise the intrinsic character and beauty of the countryside. There is therefore still a clear rationale for settlement boundaries in order to protect the countryside while focusing growth within designated settlements. In light of this I have regarded the underlying objectives of these policies, as being generally consistent with the Framework.
46. Nevertheless, there is not a specific exception to these policies that allows self-build or custom housing to come forward beyond built-up areas and the Council has not met its responsibilities for the number of suitable permissions. Based on the evidence before me, the mechanics of policy or the application of it are not yielding the number of suitable permissions required. Despite the clear lack of legal controls to ensure compliance with the Act, the extensive shortfall in the supply of housing in the District and suitable permissions for self or custom build homes means that conflict of the proposal with these policies carries moderate weight.
47. While Policies EN2 and EN4 go beyond what is outlined in paragraph 174 of the Framework in respect of the protection of non-valued landscapes, they are generally consistent with the Framework in terms of its aim to achieve well-designed places. Policy CT5 is also consistent with the aims of the Framework regarding transport and access for development proposals. I therefore afford considerable weight to the conflict of the proposal with these policies.
48. I have outlined that the benefits of the appeal scheme are, on the whole, of moderate and limited weight, some of which lead to accordance with policies of the CS.
49. In terms of harm, the proposed development would not comply with CS policies in respect of its location and accessibility, harm to the character and appearance of the site and its surroundings, and highway safety. However, given my findings in relation to the CS policies, for the first of these matters the adverse impact of the proposal is a matter of moderate weight against

granting planning permission; and for the remaining two issues, the adverse impacts are of considerable weight.

50. In light of all of the above, even if I were to conclude there is a shortfall in the five-year housing land supply on the scale suggested by the appellants, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply and the proposal should be determined in accordance with the development plan.

51. This leads me to an overall conclusion that the appeal scheme would not accord with the development plan, when considered as a whole.

Conclusion

52. The proposed development would be contrary to the development plan, when considered as a whole, and there are no other considerations which outweigh this finding, including the Framework. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR