



Appeal Decision

Site visit made on 28 February 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2023

Appeal Ref: APP/F2605/W/21/3286881

Land Of Gateley Road, Brisley

- 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 Ian Arthur against the decision of Breckland Council.
 - The application Ref 3PL/2021/1109/O, dated 14 July 2021, was refused by notice dated 21 September 2021.
 - The development proposed is described as 'First Homes application. 4, two bedroom semi-detached properties. 3, 3 bedroom bungalows to be sold or rented under the new First Homes regulations'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development used in the banner heading above is taken from the Council's decision notice and the appeal form. This reflects changes to the proposals that were made during the application process.
3. The proposal seeks outline permission, with all matters reserved. I have considered the appeal on this basis and have treated any plans in relation to all matters as illustrative.

Main Issues

4. The main issues are: whether the site is a suitable location for housing, having regard to the Council's strategy for the location of new development; the effects on the character and appearance of the area; effects on highway safety, and; effects on ecology.

Reasons

Suitability of the Site for Housing

5. Policy GEN05 of the Breckland Local Plan 2019 (the LP) sets out the spatial strategy for new development in the District. This supports new development within the defined settlement boundaries, subject to compliance with other policies in the plan. The policy describes that outside settlement boundaries, development will be restricted to recognise the intrinsic character and beauty of the countryside and will only be acceptable where it would be compliant with other relevant policies as set out. This includes Policy HOU14, which relates to affordable housing exceptions. As the scheme entails the provision of First Homes, which are considered by Planning Practice Guidance (PPG) to meet the

definition of 'affordable housing' for planning purposes, it is appropriate to consider the proposal under this policy.

6. Policy HOU14 provides a number of criteria which should be met. The proposal falls short of a number of the criteria listed, in particular as it is not supported by evidence of the alleged local need and there is no mechanism before me which would ensure that the homes remain as affordable housing in perpetuity.
7. The appellant has clarified that the sale price of the new homes would not exceed £250,000, which the appellant asserts is more than a 30% discount from the market value, and in line with the definition of First Homes provided by the PPG. However, this is not supported by evidence, including an independent valuation, to establish the market value of the new homes, as set out in the PPG. As such, it cannot be established with certainty that the new homes would be discounted by a minimum of 30% against the market value. In line with the PPG, these steps should be undertaken to ensure that the discount is genuine and not delivered through lower standards.
8. While the appellant may be willing to sell the site at a low price to secure the delivery of the appeal scheme, this would not address the need to secure the appropriate market discount for the First Homes.
9. In any event, even if such evidence had been provided, there is no mechanism presented as part of the appeal to ensure that all the attributes of First Homes would be delivered, or that they would be maintained for this purpose in the future. Given this is fundamental to the acceptability of the land use, it would not be appropriate to secure this at a later stage.
10. For the reasons given, the proposal would not comply with the requirements of Policy HOU14 and would conflict with the spatial strategy for development set out in Policy GEN05 through constituting development outside the defined settlement boundaries. In the absence of a securing mechanism, the proposals would not conform to the objectives of paragraph 72 of the National Planning Policy Framework (the Framework), which relates to entry-level exception sites, suitable for first time buyers.

Character and Appearance

11. The site is an open field of predominately grassland bound by hedgerows, and it is visible from surrounding view points from the public footpaths and in glimpses from the road. Its open and verdant attributes contribute positively to the character and appearance of the countryside within which the village of Brisley is set. The village is small and set predominantly around the B1145 and School Road, but includes development set along Wood's Lane and Gateley Road.
12. The appeal site adjoins a row of semi detached houses to the west, which represent an extremity of the village edge and which, themselves, extend as an arm from the main village. When travelling east along Gateley Road, there is a distinct change in character after passing the semi detached properties. At this point the change in speed limit, as well as the enclosure of the road by hedgerows and trees, contribute to the transition into the open countryside.
13. While matters of appearance and layout are not for consideration at this stage, the proposal would result in the loss of the open grassland, and the loss of the rural character of the appeal site through the introduction of the new houses

and their associated access and paraphernalia as required by future occupants. While there may be a degree of screening, depending on the final landscaping scheme and ground levels, the presence of development on the site would very likely be perceivable from the surrounding roads, for example in glimpses in the hedgerows and at the point of access. Due to the width of the appeal site, the spread of development into the countryside would extend far beyond the existing built forms of the village. It would appear poorly related to the main cluster of development comprising the village and would represent encroachment into the countryside.

14. Due to its width and position relative to the village, and on the basis of the information before me, the proposal would cause harm to the intrinsic character and beauty of the countryside. The proposal would conflict with policies GEN01 and COM01 of the LP insofar as they require protection and enhancement of the natural environment and require that development responds appropriately to, and is integrated with, existing patterns of development. The proposal would also conflict with the design objectives of the Framework, which require that developments are sympathetic to local character.
15. Insofar as this main issue is concerned, I do not find conflict with part e) of Policy HOU14 of the LP, as good design and scale could likely be achieved at the reserved matters stage. However, based on the evidence, this would not mitigate for, or reduce the harm found above.

Highway Safety

16. Gateley Road wraps around two sides of the appeal site. These sections of Gateley Road are narrow, and unlit, and bound on both sides by grass banks and hedgerows which, together with the gentle bends, prevent long distance visibility along the road. Based on the evidence, the average width of the road is 3 metres. It does not include passing points and is too narrow for two vehicles to safely pass each other. As a consequence, when confronted with oncoming traffic, vehicles have to reverse along the highway. In some cases this entails reversing to the bend in the road to the south east of the site where visibility is restricted. Reversing in this manner presents a hazard to highway safety, particularly given the restricted visibility to other oncoming traffic. Alternatively, vehicles may mount the verges, causing their erosion and spilling soil onto the highway and creating a skid hazard. While other roads in the surrounding area demonstrate better conditions including a wider carriageway, these are further from the appeal site, and the appeal scheme would rely on the use of Gateley Road by future occupants.
17. It is estimated that the proposed houses would generate 42 vehicular movements a day, together with additional movements created by deliveries and visitors. Irrespective of where the access would be positioned, these additional traffic movements would need to occur on the highway described above. The proposed increase in movements would be highly likely to increase vehicle conflicts and the need for vehicles to reverse on the road, increasing the hazards on the highway.
18. In addition, there is no safe pedestrian route along Gateley Road and pedestrians wishing to walk on this route would need to walk in the highway. Given the characteristics of the road discussed above, together with the

increased likelihood of vehicles needing to reverse on the highway, this would be an unsafe route for pedestrians to use, particularly for those with children or mobility impairments. This would similarly be the case for other road users, including cyclists and horse riders.

19. While there may not be records of accidents on the road, this reflects the existing situation, and does not demonstrate that harm would not arise from the proposed increase in vehicle movements.
20. The appellant notes that these are conditions typical of a rural location and of Norfolk villages. However, the majority of roads will vary to some degree in their characteristics and visibility, and generalised assertions surrounding the roads in the County do not satisfy me that the harm to highway safety which would arise from the proposal would be acceptable.
21. The appellant has drawn my attention to an appeal decision relating to a highways matter in a rural area¹. However, this relates to movements associated with an equestrian use and the Inspector notes that despite the limitations of the highway network, land uses including equestrian activities are generally considered appropriate in such locations. I do not have evidence of the nature of the highway in that case nor the extent of movements under consideration. Based on the evidence I do not find that appeal to be comparable to the scheme before me.
22. The appellant would be prepared to have provision for passing places secured by a condition. However, these would need to be located outside the scope of the appeal site. There is not evidence before me relating to the details of those works, nor evidence concerning the likelihood that they could be carried out, particularly given the narrow width of the road and proximity of hedgerow boundaries. For these reasons such a condition would not be reasonable. Given the uncertainty surrounding the prospects of those works being undertaken, a negatively worded Grampian condition would also not be appropriate.
23. For the reasons given, insofar as this main issue is concerned, the proposals would cause harm to highway safety. The proposal would be in conflict with policies TR01 and TR02 of the LP which seek, among other things, to promote sustainable means of transport, provide safe, suitable and convenient access for all users and to avoid compromises to highway safety. The proposal would also conflict with the objectives of the Framework at paragraph 111, which states that development could be prevented or refused if there would be an unacceptable impact on highway safety.

Ecology

24. As above, the site is currently grassland with surrounding hedgerows and trees. The site is close to amenity land to the north, which includes areas of woodland and ponds, and the site adjoins other areas of extensive open countryside. As a result of these factors, the site is reasonably sensitive in terms of biodiversity and the site could provide suitable habitats to support protected species. This is supported by third party comments which suggest viewings of barn owls and bats on the site.

¹ APP/L2630/W/3244042

25. Details relating to the ecological attributes of the site have not been submitted with the planning application nor the appeal. As such, I am unable to determine whether the proposal would affect protected species, or whether there would be other impacts of the development on ecology, including the need for remediation or mitigation strategies. There is also not information relating to biodiversity net gain, nor evidence relating to the baseline for that gain.
26. I have considered whether these matters could be addressed through the imposition of planning conditions, or considered later as part of the reserved matters. However, there is insufficient evidence to assess whether particular species are present on the site and what the effects of the proposed development might be, or that any such harm could be mitigated. There is also insufficient information to support that a net gain could be achieved. As such these matters could not reasonably be controlled by way of a condition or dealt with after the grant of outline planning permission. The absence of an objection from an ecology officer does not provide reason to alter my judgement.
27. Insofar as this main issue is concerned, the appellant has failed to demonstrate that the proposal would not be harmful to the biodiversity of the site nor cause harm to protected species, and provide net gain. As such, the proposal would conflict with Policy ENV02 of the LP, as well as paragraph 174 of the Framework, which relate to protection of biodiversity and providing net gains.

Other Matters

28. A designated Conservation Area exists to the south west of the appeal site, which encompasses much of the village of Brisley. Given the physical separation of the appeal site from the Conservation Area, the proposal would not impact upon its setting.
29. The provision of First Homes would undoubtedly be a benefit of the proposal. However, given the concerns detailed above, it cannot be established with certainty that the proposal would provide housing which would fully adhere to the definition of First Homes given in the PPG. For this reason I ascribe this little weight as a benefit of the scheme.
30. The proposal would contribute to the national objective to boost the supply of homes, which weighs in favour of the development. However, this would not outweigh the harms identified, which would be significant and long lasting, and which would be in conflict with the Framework.

Conclusion

31. For the reasons given, there are not material considerations, including the approach of the Framework, that are worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

C Shearing

INSPECTOR