



Appeal Decision

Site visit made on 22 February 2023

By David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28th March 2023

Appeal Ref: APP/K2610/W/21/3285380

Land at Newton Road, Hainford, Norwich NR10 3LZ

- 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 Moyle against the decision of Broadland District Council.
 - The application Ref 20210337, dated 23 February 2021, was refused by notice dated 29 April 2021.
 - The development proposed is construction of one new residential dwelling with detached garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Local Planning Authority (LPA) has advised the Planning Inspectorate that since it made its decision there have been material changes regarding the approach necessary to ensure that potential significant adverse effects on the qualifying features of proximate protected habitats are avoided in accordance with the Habitats Regulations. This includes the implementation from 1 April 2022 of the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy (GIRAMS). There are also issues relating to nutrient neutrality and the Government's correspondence of 16 March 2022 which followed Natural England advice regarding nutrient pollution on the separately protected habitats of the Broads Special Area of Conservation (SAC) and the River Wensum SAC. The appeal site is within a nutrient neutrality catchment where new residential development is likely to have a significant effect and thus require mitigation to avoid harm. I deal with this below.

Main Issues

3. The main issues in this appeal are firstly, whether the appeal site is a sustainable location for the development proposed, and secondly, the effect of the appeal proposal on the character and appearance of the surrounding area.

Reasons

Sustainable Location

4. The appeal site is situated on a rural road connecting the dispersed pattern of settlement at the small village of Hainford to the north with the small village of Newton St Faith some distance to the south. Due to the presence of scattered housing on this part of Newton Road the appeal site cannot be described as isolated but nor is part of any cohesive cluster of settlement where there are

services and facilities. The appeal location is rural, characterised by a very loose pattern of sporadically distributed, detached dwellings strung out along Newton Road within a predominantly sylvan setting defined by plantation blocks of woodland to the east and a woodland-pasture landscape to the west. The site is well beyond any defined settlement boundary in the development plan and is countryside for the purposes of planning policy.

5. The nearest services are in Hainford and are limited to a primary school, a public house, a veterinary practice and a village hall with playing field. Accordingly, Hainford is not a settlement with a range of services capable of meeting most day-to-day needs without the need to travel further afield. Reflecting the dispersed pattern of settlement these facilities are similarly spread out such that none are particularly close to the appeal site. There are no continuous footways or streetlights on the routes to any of the facilities and there are often in places little or no verge for pedestrians to safely step off the highway. The route to the village hall via Lady Lane is particularly remote with little natural surveillance. As such it is highly unlikely that future occupiers of the proposed dwelling would walk to village facilities. The limited services in Hainford are all within a short cycling distance but given the circumstances described and the reasonable volume of traffic using Newton Road, I consider it unlikely that occupiers of the proposed dwelling would regularly use a bicycle to access them.
6. In terms of the prospect of occupiers of the proposed dwelling cycling to services further afield in settlements such as Horstead/Coltishall, Horsham St Faiths or the edge of Norwich, the distances involved and the amount of traffic on the road network would deter all but the most confident cyclist. There is a bus stop at the corner of Newton Road and Chapel Road from which the appellant submits there are good bus links to Norwich. I have relatively few details of the bus services serving Hainford. There is no shelter for waiting and the bus stop can only be accessed by walking a reasonable distance on that part of Newton Road with no footway. As such I do not consider the appeal site is well-located for using the bus as an alternative to the private car.
7. In terms of the acceptability of the high dependency on car journeys and their impact, I note on the appellants evidence that the distances/times involved to reach settlements such as Horsham St Faiths and Horstead/Coltishall and to the edge of Norwich would be relatively modest. Paragraph 105 of the National Planning Policy Framework (NPPF) states that the planning system should actively manage growth in support of the objectives found at paragraph 104. This includes, amongst other things, promoting walking, cycling and public transport use and taking into account the environmental impacts of traffic. Paragraph 105 then goes on to advise that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. "Rural" is not defined but it is somewhat difficult to see how NPPF paragraph 105 provides a basis to justify development proposals in such rural locations as the appeal site that would be heavily reliant on the car. "Rural" must also apply to larger villages or small rural towns where there is some realistic prospect of maximising available sustainable transport solutions, albeit with residual levels of necessary car usage. The spatial strategy for Broadland, including the rural hinterland to Norwich is predicated, amongst other things, on minimising the need to travel and the use of the private car, in terms that are consistent with NPPF paragraphs 104 and 105. The appeal site is not a location where sustainable transport solutions can be readily maximised and car usage easily

minimised. Accordingly, I find NPPF paragraph 105, does not assist the appellant's case for the appeal proposal's unsustainable location.

8. I therefore conclude that the appeal proposal would not be sustainably located, in large part due to its inherent countryside location. The proposal would be contrary to Policies 1, 6 and 16 of the Joint Core Strategy for Broadland, Norwich and South Norfolk 2011 (the JCS). Collectively, these policies, seek, as part of the over-arching spatial strategy, to secure a sustainable pattern of development for various reasons including addressing climate change by, amongst other things, minimising the need to travel and use of the private car, and to focus development close to essential services and facilities so as to promote healthy travel choices and reduce social exclusion and isolation. To this end, the spatial strategy in the JCS identifies Hainford as an 'other village' due to its basic level of services/facilities. By virtue of being some distance beyond the defined development boundary for Hainford, the appeal proposal would not comprise a sustainable location for the type of infilling identified in JCS Policy 16. Policy GC2 of the Broadland Development Management Development Plan Document 2015 (the DMDPD), in support of the JCS, focuses development, including new housing, within settlement limits and to only allow for development outside of these limits where there would be no significant adverse impact and they would comprise an exception permitted by another policy in the Plan. The appeal proposal would not accord with Policy GC2.
9. Policy GC2 of the DMDPD restricts development within the countryside to certain circumstances. It was examined and found sound in the context of the 2012 NPPF, much of which remains embedded in current national planning policy and perhaps explains why the DMDPD contains at Policy GC1 the presumption in favour of sustainable development, if, for whatever reason, the DMDPD, including Policy GC2, is not delivering. Whilst I note that appeal decisions have found at locations on the edge of larger villages in Broadland that Policy GC2 is too restrictive, I do not consider the overall approach in Policy GC2 to be inimical with current NPPF paragraph 79 which states that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities and that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Policy GC2 does not impose a blanket ban on additional housing in rural communities such as Hainford provided it is within the identified settlement limit or otherwise sustainable as an exception. As such, I find that DMDPD Policy GC2 is broadly consistent with the NPPF in terms of its approach to rural housing in small, scattered villages and countryside like Hainford. Therefore, I do not reduce the weight to be applied to the appeal proposal's conflict with Policy GC2.
10. I am referred to an emerging policy in the draft Greater Norwich Local Plan (GNLP) at Policy 7.5 in terms of village clusters and small-scale windfall housing. The material before me indicates that the draft policy would enable up to a maximum of 3 dwellings per parish over the plan period on sites adjacent to the settlement boundary or on infill sites within a recognisable group of dwellings. I have not been appraised as to whether the draft policy has been found sound. In any event, it seems unlikely that the appeal site would be adjacent a re-drawn settlement boundary for Hainford in the emerging GNLP. I am also unclear on how "a recognisable group of dwellings" is proposed to be defined. As a matter of judgement, the appeal proposal is within a very dispersed pattern of development on Newton Road such that

there is not a recognisable or distinct group of dwellings in this part of the countryside. Consequently, I find emerging draft GNLP Policy 7.5 to be of little assistance to the appellant and as a material consideration it is of no more than limited weight.

Character and Appearance

11. The appeal site is a modest parcel of land between two existing dwellings. To the north is 'Foxwood' a large, detached house in a verdant, landscaped plot that blends with the plantation setting to the east. Immediately to the south of the appeal site is 'Sunset', a single storey dwelling closer to the highway. Currently, the appeal site has a reasonably open frontage onto Newton Road with a post and rail fence set back from the grass verge. From the additional plans provided as part of the appeal, it is clarified that the two large oak trees at the front of the site close to the boundary with 'Foxwood' would be retained. The Beech trees to the south are within the boundary of 'Sunset'. Otherwise, there is very little vegetation at the appeal site frontage. The appellant identifies required visibility splays of 59 metres in both directions onto Newton Road and I have no contrary evidence before me on this point. Whilst the LPA surmise that roadside vegetation might be affected or need to be removed, the uncontested evidence as part of the appeal, and from what I observed on site, confirms this would not be the case. As such there would be no harm from loss of vegetation to achieve the required visibility splays.
12. I therefore conclude that the appeal proposal would not result in significant harm to the character and appearance of the surrounding area. It would not be contrary to Policy 2 of the JCS and Policies GC4 and EN2 of the DMDPD. These policies require, amongst other things, that development proposals respect local distinctiveness and the character of the wider countryside, pay adequate regard to the character and appearance of an area and protect the landscape character of the area.

Other Matters

13. On the first substantive main issue in this appeal, the proposal would be contrary to the relevant development plan policies by virtue of its location. The appellant invites consideration as to whether there are material considerations that indicate a decision should be made other than in accordance with the development plan on the first main issue and in particular whether there are circumstances that would trigger a tilted balance as per paragraph 11(d) of the NPPF.
14. Whether the LPA can demonstrate a five year supply of deliverable housing land is contested. At the time it made its decision, the LPA asserted that the Greater Norwich Development Partnership (GNDP) had a 6.16 year supply as of April 2020. The appellant submits that the figure is 4.06 years on the basis of discounting a number of sites¹ as not meeting the threshold for clear evidence of 'deliverability', particularly those sites that do not have an implementable 'full' planning permission. The appellant's assessment is now of some age, such that I cannot be sure the site-specific commentary is up-to-date. The assessment also relies on a GNDP document which is not before me and so I do not have the complete picture. Whether there is the requisite deliverable housing land supply is a significant conclusion with far-reaching ramifications

¹ Table 1 in GNDP Five Year Housing Land Supply Investigation, Parker Planning Services (April 2021)

beyond this appeal for a single dwelling. Accordingly, I consider such a conclusion that there is not a deliverable supply, can only be reached on the basis of robust, contemporary evidence. On this basis I give the benefit of the doubt to the LPA that there is the required deliverable supply, and a tilted balance is not triggered on this basis.

15. The appellant submits that the proposal would be self-build. Details provided for a base period of 1 April 2016 show that there were 35 entries on the Council's self-build register and 60 potential permissions (yielding 81 units). The appellant disputes the LPAs methodology of counting all sites of up to 4 dwellings as being 'self-build' and has established from the Council that of the 60 permissions it has counted as being available to meet its self-build demand, only 17 received a CIL exemption. Notwithstanding the Woodville appeal decision, I have some difficulty in taking an approach that only those planning permissions that have self-build in the description or are subject to a condition or Unilateral Undertaking (UU) are considered to be capable of meeting the need for 'self-build' given the broad-brush of the CIL exemption². As a point in case, what has been applied for here was not described as 'self-build', is not referenced as self-build in the original planning statement or appeal form and there is no related UU before me. The appellant has suggested a condition but there is no detailed wording provided against which to adjudicate that the necessary tests could be met, particularly enforceability. There is also no evidence that the appellant is on the Council's self-build register. I am satisfied that many permissions for individual dwellings and small schemes in the district would be suitable as self-build and would potentially qualify as 'self-build' for the CIL exemption. As such I only give limited weight to the benefit of the appeal proposal in meeting a self-build demand.
16. The appellant submits that the LPA has no specific policies to meet the need for self-build despite the legislation. The NPPF at paragraph 62 says that the housing needs for different groups should be assessed and reflected in planning policies, including people wishing to build their own homes. As set out above I have insufficient evidence to conclude that housing supply, in the round, including for self-build, is being constrained by the policies in the JCS and DMDPD. JCS Policy 16 and DMDPD Policy GC2 both allow for infilling and small-scale developments within settlement boundaries, including those for smaller villages such as Hainford. Individual infill plots and small-scale development are well-disposed to being self-build schemes. On this basis I do not consider there is an absence of relevant development plan policies.
17. The appellant has also referred to personal circumstances including being able to care for his disabled daughter. There are very few details before me about this including whether a dwelling at the appeal site would be necessary to provide the required quality of care compared to any alternative housing options. I therefore give limited weight to these personal circumstances.
18. The appellant has provided appeal decisions from elsewhere in Broadland where a conflict with Policy GC2 of the DMDPD has not precluded the development being allowed in the countryside outside of settlement boundaries. Whilst I have relatively few details of the particular circumstances of these appeals, I note of the examples provided that they are located at the

² "Anybody who is building their own home or has commissioned a home from a contractor, house builder or sub-contractor. Individuals benefiting from the exemption must own the property and occupy it as their principal residence for a minimum of 3 years after the work is completed." PPG para 25-082-20190901

edge of what appear to be larger settlements with a good range of services and facilities and potentially better footway and cycle connectivity³. That is markedly different to the very rural circumstances at the appeal site and so I find the appeal decisions provided to be of very limited relevance and weight.

Planning Balance and Habitat Regulations

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that decisions should be determined in accordance with the development plan unless material considerations indicate otherwise. As set out above I find the policies most important for determining the appeal to be up-to-date and so the tilted balance is not engaged and a straightforward planning balance is therefore required.
20. The appeal proposal would be contrary to the spatial strategy and would result in a new dwelling in the countryside for which there is no particular policy justification, including potentially as a self-build. The limited services and facilities in nearby Hainford and limited options for sustainable travel to other settlements means there would be a harmful reliance on the private car for basic day-to-day needs, employment and leisure trips. The spatial strategy in the JCS and DMDPD reflect well-established core planning principles for securing sustainable patterns of development, consistent with national planning policy, including carefully managing the amount of new development in countryside locations. The conflict with the spatial strategy is significant and the resultant harm attracts substantial weight for the reasons given.
21. On the other hand, the appeal proposal would not result in harm to the character and appearance of the surrounding area. It is also an objective of the planning system to boost the supply of homes (NPPF paragraphs 60 and 74), including on smaller sites. However, that cannot be wholly divorced from a plan-led system including securing otherwise sustainable patterns of development appropriate to local circumstances, unless there are specific reasons to do so, that are of sufficient weight. The reasons in this appeal include the limited benefit of an additional self-build house, the modest social and economic benefits of an additional dwelling (including council tax and new homes bonus receipts) and the personal circumstances of the appellant in providing care for his daughter. Overall, these reasons do not amount to material considerations sufficient to outweigh the conflict with the development plan policies identified. Accordingly, the appeal proposal would not amount to sustainable development and therefore would not accord with Policy GC1 of the DMDPD.
22. As set out above circumstances have now changed at the appeal location since the LPA made its decision in respect of likely significant effects arising from a new dwelling in relation to both recreational pressure and disturbance and water nutrient levels on the qualifying features of protected habitats. As such the appeal proposal should be subject to a Habitats Regulations Assessment (HRA) by a decision maker to consider whether any likely significant adverse effects could be suitably mitigated. However, because the appeal proposal would be contrary to the development plan on the principal main issue of compliance with the spatial strategy, this provides a clear reason to refuse the development. Accordingly, it would not be judicious or a prudent use of

³ APP/K2610/W/20/3255135 related to Horsford, a "Service Village"; and APP/K2610/W/19/3239986 related to Brundall, a settlement within the Norwich Policy Area, level of services described at para 42 of the decision.

resources to invite and consider HRA mitigation proposals from the appellant. Even if a positive HRA outcome could be established in this case, that would be a lawful requirement to enable a development to cautiously proceed (and so neutral in any planning balance). It would not override or counterbalance my separate conclusion of harm on the first main matter in the appeal.

Conclusion

23. I have had regard to all other matters raised, but there is nothing that leads me to conclude other than that the appeal should be dismissed for the reasons given.

David Spencer

Inspector.