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# Appeal Decision

Site visit made on 25 April 2023

**by E Dade BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 June 2023**

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**Appeal Ref: APP/F2605/W/22/3294630**

**Land at Taylors Rise, Lopham Road, East Harling, Norfolk**

- 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 David Taylor against the decision of Breckland Council.
  - The application Ref 3PL/2021/0520/F, dated 29 March 2021, was refused by notice dated 7 December 2021.
  - The development proposed is erection of detached dwellings with garages.
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## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs was made by Mr David Taylor against Breckland Council. This application is subject to a separate decision.

## Main Issues

3. The main issues in this appeal are:
  - Whether the proposal would provide an appropriate mix of housing;
  - The effects of the proposal on the character and appearance of the area;
  - The effects of the proposal on biodiversity; and
  - Whether the proposal would provide acceptable living conditions for future occupants, with particular regard to private amenity space and noise and disturbance at plot nos. 5 and 6.

## Reasons

### *Provision of a mix of housing*

4. Policy HOU7 of the Breckland Local Plan 2019 (LP) requires that 25% of qualifying developments be affordable housing, and that this provision should be delivered on-site. This includes residential development proposals capable of delivering 10 or more units. Whilst the proposal would involve construction of six new dwellings, the appeal site is a parcel of land situated between development being built out under phases 2 and 3 of a wider housing development sited on land in single ownership. In addition, the appeal site would share the same main access road and rear boundary as phases 2 and 3. For these reasons, I consider that the proposal provides a continuation of the

wider housing development and is a qualifying development for the purposes of affordable housing provision within the context of Policy HOU07.

5. Previous phases of the development were granted planning permission within the context of a former policy which required a 40% rate of affordable housing provision. The proposal would increase the overall capacity of the development site. However, in the absence of additional on-site affordable housing, the effect of the proposal would be to reduce the overall proportion of affordable housing across the wider development.
6. Therefore, despite the introduction of a reduced affordable housing rate on adoption of Policy HOU07, the proposal's requirement for affordable housing provision would not be met by the wider housing development. This would require the policy be applied retrospectively to previous phases which already benefit from separate planning permissions and is therefore beyond the scope of this appeal.
7. I note the appellant's concerns regarding communication of the application of the policy, a matter which I have considered in the separate costs decision. To satisfy HOU07, the Council indicates that the appeal proposal should provide on-site provision of a dwelling and a commuted sum. I understand the appellant submitted viability evidence relating to earlier phases, which is now aged and not applicable to the appeal proposal. No viability assessment has been provided in relation to the present scheme to evidence the omission of on-site affordable housing from the proposal.
8. In the absence of on-site affordable housing provision, I must conclude that the appeal proposal would not provide an appropriate mix of housing. On this basis, the proposal would conflict with Policy HOU07.

#### *Character and appearance*

9. The appeal site is situated within a wider housing estate development which was under construction at time of my site visit, with areas of the development substantially complete and occupied. Dwellings within the development generally front onto the main access road which runs through the centre of the development.
10. Rather than fronting the main access road, plots 5 and 6 would be positioned at an angle, oriented toward the junction of the access road and a private driveway. The proposed layout, with plots 2 and 3 located at the rear of plots 5 and 6 would differ significantly from the layout of the wider site. The winding route of the main road, and the presence of some existing plots oriented perpendicular to the main road would reduce the visual prominence of the differing layout to some degree. However, the arrangement of proposed dwellings and orientation of plots 5 and 6 would have a substantially different layout when compared with other houses, which would cause them to appear incongruous within the street scene.
11. Additionally, whilst dwellings across the wider development have on-plot parking, the position of the car parking spaces for plots 5 and 6 would result in a wide area of hardstanding on either side of the junction and would appear out of keeping with the frontages of surrounding dwellings, adding to the obtrusive appearance of these dwellings.

12. Illustrative images of the proposed development indicates that plots 5 and 6 would have a section of tall boundary treatment along part of the access road to plots 2 and 3. Whilst passing the sections of tall boundary treatments to access plots 2 and 3 would be less desirable compared with routes elsewhere on the development which generally pass open frontages, the boundary treatment would not be prominent within the street scene from the main access road and overall would not amount to harm to the character and appearance of the area.
13. The wider development has been constructed in a vernacular style using traditional materials. Plots 5 and 6 would be constructed from brick with sections of flint at the gable ends, with modestly proportioned windows, storm porches, and pitched roofs with chimneys, providing visual interest. The design of dwellings would therefore complement the traditional appearance of dwellings across the wider development.
14. Nonetheless, the proposal would harm the character and appearance of the area and would not comply with LP Policies COM01 and GEN02 which together require the design of new development to integrate a high degree of compatibility with and be sensitive to the character of the surrounding area, and make a positive architectural and urban design contribution to its context and location.

#### *Effects on biodiversity*

15. At time of my site visit, the appeal site was vacant land used for storage of building materials. However, areas of grassland, bramble, and a row of pine trees runs along the rear boundary. Whilst I understand the Council has permitted removal of one tree, the site nonetheless includes natural features which contribute to its biodiversity value.
16. LP Policy ENV02 requires all development to demonstrate how net gains for biodiversity are secured as part of the development. No evidence of the site's present biodiversity value has been supplied. Therefore, from the information before me I cannot assess whether the proposal would achieve a biodiversity net gain. Likewise, whilst it has been suggested that biodiversity net gain could be secured through use of a planning condition, in the absence of evidence of the site's present biodiversity value there is significant uncertainty as to whether a net gain is achievable and therefore that the use of a condition would be appropriate. The proposal would therefore conflict with Policy ENV02.

#### *Living conditions*

17. An access serving plots 2 and 3 would run between plots 5 and 6. Since the access would serve only two dwellings to the rear, the frequency and volume of traffic passing plots 5 and 6 would be low. The proposed dwellings at plots 5 and 6 would be set back from the access by their driveways and front gardens and the side and rear gardens would be surrounded by tall boundary treatments. I therefore do not consider that the use of the access by cars and people would unduly impact the living conditions of future occupants of plots 5 and 6 in terms of noise and disturbance via windows and rear gardens.
18. Plots 5 and 6 would have private amenity space which is smaller than nearby plots. However, I consider the private amenity space would be of sufficient size

to form a usable space for future occupants, and the tall boundary treatment would ensure the side and rear garden spaces are private and secluded.

19. The proposal would therefore comply with LP Policy COM03 which requires proposals to achieve adequate levels of amenity for future occupants.

### **Other Matters**

20. The appellant has raised issues relating to procedural matters regarding the Council's determination of the planning application, which I have given consideration to in the separate costs decision.

### **Conclusion**

21. Whilst I have found no harm in respect of living conditions, for the reasons given above, having assessed the case against the development plan taken as a whole and having had regard to all other relevant material considerations, I conclude that the appeal should be dismissed.

*E Dade*

INSPECTOR