



Appeal Decision

Site visit made on 30 May 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2023

Appeal Ref: APP/F2605/W/21/3289771

Land off Dereham Road, Beeston, Norfolk PE32 2NQ

- 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 Nar Valley Developments against the decision of Breckland Council.
 - The application Ref 3PL/2021/0630/F, dated 23 April 2021, was refused by notice dated 28 June 2021.
 - The development proposed is Residential development comprising four detached houses & garages.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal was initially made for five dwellings. Amended plans were submitted during the application consideration process that reduced the proposal to four dwellings amongst other changes. The revised scheme was subject to public consultation. As such, I am satisfied that interested parties would not be prejudiced by my consideration of the amended scheme.
3. Since the application was refused, Natural England has informed the Council that new homes within the catchment of the River Wensum Special Area of Conservation and the Broads Special Area of Conservation (SAC) and Ramsar site, have the potential to cause adverse impacts regarding nitrate pollution. Although the site is outside the zones of influence, Natural England advise that the proposal may affect their integrity due to proximity, I see no reason to disagree with this assertion.
4. Furthermore, the Council has identified that since April 2022 it has sought a sum to be paid as mitigation to offset the recreational impacts and avoidance of harm caused by residential development to the European protected sites of 'The Brecks', 'North Norfolk Coast' and 'The Broads'. In connection with this the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy (GIRAMs) was adopted in 2021. This explains that residential development sites increase recreational pressures in these protected sites and provides a justification for a sum to paid by developers as mitigation.
5. The European Designated Sites (EDS) are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the Habitat Regulations). Although not forming part of the Council's reasons for refusal, it is incumbent upon me as competent authority to consider whether

the proposal would be likely to have a significant effect on the integrity of these protected sites. It is necessary to consider this matter as a main issue.

6. The Council has provided its 5-year Housing Land Supply (HLS) position statements of October 2021 (HLS 2021) and August 2022 (HLS 2022). The first is referenced in evidence by the Appellant, the second was sought by the Planning Inspectorate to gain the Council's up-to-date Housing Land Supply position.
7. I have gone back to the parties and given them an opportunity to comment on these matters, and I return to these matters below.

Main Issues

8. Accordingly, the main issues are:

- Whether the site would be in a suitable location with respect to local and national policies,
- The effect of the proposal on the character and appearance of the surrounding area,
- Whether the proposal would affect the integrity of The Brecks, North Norfolk Coast and The Broads Special Protection Area, and to nitrate neutrality levels of the River Wensum Special Area of Conservation and the Broads Special Area of Conservation (SAC) and Ramsar site, and
- The effect of the proposal on future occupier's safety, with particular regard to pedestrian accessibility.

Reasons

Suitability of location

9. The Breckland Local Plan [2019] (LP) establishes the Council's approach to the distribution of housing across the borough. The LP seeks to focus housing within its key settlements of Attleborough and Thetford, both including strategic urban extensions, with lesser development targeted towards its market towns. Lower tier settlements, listed as Local Service Centres, are not subject to housing allocations and seek to attract limited development. The village of Beeston is identified by LP policy HOU02 as a rural village with a defined boundary on the policies map.
10. LP policy HOU04, with respect to villages with boundaries, allows for development immediately adjacent to the settlement boundary. This policy seeks to capture the need for direct growth towards the most sustainable locations whilst supporting local services and enhance rural communities with limited growth. Accordingly, the policy is subject to four bullet points: that the development be of an appropriate scale and design, would not increase the settlement by more than 5% from the plan adoption date, the design would contribute to the preserving the historic nature of communities and would avoid coalescence of settlements.
11. The second criterion seeks to ensure that required growth is proportionate to the scale of each settlement and would make a positive contribution to the rural economy in a regulated manner. This approach is in accordance with the

National Planning Policy Framework (The Framework) that seeks to locate development in locations that can gain access to infrastructure and facilities.

12. The Council identify that Beeston consisted of 160 dwellings in 2019. A 5% increase of this count would amount to 8 further dwellings. The Council identify that there have been 20 dwellings approved in Beeston since the adoption of the LP. As such, the proposal would exceed the second criteria, and would therefore exceed the housing target set for the village.
13. Appendix 5 of the Local Plan provides the methodology as to how the 5% figure is derived. This explains that the 5% growth relates to new dwellings both inside and outside the village boundary. Whilst the Appellant finds other approved schemes within the parish are further from the main village these have been included in the Council's calculations and I see no clear reason why these should be discounted.
14. Moreover, whilst paragraph 74 of the Framework in seeking a 5-year supply of housing, does not place a ceiling on further housing, it is appropriate to direct most new growth to larger centres. Furthermore, whilst the appeal site is geographically closer to the village than other approved schemes, this does not weigh strongly in favour of the proposal or bypass the limitation imposed by the 5% threshold. Therefore, whilst recognising that the appeal site is adjacent to the village, locational proximity is not a stated requirement of the policy. Accordingly, in not complying with the Council's locational policies for housing, the site would not be a suitable location for further housing within this plan period.
15. Consequently, the proposal would conflict with LP policies GEN01, GEN05 and HOU02, criteria 2 of LP policy HOU04 and the Framework with respect to matters of location. These policies seek, among other matters, to limit development in rural areas and be located where services and facilities can be easily accessed and are also broadly supported by the Framework with respect to rural housing.

Character and appearance

16. The appeal site forms part of a large field. It is adjacent to the south boundary of the village and close to a business park on the opposite side of Dairy Drift and forms a clear gap between these different types of land use. The site is adjacent to Dereham Road and Dairy Drift. It is exposed to views from the highway due to limited hedge boundaries providing wide and distant views of the surrounding countryside. It is discrete from the village due to the wide tree and hedge screen that delineates the southern boundary of the settlement from the site. The site, and the field it forms part of, is within a countryside setting adjacent to other large fields. As a consequence, the site makes a strong contribution to the open and rural character and appearance of the surrounding area.
17. The proposed development would consist of a linear row of houses that would address Dereham Road. These would be large properties, set within spacious plots with a shared driveway forming one access point onto the highway. The dwellings of plots 1 and 4 would include front projecting gables which would increase the overall size of the properties. In addition, due to the depth of the floorplates, the dwellings would have tall roofs which would increase the overall mass of the dwellings.

18. In footprint terms the proposed dwellings seem to be of a similar size to housing within the village. However, those plots are tightly drawn within the settlement with housing in a close-knit formation positively contributing to the character of the village. The village has a strong sense of arrival, at its southern point, with dwellings set close together within a nucleated settlement pattern. This forms a clear visual break between built form and the surrounding countryside. In contrast, the proposed dwellings would not be well enclosed and would be sited within an open and exposed aspect. The visual effect of these large dwellings, on the wider area, would be pronounced and overt unreflective of its rural setting. Accordingly, the development would have a significant and detrimental visual impact on the rural character of the local landscape.
19. The site is adjacent to a business park. Although close to Beeston this is separated from the village by the appeal site which forms an important sense of space between the existing built form. The proposed landscaping within the site would help to soften the overall effect of the scheme. However, this would be insufficient to address the overall visual impact of the development and would not mitigate the loss of views through the site. Consequently, due to the scale and form of development and the loss of most views through the site, the proposal would result in demonstrable harm to the character and appearance of the area.
20. As a result, the proposal would therefore be contrary to LP Policies COM01, GEN02 and point 3 of LP policy HOU04. These policies seek, among other matters, for development to integrate with the surrounding area and respects and is sensitive to the character of the surrounding area.

European protected habitats and nitrate neutrality

21. The Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy (GIRAMs) explains that to avoid adverse impacts on the integrity of the EDS a county wide Recreation Impact Avoidance Mitigation Strategy has been developed. From April 2022 any development permitted, where additional recreational impact is likely to be generated, requires a sum per dwelling to be paid. This would provide mitigation measures at the Natura 2000 Designated Protected Wildlife Sites within Norfolk, as described in the GIRAMs.
22. However, the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA). This responsibility now falls to me within this appeal.
23. Had I been minded to allow the appeal, it would have been necessary for me to undertake an AA. The AA is required on a case-by-case basis to determine whether or not the project would adversely affect the integrity of the European Sites. It would also have required a consideration of whether or not any proposed mitigation would be adequate, effective, could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it would not change the outcome of this appeal.
24. Furthermore, the Habitat Regulations also require the decision maker to ensure that new development does not cause adverse impacts on the integrity of the

SAC habitats from a nitrate neutrality perspective. Impacts on water quality from pollutants or increased nutrients, such as nitrates and phosphates, can result in eutrophication which can threaten the aquatic ecosystem. The primary causes of eutrophication are nitrate fertilisers draining from fields, nutrients from animal wastes and human sewage. Plans and projects that could increase nutrient loading typically result in the generation of wastewater and through activities involving the management of organic matter.

25. It appears that currently no strategic mitigation exists locally to resolve these impacts. The Council states that the site is outside but adjacent to the catchment area of the identified SACs. Nonetheless, Natural England has commented¹ that foul water could enter its catchment depending on the route of any foul water drainage associated with the proposal. In such circumstances, Natural England advise that a nutrient budget calculation and mitigation strategy in line with guidance, would be required. By applying a nutrient neutrality methodology, the competent authority may become satisfied that the proposal, in combination with other plans and projects, will avoid significant increases of nutrient load from impacting upon European Sites. With respect to this proposal Natural England has advised that this matter cannot be resolved by a planning condition as a technical solution for foul drainage, avoiding the SACs may not be possible.
26. Consequently, this matter should be fully detailed and any mitigation strategy identified, prior to consent being given. Without this I cannot be satisfied that the integrity of the SACs would not be adversely affected. This concern is of substantial weight against planning permission being granted at this time.

Highway safety

27. The site is adjacent to Dereham Road and Dairy Drift. These roads are small country lanes that do not benefit from footpaths or streetlights. Furthermore, most of Dereham Road, through the village is absent a footpath until reaching the primary school. As such, the absence of a footpath in front of the site and connecting to the main village is characteristic of large parts of the existing village.
28. The Council consider the site to be in a location with poor access. However, its accessibility requirements should be calibrated to a lower expectation to reflect the advice of the Framework that recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
29. The section of road connecting the site to the footpaths within the village is relatively wide and passes through several turns. This appears to present a relatively safe shared environment for pedestrians and cyclists. Consequently, due to its character I would anticipate that motorists would apply a high degree of care and attention when passing through the village and would be unlikely to travel at high speed. Accordingly, the site does not present a particularly hazardous route for pedestrians, and wheelchair users, from accessing the services available within the village. Consequently, the site would offer safe pedestrian accessibility for future occupiers of the proposal in consideration of its local context.

¹ Natural England, email correspondence, 5 May 2023

30. Accordingly, the proposal would comply with LP policies COM01, TR01 and TR02. These seek, *inter alia*, for development to provide a safe environment for walking and cycling and to provide safe, suitable, and convenient access for all users.

Other Matters

31. The Appellant identifies that the dwellings would be Self Build Housing. However, insufficient evidence has been submitted to substantiate this assertion. Furthermore, the application form indicates that dwellings would be placed on the open market instead. As such, this matter is of limited weight in my consideration of the proposal.
32. The Appellant has referred to a revised version of policy HOU04 of the Breckland Local Plan at appendix 2 of Final Comments, which includes 5 bullet points. However, this revised version has not been submitted in evidence by the Council and it has since confirmed that the revised version has no bearing in this appeal. As such, the alternative version weights neither for nor against the merits of the proposal.

Housing supply position

33. The Framework states that for housing to be included in a Council's 5-year supply, sites should be available now and provide a realistic prospect of being delivered within 5 years. It explains that sites should be considered deliverable in two scenarios. This includes at a) non major schemes with planning permission, all sites with detailed planning permission unless there is clear evidence that these will not be delivered within 5 years (such as due to viability), and at b) sites with outline planning permission for major development, allocated sites, and those with permission in principle, or identified on a brownfield register should only be considered as deliverable where there is clear evidence that housing completions will begin within 5 years.
34. The HLS 2021 explains that the Council has a 5.63-year HLS. This would provide 4,488 dwellings against a housing requirement of 3,985 dwellings. In terms of the deliverability of sites it has segregated major sites, at paragraph 3.9, into three categories: those under construction, those with planning permission with confirmed trajectories and those with planning permission without confirmed trajectories. Of the third group, the Council assumes that these would be built out in accordance with its anticipated trajectories. Due to the uncertainty of delivery of these sites the Council has applied a more cautious rate of delivery.
35. The HLS 2021 explains, at paragraph 3.10, that no major sites with only outline permission are projected to start before 2023/24, when it is anticipated that these would then deliver a maximum of 25 dwellings per outlet. This is demonstrated at Table 3 that shows the components of the Council's housing supply. This shows that major sites, with only outline planning permission and an unconfirmed trajectory, would consist of 411 dwellings. However, to include these, albeit with a cautious delivery rate, is contrary to the definition of the Framework as there appears to be no clear evidence that these sites will come forward within the predicted timeframe.

36. Accordingly, these sites should be excluded from the Council's figures resulting in a revised supply of 4,077 dwellings within the plan period. This remains above the requirement figure of 3,985. Consequently, due to this component being relatively small, it would have a limited effect on the Council's overall supply figure. Therefore, based on the submitted evidence with respect to HLS 2021, I am satisfied that the Council would have a 5-year housing land supply, albeit reduced.
37. The Council's updated 5-year supply position (HLS 2022) indicates that it has a 5.6-year HLS, against a requirement of 3,897 dwellings and a supply of 4,400. Table 3 demonstrates that the number of major sites, subject to only outline approval and with unconfirmed trajectories, has fallen to 176 dwellings. Therefore, their erroneous inclusion would only has a limited effect on its overall HLS figure that retains a 5-year supply.
38. The Council identifies that it has historically under delivered housing in the district. However, the HLS 2022 demonstrates that it over delivered in the last period² against the local plan requirement. Furthermore, the Housing Delivery Test for the Council illustrates that delivery has exceeded targets over recent years with results of 110% (2020) and 120% (2021). As a result, there is unconvincing evidence to suggest that the Council is under delivering its required supply of housing.

Conclusion and planning balance

39. The Framework seeks to significantly boost the supply of housing. The proposal consists of a small site where four homes could be delivered relatively quickly. It would provide work and income during its construction, but these would represent short term benefits. The scheme would also deliver public finance benefits and its future occupiers would provide economic support for the local community and may include children who could attend the local primary school. However, four dwellings would make a limited contribution to the overall supply of housing in the district and the identified benefits are of limited weight in favour of the proposal.
40. In contrast, although not resulting in an adverse highway safety impact, the proposal would result in substantial harm to the character and appearance of the area, would represent unsuitable growth to the adjacent small village and would harm the integrity of protected European sites. These matters outweigh the limited benefits of the proposal.
41. The proposed development would be contrary to the development plan when taken as a whole and for the above reasons, the appeal is dismissed.

Ben Plenty

INSPECTOR

² HLS 2022, table 2, completions