

Appeal Decision

Site visit made on 7 March 2023

by N Duff BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2023

Appeal Ref: APP/V2635/W/22/3303343

Land opposite 1 to 3 Two Acres, Two Acres, Middleton, Norfolk

- 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 Graham Thompson against the decision of Borough Council of King's Lynn and West Norfolk.
 - The application Ref 21/01484/O, dated 1 October 2021, was refused by notice dated 16 March 2022.
 - The development proposed is outline application with indicative layouts and committed access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity I have used the site address as provided on the decision notice as this is more precise than the application form.
3. The application form states that the proposal is for outline consent with all matters reserved except for access. Appearance, landscaping, layout and scale are reserved for future consideration. This reflects the decision made by the Council and I have therefore proceeded on this basis.

Main Issues

4. The main issues are whether the proposed development would be in a suitable location having regard to the character and appearance of the area and the effect of the proposed access on highway safety.

Reasons

Character and appearance

5. The proposed development is for three dwellings on a greenfield site located to the rear of a property off Hill Road and opposite properties on Two Acres. The site is accessed from the track serving properties on Two Acres. Except for properties located on Two Acres opposite the site, the surrounding dwellings are mainly bungalows. A mature hedgerow runs along the boundary of the site facing Two Acres. The site is grass with some low lying vegetation including young trees. Due to the substantial separation distances from neighbouring low height properties and intervening landscaping between dwellings at Two Acres, the site has a very open and rural character.

6. The site is located on the edge of the village of Middleton outside of the development boundary in the countryside. The site is closely related to housing development in Middleton and has housing development immediately on two sides, and Paul Drive close to the northwestern site boundary. Having regard to the High Court judgement *Braintree District Council v Secretary of State for Communities and Local Government & Ors* [2017] EWHC 2743 (Admin) (the Braintree Judgement) relating to what is now paragraph 80 of the National Planning Policy Framework (the Framework), this physical location would not result in new isolated homes in the countryside that the Framework seeks to avoid. Indeed, the parties do not dispute that the site is not isolated, and I have no reason to disagree with this for the reasons mentioned. However, this judgement does not conclude that dwellings outside of settlement boundaries can be within the settlement, but rather that dwellings can be located outside a settlement boundary and not be isolated. Accordingly the site, although not isolated, remains outside of the village of Middleton and within the countryside.
7. Due to the location of development in the countryside, outside of the settlement boundary of the village, the proposal would introduce built development which would harm the open and rural character and appearance of the countryside.
8. Having regard to the Braintree judgement in relation to the development plan, the Council in that case could not demonstrate a five year housing land supply, therefore the policies were considered to be out of date. However, this is not the case here and proposal must be determined in accordance with the development plan.
9. The plot sizes of the dwellings as shown on the indicative plans do reflect surrounding development, especially the dwellings on Paul Drive to the northwest. Whilst it is appreciated that the existing dwellings on Two Acres are more substantial than the proposed scheme, the proposal would respond to the pattern of adjacent streets by providing detached dwellings and would optimise the density of development.
10. For these reasons the proposed development would respond to the local density and pattern of adjacent streets and would not be contrary to Policies CS08 of the Kings Lynn & West Norfolk Borough Council Local Development Framework – Core Strategy Adopted July 2011 (CS) and Policy DM15 of the Site Allocations and Development Management Policies Plan – Adopted September 2016 (SADMPP) in these respects.
11. Nonetheless, overall the proposal would be contrary to policies CS06 of the CS and policy DM2 of the SADMPP which between them seek to protect the countryside from development. Therefore, for the reasons mentioned, the proposal does not accord with paragraph 174 of the Framework as it would not enhance the local environment by recognising the intrinsic character and beauty of the countryside.

Highway safety

12. The proposed development would utilise the existing access off Hill Road which serves four dwellings on Two Acres. The Council has raised concerns regarding the dimensions of the access which would require widening to 4.5m for a length of 10m to allow two vehicles to pass. There are existing boundary treatments

and verges along the sides of the access track therefore opportunities for passing places are limited.

13. The plans show the access road highlighted by the red line on the submitted location plan. Although the red line is drawn tightly around the track, land does exist outside of the red line which may be able to physically accommodate the required widening. However, due to the required land being outside of the site boundary it cannot be assumed that widening is possible over what appears to be third-party land. For this reason, the additional width could not be reliably secured by condition.
14. The appellant's evidence states that a turning head could be created at the west of the site to allow vehicles to turn including fire appliances and service vehicles which would be beneficial to Two Acres. Neighbours to the site have made representations which do include comments relating to the existing problems with the width of the road and problems associated with larger vehicles trying to turn around. Whilst a potential solution is shown on the indicative plans, the Local Highway Authority has stated that they would require details of on-site parking and turning provision in accordance with the adopted standard to be provided at reserved matters stage.
15. Nonetheless, I conclude that the proposed development would have a detrimental impact on highway safety by potentially creating vehicular conflict along Hill Road as vehicles could not safely pass on Two Acres which could necessitate vehicles reversing onto Hill Road or waiting on Hill Road for oncoming vehicles to pass. Therefore, the proposal is contrary to policies CS11 of the CS and DM15 of the SADMPP which between them require developments to provide safe and convenient access. This is a matter to which I attach significant weight.

Other Matters

16. Included within the evidence provided by the Council is a statement on housing land supply, this states that the Council can demonstrate a supply of 6.24 years, therefore there is not a shortfall of housing. Nevertheless, the proposal would supply three dwellings which would contribute towards local need, I give this moderate weight.
17. The site is located in Flood Zone 1 which has a low probability of flooding from rivers and the sea. The proposal is unlikely to exacerbate flooding in the local area subject to adequate drainage.

Conclusion

18. For the reasons set out above, on balance, I conclude that the proposed development would not accord with policies CS06 and CS11 of the CS and policies DM2 and DM15 of the SADMPP. Although the development does not conflict with other policies of the development plan, this leads me to conclude that the proposal conflicts with the development plan as a whole. It also does not accord with the Framework. Thus, having had regard to all other matters raised the appeal is dismissed.

N Duff
INSPECTOR

