



Appeal Decision

Site visit made on 12 June 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2023

Appeal Ref: APP/F2605/W/22/3296710

Rede Farmhouse, Grove Road, Banham NR16 2HG

- 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 Hazelby Evans Developments Ltd against the decision of Breckland Council.
 - The application Ref 3PL/2021/0394/F, dated 5 March 2021, was refused by notice dated 27 October 2021.
 - The development proposed is seven market dwellings on garden land.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's fifth reason for refusal relates to the suitability of the site access, particularly for vehicles turning right out of the site and access to Rede Farmhouse Barn. I note the Highway Authority's response to the appeal, which confirms it does not wish to restrict the grant of planning permission, subject to the inclusion of planning conditions, of which some relate to the submission of further details surrounding the point of access and delivery of visibility splays. As the appellant is agreeable to such conditions, I do not consider this issue to be in dispute between the main parties. As such, I have not included the concerns with the access as a main issue.
3. Since the time of the Council's decision, there has been a change in position relating to the effects of the proposal on nutrient neutrality. I have considered this under Other Matters below.
4. A Unilateral Undertaking has been submitted with the appeal, dated 3 September 2022 (the UU). I have taken this into account in determining the appeal.

Main Issues

5. The main issues are:
 - Whether the proposal would be appropriately located, having regard to the spatial strategy of the development plan;
 - The effects of the proposal on the living conditions of the occupants of the adjoining properties, with particular regard to noise, light and disturbance arising from the proposed access;

- Resident's accessibility to services and facilities, having regard to sustainable transport measures, and;
- The effects of the proposal on the character and appearance of the area.

Reasons

Spatial Strategy

6. The appeal site lies close to a cluster of existing developments along Grove Road and is approximately 200m from the edge of the settlement boundary of Banham, which is defined as a Local Service Centre by the Breckland Local Plan 2019 (the LP). Despite its position close to other buildings, the site is located beyond the more dense development defining the settlement to the east. As such, it is neither within nor immediately adjacent to the settlement boundary.
7. Policy GEN03 of the LP contains a settlement hierarchy for the District, seeking to focus development within Key Settlements, followed in turn by Market Towns, Local Service Centres and Villages with Boundaries. It describes that the strategy in relation to areas outside the development hierarchy is set out in other policies which it lists. In addition, Policy GEN05 accepts development within defined settlement boundaries, and states that outside those boundaries, development is restricted to recognise the intrinsic character and beauty of the countryside and will only be acceptable where it is compliant with all relevant policies set out in the development plan, including those listed.
8. Policy of the LP HOU3 is among those listed in both policies GEN03 and GEN05 and relates to development outside the boundaries of Local Service Centres. The Council state that it is able to demonstrate a 5 year supply of land for housing, even taking into account the issue of nutrient pollution. However, there is not detailed evidence before me as to whether sites for the new homes required in Banham have been identified, as supporting paragraphs 3.14 and 3.15 of the LP suggests are relevant.
9. In any event, even if the LP did not identify sufficient sites to achieve the housing target for the settlement, the proposal would not meet all the criteria listed in HOU3, particularly as it is not immediately adjacent to the settlement boundary. While the proposal would meet some of the criteria listed, the policy states that all should be met. There is not evidence of other policies in the LP which would support the development in this location and, for these reasons, the proposal would conflict with Policy HOU3 and, by extension, Policies GEN03 and GEN05.
10. The National Planning Policy Framework (the Framework) makes clear that the planning system should be genuinely plan-led. For the above reasons, the provision of housing in this location would conflict with the Council's spatial strategy and settlement hierarchy, in conflict with policies GEN03, GEN05 and HOU3 of the LP.

Living Conditions

11. The proposed site access would be located between two existing properties, Rede Farmhouse Barn to the south, and Windrush to the north. Both adjoining properties are single storey, with gardens extending to the east, and both are separated from the existing access by close boarded timber fencing of varying heights. Rede Farmhouse Barn has a number of windows in its north facing

elevation, which directly overlook the access over a lowered section of fencing. There is not evidence before me regarding the rooms which those windows serve or the contributions which those windows make to the quality of the accommodation enjoyed by the occupants of that property. Based on my observations I cannot rule out the possibility that some of those windows serve habitable rooms.

12. The proposals would introduce vehicle and pedestrian movements to the access associated with the six new homes. These movements would be in close proximity to those windows of Rede Farmhouse Barn and could cause harm to the living conditions of that property through noise disturbance and potentially from headlights of vehicles as they turn into the access.
13. The appellant suggests a low noise surface could be used on the access. However, in the absence of details relating to the effects of such a surface, it cannot be established that it would successfully mitigate for any noise disturbance. The supporting plans show planting along parts of the access, however, similarly, in the absence of further details of the nature of this planting, it cannot be established that it would successfully mitigate for or reduce the above effects.
14. I have considered whether this matter could be addressed through the imposition of a planning condition. However, given the uncertainty surrounding the measures required, and their effects, I do not consider it would be reasonable to delay the submission of full details. In addition, mitigation in front of those windows of Rede Farmhouse Barn could give rise to other effects on the living conditions of its occupants, relating to outlook.
15. Windrush does not have any windows which would directly face the access other than a window in a dilapidated shed positioned next to the boundary. While the passing of vehicles on the access would be perceivable by occupants of Windrush, given the consistent and high close boarded fence which runs along its boundary, I do not consider that unacceptable harm would occur to the living conditions of the occupants of that property.
16. In the absence of evidence to the contrary, the proposal would cause harm to the living conditions of the occupants of Rede Farmhouse Barn. As a consequence, the proposal would conflict with Policy COM03 of the LP which relates to protection of amenity as well as the objectives of the Framework insofar as they relate to healthy living conditions.

Accessibility and Sustainable Transport

17. As above, the appeal site is located some 200m from the edge of the settlement boundary of the village of Banham, as the crow flies. Banham includes a limited number of local services and facilities including a community centre, primary school and some retail facilities.
18. The road outside the appeal site has a 30mph speed limit, which begins to the north. At the time of my site visit, the road was quiet with few passing vehicles. I appreciate, however, that this was only a snapshot of time in the middle of the day. Despite its varying width, I found the road to have good visibility and natural surveillance arising from the predominately low front boundary treatments of properties in the surrounding area. While there were no footpaths in the vicinity of the site, I observed the road a short distance

from the appeal site being prepared for the laying of a footpath, which would appear to be that secured by a nearby development¹. I note that the highway works associated with that development also included some localised carriageway widening. While I do not have evidence of the exact locations of those works, they would, nonetheless, serve to improve the pedestrian links from the appeal site to Banham. There would remain a short distance of carriageway without any footpaths, which the Highway Authority consider could be appropriately widened to provide a footpath which would connect to other footway works, if the development were otherwise acceptable.

19. On this basis, there would be an attractive route for future occupiers of the site to walk to Banham. Cycling would also be an attractive option given the distances involved and the relatively flat gradients of the roads. While a degree of reliance on private cars may still be required to reach other facilities further afield, I am satisfied that future occupants need not be entirely reliant on private cars to satisfy their day to day needs.
20. For the reasons given, future occupants of the proposal would have acceptable accessibility to services and facilities, and sustainable transport options would be available. Consequently, the proposal would comply with policies TR01 and GEN01 of the LP which, among other things, seek to minimise the need to travel, promote opportunities for sustainable transport modes and mitigate and adapt to climate change. The proposal would also comply with Policy 5 of Norfolk's Transport Plan for 2026: Connecting Norfolk, and the objectives of the Framework relating to sustainable transport.

Character and Appearance

21. Development in the surrounding area is set predominantly in linear arrangements around the southern end of Grove Road and Kenninghall Road to the south. However, these arrangements are supplemented by a number of smaller cul de sacs and routes which extend from these roads. I observed that new development under construction on the western side of Grove Road is similarly set around a cul de sac and set back from the edge of Grove Road. For these reasons, I do not consider the location of the proposal behind the main building line would cause harm to the character and appearance of the area.
22. Given the varied scale and appearance of houses surrounding Grove Road, and their varied plot sizes, I do not find the houses of the appeal scheme would be at odds with the established character of the area or appear overly intensive. The site is separated from the open countryside to the north by a belt of trees and hedgerows, which would continue to provide a distinction between the cluster of development on Grove Road and the expanse of arable land beyond.
23. Taken together, for these reasons, the proposal would not cause harm to the character or appearance of the area, nor to the intrinsic character and beauty of the countryside. The proposal would comply with policies GEN02, ENV05 and COM01 of the LP insofar as they relate to high design quality and the need to respect, and contribute to, the character of the surrounding area and landscape.

¹ Breckland Council ref 3PL/2021/0800/D

Other Matters

24. I note issues surrounding the effects of the proposal on nutrient neutrality arising from the increase in overnight accommodation, and also that the UU intends to provide mitigation for recreational pressures. There is little evidence before me surrounding the possible effects of the development in these respects and any assessment of the proposal under the Habitat Regulations². However, Regulation 63(1) of those Regulations indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. As the appeal is dismissed on other grounds it is not therefore necessary to address this in any further detail.
25. While the Council are able to demonstrate a five year land supply for housing, the proposal would nonetheless contribute to the national objective to boost the supply of homes. These would be on a windfall site which has previously been garden land, which could be delivered quickly and, to some extent would support the rural community of Banham. Biodiversity benefits to the site could be delivered including those intended for protected species. The proposal would provide construction jobs which along with the financial spend of new residents, would benefit the local economy. Given the scale of the proposal, the generated New Homes Bonus benefit would be limited. Cumulatively, these benefits attract moderate weight, given the scale of the proposal. These would not outweigh the harms arising from the proposal identified above, which would be significant and long lasting and to which I ascribe substantial weight.
26. The proposal has been found to be policy compliant in respect of other issues including some of those main issues above. However, these are neutral considerations, rather than weighing in favour of the development. As Council Tax would be used to pay for services generated by residents, this would not amount to a benefit.
27. It is alleged that weight should also be afforded to the benefit of the proposals being sited outside the Broads of Wensum and Whittle Water Body catchment areas. The Council acknowledge that the effects of issues associated with nutrient pollution has been factored into its land supply statement and there is not strong evidence before me to suggest this has not been the case, nor that housing delivery has suffered as a result. While this has weighed in favour of development in a nearby authority, there is not sufficient evidence to demonstrate that the circumstances are the same, or comparable to the appeal scheme.
28. With the above in mind, there are no 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.

Conclusion

29. For the reasons given, the appeal is dismissed.

C Shearing

INSPECTOR

² Conservation of Habitats and Species Regulations 2017