
Appeal Decision

Site visit made on 3 August 2023

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 16 August 2023

Appeal Ref: APP/A2470/W/22/3299719

Land on the North East Side Of Pingle Lane, Morcott, Rutland

- 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 Richard Drewnicki against the decision of Rutland County Council.
 - The application Ref 2020/0059/FUL, dated 7 January 2020, was refused by notice dated 26 November 2021.
 - The development proposed is 1 No. new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for 1 No. new dwelling at Land on the North East Side Of Pingle Lane, Morcott, Rutland in accordance with the terms of the application, Ref 2020/0059/FUL, dated 7 January 2020, subject to the attached schedule of conditions.

Procedural Matters

2. I have taken the description of the development from the Council's decision letter, rather than as described by the appellant¹ as it is a more factual description.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. I have identified a single main issue, however that incorporates several facets which I deal with under the headings below.

Development Plan

5. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Here, the development plan comprises the Rutland Core Strategy (2011) (CS) and the Site Allocations and Policies Development Plan Document (2014) (SAPDPD).
6. The National Planning Policy Framework (the Framework) is also a material consideration. The Council is currently unable to demonstrate a 5-year housing

¹ Described as "New house of outstanding and innovative design (NPPF paragraph 79e - now 80e)."

land supply (HLS) and as such paragraph 11 of the Framework is engaged and the 'tilted balance' applies. While the development plan is still the starting point, this is a material consideration.

Isolated Location

7. The appeal site is located outside of the planned development limits (PDL) for Morcott. Accordingly, while Morcott is identified in the CS as a 'smaller service centre' for planning policy purposes, the appeal site is located within the countryside. CS policy CS04 strictly limits such development to that which has an essential need to be located in the countryside and will be restricted to particular types of development to support the rural economy and meet affordable housing needs.
8. In the application, the appellant has sought to justify the proposals under paragraph 80(e) of the Framework. This is a criteria-based policy which states that decisions should avoid the development of isolated homes in the countryside unless one or more circumstances apply. Criterion (e) requires that the design is of exceptional quality, in that it is truly outstanding, reflecting the highest standards in architecture and would help to raise standards of design more generally in rural areas and would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.
9. While the site is in the countryside in terms of the development plan, that is not the same test as that in paragraph 80 in the Framework which specifically relates to *isolated* dwellings [my emphasis]. The appeal site is located adjacent to Morcott, with the closest dwelling being at No 4 Pingle Lane. Physical separation from this settlement is thus limited and I do not consider it to be isolated in paragraph 80 terms.
10. However, this is all somewhat moot as the emphasis for achieving well-designed places is firmly embedded into the Framework. There is emphasis on the use of appropriate tools and processes for assessing and improving the design of development, including recommendations made by design review panels. In particular, paragraph 134 states that development that is not well designed should be refused. Significant weight should be given to development which reflects local design policies and guidance on design and/or outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
11. Accordingly, while I accept that paragraph 80 is not relevant in this case, this in itself is not justification to dismiss the appeal. I now go on below to consider the overall design principles and the accordance with the development plan and the Framework.

Architectural Design

12. The proposed design would be for a detached dwelling and garage with separate annexe. It has been designed by an architects firm in a contemporary design which exploits the topography of the site.
13. The main dwelling would be single storey and U shaped in its form around a courtyard. A separate annex would be accessed by walkway and set into the ground, designed to extend out into a newly created wetland area in a jetty type form with a striking curved glazed end designed to take in the views.

Materials for the development would be a local stone with wildflower grass roofs. The development has been designed as a low carbon building with net gains to biodiversity and local ecology benefits.

14. The development would be sizable but would not appear as such as the design would successfully exploit the topography in order to minimise its scale and bulk. Its design would be overtly modernist in its form but would be harmonious in its use of local materials.
15. In order to be an outstanding or innovative design in accordance with paragraph 134 of the Framework, a building does not have to be an architectural showpiece. This proposal is an example of where the building has been effectively designed to quietly integrate into the landscape and respect the rural character. That is also the mark of outstanding architecture. The sustainability credentials also work in its favour.
16. The Council state that the appellant did not demonstrate how it would raise the standards of design in rural areas generally. This is a matter that is hard to quantify, and it is difficult to understand what the Council would seek in order to demonstrate this point. I also recognise that design is a subjective matter and what one person finds beautiful and inspirational, another may not.
17. However, I consider the proposal would represent high quality architecture and design for the reasons set out above. The design has also been positively influenced by local consultation with the Council and has been through two design review panels (DRPs) for independent appraisal and assessment which is an important tool in the process of delivering high quality schemes. The first DRP was at pre-application stage and the feedback from this was then used to inform the appeal proposals. The second DRP response gave specific minor points but overall commended the design response. Together these factors would assist in driving up standards, along with the CA designation, and local and national policies.

Landscape

18. The immediate grounds of the proposed development would incorporate structured and formal landscaping with terraced areas, a small area of kitchen garden and stepped planted areas. The wider site would incorporate natural wildflower meadows and tree planting, along with the creation of the wetland, as mentioned above.
19. The formal domesticated areas have been carefully planned and designed and minimised in their extent. They are also located close to the proposed dwelling whereas the wider site would give a much more naturalistic impression.
20. The site is visible from the public rights of way network to the north of the site, but the overriding impression when viewed from these footpaths would be of a dwelling that has given careful consideration to the natural environment. I consider that it would be harmonious with it, rather than giving the appearance of an urbanised domesticated development site.

Heritage

21. Morcott Conservation Area (CA) has an enclosed and intimate street pattern reflective of the Saxon and medieval origins of the village. Other than the Parish Church, buildings in the village predominantly date from the 17th and

- 18th Centuries. As recognised by the Council's CA Appraisal, there is a great mix of house styles, and there are rarely two identical farmhouses or cottages, but there is consistency and uniformity in terms of the simplicity in the buildings and in the use of a limited palette of materials including in the use of local limestone for walls.
22. The historic development of Morcott is associated with agriculture and the rural surroundings form an important part of its character. Due to the undulating topography, the village is largely hidden in the landscape, with the Church, located in an elevated position, being a defining village landmark.
23. Pingle Lane is accessed via High Street and School Lane, which form part of the central historic core. There are a number of dwellings of different styles and ages, some set close to the footpath or narrow highway. The density of development decreases further along Pingle Lane out towards the countryside.
24. The appeal site itself is an open area of undulating grassland which leads down towards a stream. The site is enclosed by established trees and hedges and there is limited visibility of the site from Pingle Lane and the wider CA.
25. The significance of the CA is thus derived from its historic development and architectural interest as an early rural settlement which has evolved over time. The appeal site makes a positive contribution to the character and appearance of the CA as part of the rural identity of the village.
26. While the proposals would involve the transformation of open arable land into that of built development, that in itself does not automatically equate to harm to the CA. As referenced above, I consider that the successful exploitation of the site's topography, the use of green roofs and the landscaping treatments would mean that the development would be calmly located within the landscape. It would read as a modern edge of settlement development which has been carefully designed to respect the built-up plan form of the CA, while not presenting a hard urbanised form in this sensitive location.
27. Development at the site would also be consistent with the built form of the village which incorporates higher densities of historic dwellings to the centre, which then decreases.
28. I have made my detailed comments about the design above, but in terms of the CA, the introduction of a unique contemporary building, with the use of traditional materials and a relatively simple plan form, is entirely consistent with the buildings in the CA as a modern expansion and evolution of this historic settlement.
29. Overall, I consider the development would preserve the character of Morcott CA.
30. There are also a number of listed buildings situated in the CA, including the abovementioned Church. No 3 Pingle Lane is the closest listed building to the site, listed at Grade II. Due to the nucleated form of the village, the enclosure afforded by the historic street patterns and the hidden nature of Morcott in the wider landscape, there is very limited invisibility from the site with the listed buildings. Some limited wider views may be taken from footpaths, but the design of the development would not detract from the special interest of any such building which may be visible in a shared view.

31. In accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have paid special regard to the desirability of preserving or enhancing these listed buildings or their settings or any features of special architectural or historic interest which they possess and I thus find no harm in this regard.
32. Due to the narrow nature of the highways along School Lane, Church Lane and Pingle Lane, it is proposed that construction traffic would be routed from the north via North Luffenham Road, via an existing agricultural track. The track would be extended and widened. A temporary storage area would also be created and temporary crossing point across the stream into the site.
33. This land contains ridge and furrow which is a non-designated heritage asset. However, the route of the track broadly follows the alignment of the ridge and furrow and the storage area would be in an area where this is less pronounced. The works would not involve the wholesale loss of this feature and it would largely remain a discernible landscape feature. I also note that all the works would be temporary and that the land would be restored afterwards. Moreover, a condition could be imposed in respect of archaeological works and details of the track and stream construction details. Moreover, I am mindful that there was no objection by the Archaeology Officer to these proposals.
34. Overall, I am satisfied that there would be no harm to this non-designated heritage asset.

Character and appearance conclusions

35. Taking these factors together, while I have found that the dwelling would not be isolated for the purposes of paragraph 80 of the Framework, I have found that the development would represent outstanding design, there would be no harm to designated or non-designated heritage assets, including the Morcott CA. I also find there would be no harm in the rural landscape. Overall, I consider that there would be no harm to the character and appearance of the area.
36. The development would therefore accord with CS Policy CS19 and SAPDPD Policy SP15, together which seek to meet high standards of design and make a positive contribution to Rutland's villages and countryside in terms of scale, form and massing, detailed design and materials and landscaping. The development would also accord with SAPDPD Policy SP20 which requires development to protect and enhance historic assets and their settings. In terms of the Framework, the development would fully accord with the requirements of paragraph 134.
37. Finally on this issue, I appreciate that design and character is a subjective matter and this case has divided local opinion. However, the sheer strength of public feeling is not a matter which would override a policy compliant scheme.

Other Matters

Sustainable location

38. As previously identified, the site is located outside of the PDL for Morcott and as such is classified as being in the open countryside. As I have found paragraph 80 of the Framework does not apply here, there is a technical breach of CS Policy CS04 and SAPDPD Policy SP6.

39. However, due to the lack of housing land supply, these policies are effectively out of date. Paragraph 79 of the Framework seeks to promote sustainable development in rural areas, locating housing where it will enhance or maintain vitality of rural communities and support local services. The site is located directly adjacent to this settlement boundary and future occupants would be able to support its local services and facilities as well as those of neighbouring settlements. I therefore find no harm in terms of the location of the site outside the PDL.

Highways

40. In addition to concerns regarding the transport arrangements in respect of effects upon the ridge and furrow, broader highways concerns were raised by a number of interested parties. However, the alternative route for construction traffic would be a workable solution which would avoid such traffic using the narrow lanes at Church Lane/School Lane/Pingle Lane.
41. There was also no objection from the Highways Authority in this regard. Any effects would also be temporary and conditions can be imposed in terms of active management. I therefore find no harm on this matter.
42. I note that there is a dispute about ownership/access rights at the appeal site, however that is a separate civil matter between parties and would not preclude development being permitted here by way of a planning consent.

Drainage

43. As previously referenced, the landscaping at the site would include a creation of a wetland area. This would be designed to deal with any concerns related to the waterlogging of the site.
44. The sewer easement across the land would be a civil matter for the parties to deal with as necessary and would not preclude planning permission being granted at the site.

Ecology

45. While the site is an open field, the Ecological Appraisal notes that the site is species poor and there is no evidence of protected species at the site. There would also be net gain for biology due to the meadow and wetland planting as part of the landscaping proposals. Other measures include the installation of bat and bird friendly features integral to the design as well as swift nest boxes. Overall there would be no harm to ecology from the proposals.

Planning Balance

46. I have found no harm to character and appearance, which includes effects upon heritage assets. I have also found no harm in terms of the other matters raised in respect of highways, drainage and ecology.
47. There is policy conflict in respect of the sites location outside of the PDL and lack of compliance with CS Policy CS CS04 and SAPDPD Policy SP6. However, in light of my findings in terms of access to services and facilities and compliance with the Framework in this regard, there would be no harm from this, in spite of the technical policy breach.

48. Accordingly, whether undertaking an ordinary planning balance, or a tilted balance under paragraph 11 of the Framework, I am satisfied the specific material considerations in this case point towards the granting of consent and that there are no adverse effects which would significantly and demonstrably outweigh the benefits of the development.

Conditions

49. I have imposed conditions specifying a time limit and compliance with approved plans (including the landscaping plan and the traffic plans) for certainty (conditions 1-2). I have omitted reference to other submitted documents and instead have referenced these within other relevant conditions, for precision.
50. Conditions relating to landscaping, materials for the dwelling and ecology are necessary to protect the character and appearance of the area, including the rural character and the CA as well as to ensure the biodiversity net gains (conditions 3-6).
51. Conditions removing permitted development rights for changes and alterations, and limiting the occupation of the annex are, exceptionally, necessary in light of the sensitive nature of the site and in terms of character and appearance (conditions 7-8). I have, however, amended condition 7 and removed reference to an exception where drawings showing siting and design of any enlargements/alterations which has been approved by the Council. This goes underneath the restrictions imposed and is unnecessary as such matters would be before the Council in any case.
52. Conditions relating to construction management, archaeology and restoration of the construction access track are necessary to ensure the protection of highway safety, residential amenity and in terms of non-designated heritage assets (conditions 9-11).
53. Finally, I have omitted the condition requiring the dwelling to be made available for visits by the public and architectural students for the purposes of understanding high quality design. I note that the appellants suggested such a condition. However, in light of the policy compliance of the scheme, such a condition is not necessary to make the scheme acceptable in planning terms, nor would it be enforceable. That said, a lack of imposition of such a condition would not restrict the occupants from doing this, should they wish to facilitate such visits in the future.

Conclusion

54. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

C Searson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
MC-PL01 A, MC-PL02 F, MC-PL03 D, MC-PL05 A, MC-PL06 A, MC-PL08, MC-PL09, 1281-01 B, 1281-02 B, LE159DS-DR-MC-0001, LE159DS-DRMC-002, LE159DS-DR-MC-0003, and SK_PL_01.
- 3) No development above ground level shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, including all the gains outlined in the Biodiversity Net Gain assessment (Green Environmental Consultancy – Nov 2019), which shall include proposed changes in ground levels, boundary treatments and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in Relation to Construction."
- 4) All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.
- 5) No development above damp course level shall be carried out until precise details of the manufacturer and types and colours of the external facing and roofing materials as identified within the Design and Access Statement and the Stone Design Statement Rev A - (11/6/20) to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.
- 6) The development shall be carried out in accordance with the recommendations in the submitted Preliminary Ecological Appraisal (Green Environmental Consultants, September 2019), its Addendum (September 2020), and the nest boxes, including for Swifts, shown on the approved plans shall be erected before the dwelling hereby permitted is occupied and maintained and retained thereafter.
- 7) Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A-E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling or erection of any structure within its curtilage shall be erected or carried out.
- 8) The annexe hereby approved shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwelling hereby permitted.

- 9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall be based upon the details within the amended Traffic Management Report (Boyes) October 2019 and should provide for:
- i) the track and stream crossing construction details
 - ii) the parking of vehicles of site operatives and visitors
 - iii) loading and unloading of plant and materials
 - iv) storage of plant and materials used in constructing the development
 - v) measures to control the emission of dust and dirt during construction
 - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works
 - vii) residents liaison
- 10) No development shall take place within the application site, including the approved construction access and compound, until the applicant or developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved, in writing, by the Local Planning Authority.
- 11) Within 2 months of the dwelling hereby permitted being occupied, the temporary track to the construction compound, the compound itself and any structure constructed to cross the watercourse shall be removed from the land and the land re-instated to its former condition, including any ridge and furrow disturbed, in accordance with a plan and photographic survey that shall have been carried out before development commences. The widened access gate on Glebe Road shall also be restored back to its original condition including replanting of hedges within the same timeframe.