



Appeal Decision

Site visit made on 13 December 2023

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th January 2024

Appeal Ref: APP/U2615/W/23/3325091

Land South of Manor Farm Cottage, Browston Lane, Browston Green, Belton with Browston, Great Yarmouth NR31 9DP

- 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 Aaron Daniell against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/23/0018/O, dated 22 December 2022, was refused by notice dated 2 May 2023.
 - The development proposed is described as 'an outline planning application for the erection of 3no. dwellings and the relocation of stables, at land South of Manor Farm Cottage'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought, with all matters reserved. The appellant's Outline Planning Statement sets out that the submitted site/block plan is indicative. I have determined the appeal on the basis that the site plan is for illustrative purposes only.
3. The fifth reason for refusal relates to the application not being supported by an up-to-date shadow template Habitats Regulations Assessment (HRA) nor the required contribution for the mitigation of the recreational impact of the development on protected sites. The appellant has submitted a Unilateral Undertaking (UU), and I return to this issue later.
4. The National Planning Policy Framework (the Framework) was revised in September and December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Main Issues

5. The main issues are:
 - whether the site would be a suitable location for the proposed development, having regard to the accessibility of services and facilities and the provisions of the development plan;
 - the effect of the proposed development on protected species, with particular regard to great crested newts; and

- the effect of the proposal on the provision of public open space.

Reasons

Suitable location

6. The appeal site is in a rural location, accessed from Browston Lane, an unlit country lane with no footways. It comprises stables, outbuildings and paddocks. There is a cottage in a large curtilage and equestrian land to the north, with a modern development of two storey houses and further equestrian land to the south. There is a belt of woodland on the opposite side of the lane.
7. Policy CS1 of the Great Yarmouth Local Plan Core Strategy 2015 (CS) sets out the circumstances in which it will look favourably towards new development to ensure the creation of sustainable communities. These include ensuring that it is of a scale and in a location that complements the character and supports the function of individual settlements, and the delivery of safe, accessible places that promote healthy lifestyles and provide easy access for everyone to jobs, shops and community facilities by walking, cycling and public transport.
8. New residential development is distributed according to a settlement hierarchy set out in CS Policy CS2. This sets out that approximately 5% of new development will take place in the Secondary and Tertiary Villages named in the settlement hierarchy. The supporting text identifies Browston as a Tertiary Village, and the policy approach towards these villages is justified on the basis that any growth should be proportionately limited in scale and well-related to the existing settlement and infrastructure. It is indicated that this proportion has been exceeded since 2015 with 7% of development being in these locations. Therefore, the proposal would not be required to contribute towards the distribution of development anticipated by Policy CS2.
9. Policy CS2 also limits development in the countryside to conversions/ replacement dwellings/ buildings and schemes that help to meet rural needs. The supporting text states that Tertiary Villages and the Countryside contain few or no services and facilities, with limited or no access to public transport, and very limited access to employment opportunities.
10. I note that Policy CS2 also encourages the reuse of previously developed land. Whilst a small part of the appeal site may be considered to be previously developed land, the majority of it is currently undeveloped. As such, the proposal would conflict with Policy CS2.
11. Development limits are defined in Policy GSP1 of the Great Yarmouth Local Plan Part 2 2021 (LPP2) and the parties do not dispute that the appeal site falls outside these. The appeal site is therefore located in the countryside. In such circumstances, the policy states that development will not be permitted except where it is associated with agriculture and forestry, provides utilities and highway infrastructure or specific policies in the Local Plan indicate otherwise. The latter includes rural workers' housing under Policy H5.
12. The proposal does not fall within any of the types of development allowed outside the development limits outlined in Policies CS2, GSP1 or other policies in the development plan and would therefore be contrary to them.
13. The appellant considers that the proposal would be natural infilling of the frontage in a non-isolated location, providing a small-scale development

proportionate to the existing buildings on the site and surrounding buildings. However, the development plan policies do not specifically allow infill development on land outside the development limits. The appellant suggests that the dwellings could be self-build but has not suggested a mechanism to deliver this. In any event, regardless of whether there is a relevant policy, there is no evidence that the Council is not meeting its needs for self-build housing. As this is an outline application, the relationship of the proposed development with the surrounding built form, including the adjacent development at The Gables, and the location of any future buildings compared to existing ones cannot be determined.

14. Belton is the nearest village with some service provision, located over 2km from the site, whilst Gorleston is a larger service centre over 3km away. The distance to the nearest bus stop from the site significantly exceeds the recommended maximum walking distance of 400m and access to it is primarily along a country lane which has no lighting or footpaths. Whilst there are some car journeys associated with the existing use of the site, three new dwellings would increase the number of trips by private vehicles.
15. The Inspector for a recent appeal on another nearby site¹ found that the location would not be unsuitable for a new dwelling given that there would be similar trip movements to the existing use. The current proposal is for the relocation of the stables as well as three additional dwellings which would significantly increase trip movements and is therefore not comparable. The Framework recognises that some travel by private vehicle is likely in rural areas and the highways authority does not object to the proposal. However, even though there would be short journey times to some local facilities, the future occupiers of the proposed dwellings would be reliant on private vehicles to access them, and they would not be easily accessible, contrary to Policy CS1.
16. The contribution that the development could make towards maintaining the vitality of this rural community, in accordance with paragraph 83 of the Framework, would be limited given the size of the proposal and the distance to the nearest services.
17. The appellant refers to several developments approved near Browston over the past 20 years. As some were considered under a different policy context and the other relates to the conversion of a building rather than new build, they are not comparable to the current proposal.
18. Therefore, I conclude that the site would not be a suitable location for the proposed development, having regard to the accessibility of services and facilities and the provisions of the development plan. This would be contrary to Policies CS1 and CS2 of the CS and Policy GSP1 of the LPP2. It would also conflict with the Framework in relation to its requirements for the location of rural housing.

Protected species

19. Great crested newts are a European Protected Species protected by law². The appellant has submitted some ecological evidence, but this does not include habitat suitability index assessments for great crested newts for several ponds

¹ APP/U2615/W/20/3262245

² Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981

within 250m of the site or an assessment of the effects on a pond located around 80m from the site. As such, I am not satisfied that all relevant ponds within the locality have been adequately assessed for the presence of protected species.

20. In the absence of this information, the presence of great crested newts cannot be ruled out and I cannot be certain as to the extent to which they may be affected. Furthermore, if protected species were affected, I cannot be certain as to what mitigation, if appropriate, may be required.
21. The appellant considers that a suitably worded condition could be imposed. However, this would not be appropriate in this case given that potential impacts on protected species need to be investigated and it should be demonstrated from the outset that the proposal would not have an adverse impact on them.
22. Consequently, I conclude that there is insufficient evidence to demonstrate that the proposed development would not have an adverse effect on protected species, with particular regard to great crested newts. As such, it would fail to accord with Policy CS11 of the CS where it requires the avoidance of any harmful impacts of development on the borough's biodiversity and priority species, amongst other things. Furthermore, it would conflict with the Framework which seeks to protect and enhance biodiversity, including the protection and recovery of priority species.

Public open space

23. Policy CS14 of the CS recognises that new development can result in extra pressure being placed on existing infrastructure and local facilities and seeks to ensure that necessary infrastructure is delivered. Further, Policy CS15 requires all new developments to contribute to the provision of recreational green space and incorporate improvements to the quality of, and access to, existing green infrastructure in accordance with local circumstances.
24. More detailed policies are set out in the LPP2. Policy GSP8 states that consideration will be given to the need for planning obligations, including for recreational open space in accordance with Policy H4. The latter policy requires new residential developments to make provision for publicly accessible recreational open space unless it can be demonstrated that there is sufficient local surplus of provision to meet the needs of existing residents and those arising from future occupiers of the proposal. Policy H4 further sets out that this will generally be expected to be provided on site except where this is impractical due to the size of the site, amongst other things, in which case an equivalent financial contribution will be required for improving the quality and/or accessibility of public open space provision in the locality.
25. The Council acknowledges that the size of the proposal means that public open space cannot be provided on site. It indicates that a financial contribution of £2,884.71 (£961.57 per dwelling) would be needed to off-set the demand for open space generated by the proposal, and the appellant has no objection to providing a suitable financial contribution under an agreed mechanism.
26. However, there is no evidence indicating a need for additional recreational space locally or how the financial contribution has been calculated, and no indication of how this would be used. Therefore, in this case, a financial

contribution towards public open space would fail to meet the tests for planning obligations set out in the Framework and included in Policy H4 that it is necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development.

27. Therefore, I conclude that the proposal would not have a harmful impact on the provision of public open space. In this respect, I do not find conflict with Policies CS14 and CS15 of the CS and Policies GSP8 and H4 of the LPP2.

Other Matters

28. The site lies within the Green 2.5km+ Indicative Habitat Impact Zone set out in the Norfolk Green Infrastructure Recreational Avoidance Mitigation Strategy (GIRAMS). The GIRAMS refers to the internationally protected Winterton-Horsey Dunes and The Broads Special Areas of Conservation, the Great Yarmouth North Denes, Breydon Water and Broadland Special Protection Areas and the Broadland Ramsar site with Zones of Influence in the Council's area. The appellant's UU includes a per unit contribution of £185.93 which was the rate at the time of the application, but the Council indicates that this amount should now be £210.84 per dwelling. The appellant has no objection to increasing this to the required indexed amount nor to providing an up-to-date shadow template HRA. However, notwithstanding this, there is no need for me to consider the implications of this because the scheme would be unacceptable for other reasons.
29. The appellant's general dissatisfaction with their interactions with the Council during the application process is a matter between those parties and it cannot have any bearing on my determination of this appeal.

Planning Balance

30. The proposal would contribute towards the supply of housing, but as it would only be for three dwellings, this carries only minor weight in the planning balance.
31. The proposal would incorporate energy efficiency measures and provide electric vehicle charging points, but as all developments should contribute to these objectives, I attach only little weight to these benefits.
32. There would also be some economic benefits during the construction phase when the proposal would provide jobs and opportunities for local companies and once occupied when future residents would use local facilities. However, given the relatively small scale of the proposal, these benefits would be limited.
33. The appellant also considers that the proposal would enhance the sense of community and provide better security against criminal activity. I give some weight to these social benefits.
34. I find no harm to the provision of public open space, so this is a neutral factor in the planning balance.
35. In contrast, the site would not be a suitable location for the proposed development. I have concluded that the proposal would conflict with development plan Policies CS1, CS2 and GSP1 and the Framework in this respect. There is also insufficient evidence to demonstrate that the proposal

would not have an adverse effect on protected species and, in this regard, would conflict with development plan Policy CS11 and the Framework. I give these planning harms significant weight.

36. Consequently, the benefits do not outweigh the harms I have identified. As the proposal would conflict with policies in an up-to-date development plan, and the Council is able to demonstrate a five-year housing land supply, it does not benefit from the presumption in favour of sustainable development in paragraph 11 of the Framework.

Conclusion

37. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

A Wright

INSPECTOR