



Appeal Decision

Hearing held on 16 April 2024

Site visits made on 9 January 2024 and 16 April 2024

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2024

Appeal Ref: APP/F2605/W/23/3322823

Greenacres, Church Road, Griston, Norfolk IP25 6QA

- 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 & Mrs Declerk against the decision of Breckland Council.
 - The application Ref 3PL/2022/1228/O, dated 31 October 2022, was refused by notice dated 28 February 2023.
 - The development proposed is the erection of 3 single storey dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I initially visited the site as an access required site visit under the written representations procedure on 9 January 2024. However, having considered the matter further following the site visit, the case was upgraded to a hearing as set out in the banner above.

Preliminary Matters

3. The application is submitted in outline form with all matters reserved for subsequent consideration. An indicative site layout is submitted. I have considered this indicative plan solely on the basis of determining whether, in principle, it is possible to erect three single storey dwellings on the site as set out in the description of development.
4. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. This does not materially change the planning policy context in respect of the main issues, and I have determined the appeal accordingly.
5. Since the planning application was determined, the Council have undertaken a partial review of the Breckland Local Plan 2019 (BLP). This was adopted in September 2023 and now forms the adopted local plan. The policies relevant to the determination of the application remain unchanged from the 2019 version of the BLP. The Breckland Design Guide was adopted in March 2024. Views of parties were sought, and it was agreed it this does not have any bearing on the disputed matters in this appeal. I have determined the appeal accordingly.
6. Figures set out in the Appendix 5 of the BLP¹ relating to the methodology for calculating 5% growth for the purposes of BLP Policy HOU04 differ from those

¹ 5% of 301 dwellings - 15

in the Council's most recent monitoring figures². From the evidence before me and from what was discussed at the hearing 5% growth of the settlement is generally accepted to be 16 dwellings.

Main Issues

7. The main issues are:

- whether or not the site would be a suitable location for residential development having regard to the settlement strategy of the development plan;
- the effect of the proposed development on trees; and
- whether or not there is a need for a planning obligation to secure payment of a tariff under the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy 2021 (GIRAMS).

Reasons

Locational Suitability

8. The appeal site is located to the rear of a dwelling known as 'Greenacres' on Church Road and is adjacent to the settlement boundary of the village of Griston. BLP Policy HOU04 sets out the Council's approach to development in certain rural villages with settlement boundaries. Griston is listed as one such village. The approach allows for appropriate development immediately adjacent to the settlement boundary provided that: 1) it is of an appropriate scale and design; 2) it would not lead to the number of dwellings in the settlement increasing by significantly more than 5% from the date of adoption of the Plan; 3) its design contributes to preserving, and where possible enhancing, the historic nature and connectivity of communities; and 4) it avoids the coalescence of settlements.
9. It is agreed that the proposal would satisfy criteria 1), 2) and 4). Therefore, in dispute is criteria 3), specifically the number of dwellings which have been built or have planning permission in Griston and their contribution towards the growth of the settlement. The Council explained their approach at the hearing and advised that it is set out in BLP Policy HOU02 and at Appendix 5 of the BLP. However, this is not set out explicitly in BLP Policy HOU04 or its supporting text, nor is it explicit within the text of the BLP what is meant by 'increasing'.
10. The Council's Housing Monitoring Figures set out in Appendix 2 of their Statement of Case, whilst a snapshot in time on 31 March 2023, are nonetheless their most up to date figures. Thus, based on the evidence before me, the number of dwellings and those with planning permission at the point of adoption of the BLP, provide a baseline number of dwellings in the village of 310 dwellings. Five percent growth would allow for an additional 16 dwellings to be delivered in the village during the lifetime of the BLP. Since that time (up to March 2023), the Council's data suggests that 68 dwellings have either been completed or have outstanding planning permission representing a growth of 21.9%. At the hearing the Council confirmed that 7 dwellings at Low Meadow Park are replacement dwellings. Therefore, the corrected figure is 61 dwellings

² 5% of 310 dwellings - 16

completed or with outstanding planning permission, representing 19.6% growth.

11. Even taking the above dwellings into account and the site where planning permission was granted prior to the adoption of the BLP and has not yet been implemented³, the evidence before me indicates that there has been significantly more than the 5% growth in Griston supported by BLP Policy HOU04. Furthermore, from the information before me several settlements in the district in addition to Griston also had planning permissions which exceeded the permitted 5% growth at the point of adoption of the Local Plan, and therefore this is not a unique situation in the district.
12. The appellant claims that the housing units delivered since the adoption of the BLP included in the baseline numbers should also not be included in the growth figures. However, from the information before me and from what I heard at the hearing the Council's approach to calculating the 5% target growth for villages such as Griston is based on a combination of delivery and planning permissions. One may take the view that this approach includes double counting, especially in relation to the Quantrill Structural Engineers site which remains an undelivered commitment. Nevertheless, even if permissions which were in place at the point of adoption and have since been delivered, are excluded from the delivery figures, the number of new dwellings, not including the replacement dwellings at Low Meadow Park, already exceeds 5%. Therefore, allowing the proposal before me would exacerbate the conflict with BLP Policy HOU04.
13. The methodology used by the Council to calculate the 5% target growth is not straightforward. Nevertheless, the evidence before me demonstrates that the 5%, even when only considering the number of completions since the adoption of the BLP either in or immediately adjacent to the settlement boundary in Griston has been exceeded. Moreover, the approach adopted for Griston is also adopted for other settlements in the district and therefore one which is being consistently applied across the district.
14. The appellant refers to a development directly south of the appeal site at Meadow View which was granted planning permission after the adoption of the BLP where the Council came to an alternative conclusion with regard to its locational suitability. The Council stated that at the time that this permission was granted uncertainty over the status of planning permission at the Quantrill Structural Engineers site led to the planning permission being approved. However, based on delivery alone, the approval of this planning permission would at the time have not led to the 5% growth of the settlement being significantly exceeded. Whilst it is maybe unfortunate that the Quantrill Structural Engineers permission was omitted from the Council's method of calculating the growth figures for a period, this is not a reason to grant permission in this instance. As such, it does not outweigh the harm that I have found on this main issue.
15. I therefore conclude that the appeal site would not be a suitable location for residential development, having regard to the spatial strategy for the area. It would therefore conflict with criteria b) of BLP Policy HOU04 which seeks to ensure that housing development in villages with boundaries is consistent with

³ Quantrill Structural Engineers 3PL/2017/0773/D – 37 units

their rural character and reflective of the more limited service provision and infrastructure available.

Effect on Trees

16. The appeal site contains a substantial number of existing trees along its northern boundary. At the hearing it was confirmed that all these trees are covered by a Tree Preservation Order⁴ (TPO), a copy of which is before me.
17. The existing trees within the appeal site and others close by are, collectively, a positive visual feature along the boundary of the appeal site. They contribute to the depth of vegetation when viewed from the road and, as such, are visible from the public realm. I find that they make a positive contribution to the character and appearance of the site and the surrounding area. I do not doubt that they also provide some biodiversity value.
18. A revised Arboricultural Report⁵ provides a general commentary in relation to the constraints on development around trees and proposes tree protection measures and construction methods within the root protection zones (RPAs) of the trees. Although the protection measures proposed for T5 -T10 would be very close to their trunks, a no-dig methodology is proposed within the RPAs. The area is already subject to ground compaction through its use as a driveway and access to the appeal site. There is no dispute between parties that the measures and methodologies set out in the report comply with the relevant British Standard set out in BLP Policy ENV06.
19. The plans submitted indicate that none of the trees would be removed because of the proposal. Although, the proposed development is in outline form, an indicative layout has been submitted demonstrating that the dwellings could be sited away from the trees. Siting, scale and design, access and landscaping are all reserved matters to be determined at a later date. Given the orientation of the trees in relation to the appeal site it would be unlikely that they would cause significantly harmful overshadowing of any future residential development on the site. As a result, I am satisfied that it would be possible to erect three dwellings without undue pressure for the removal or works to protected trees.
20. The supporting text to BLP Policy ENV06 recognises the contribution that trees and woodland make to the quality of the environment, as well as in terms of their wildlife habitat provision, contribution to landscape character and benefits to atmospheric pollution and flood mitigation. It also recognises that TPOs are a mechanism available to provide protection for trees. New development should be designed to ensure that trees and their root protection areas are protected throughout a development and that tree cover and habitat is retained. For the reasons I have set out, I am satisfied that it has been adequately demonstrated that the proposal would accord with the requirements of BLP Policy ENV06 and Section 15 of the Framework.

Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy (GIRAMS)

21. The proposal is located within the zone of influence of the River Wensum and the Broads Special Areas of Conservation and Ramsar site, where additional

⁴ The Norfolk (Breckland District) (Griston) Tree Preservation Order 2023 No.09

⁵ Arboricultural Report by Greenlight Environmental Consultancy Version 1.1 dated 9th May 2023

recreational pressure has the potential to adversely affect the protected sites. A mitigation strategy has been developed on a tariff-based approach. This is known as the Norfolk GIRAMS scheme. The GIRAMS has been developed in liaison with Natural England and advises that effective mitigation can take the form of management measures at the protected habitats, for example signage, education, wardens/rangers and habitat protection and monitoring. For minor housing developments, such as the appeal proposal, a proportionate per dwelling tariff payment has been identified as the effective form of mitigation, contributing towards the management measures identified.

22. The appellant has provided an executed and dated Unilateral Undertaking (UU) to provide a payment to mitigate impacts on the designated sites in accordance with the Norfolk GIRAMS. I have considered the obligation in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (the Regulations). It seems to me that this obligation is directly related to the development and is fairly and reasonably related in scale and kind to the development.
23. Had I been minded to allow the appeal, it would have been necessary to carry out an appropriate assessment in order to establish whether the proposal, on its own, or in combination with other projects would be likely to have significant effects on the integrity of the European protected sites, and also whether any proposed mitigation would be appropriate and sufficient.
24. However, as I have concluded that the proposed development would be otherwise unacceptable, it is not necessary for me to pursue this issue further. As finding that the proposal would not have an adverse effect on the integrity of European protected sites, with or without mitigation, would be a neutral factor in the overall planning balance.

Other Considerations

25. Reference has been made to a proposed development to the north of the appeal site for 8 dwellings. The permission is of some age, and it appeared from my observations on site that no development has been commenced. Furthermore, the planning permission was granted in the context of a previous development plan. I therefore place little weight on this matter.
26. I acknowledge that the Council did not raise objections to the development in respect of local character, the living conditions of existing or future occupiers, highway safety, flooding or ecology. Nor were objections raised from statutory consultees. These are neutral factors which do not weigh in favour of allowing the appeal and do not diminish the planning harm that I have identified.

Planning Balance

27. The proposal would provide an additional 3 units of accommodation. This would amount to a small contribution to housing supply locally in the context that there is an undisputed over-supply of deliverable housing sites in the area. There would be some economic benefit from occupiers of the dwellings supporting facilities and services in the area. Whilst there would also be some economic benefit from construction employment, it would be short-lived. Overall, I attribute limited weight to these benefits.

28. Whilst I have found that no harm would be caused to existing trees, there would be conflict with the spatial strategy for the area. This is a matter which I afford significant adverse weight in the planning balance.

Conclusion

29. For the reasons set out, the proposed development would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to indicate the decision should be taken otherwise. The appeal should therefore be dismissed.

KL Robbie

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Nick Moys	Planner & Associate Partner - Brown & Co.
Ben Hogben	Greenlight Environmental Consultancy Ltd
Jenny Declerk	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Blackie	Senior Planning Officer – Development Management
Andrew Darcy	Principal Planning Officer – Planning Policy
Richard Fish	Tree and Countryside Officer

ADDITIONAL DOCUMENTS SUBMITTED AT THE HEARING:

The Norfolk (Breckland District) (Griston) Tree Preservation Order 2023 No.09