



Appeal Decision

Site visit made on 21 May 2024

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2024

Appeal Ref: APP/U2615/W/23/3330116

Forestry Cottage, New Road, Fritton, Norfolk NR31 9HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Mark Parker against the decision of Great Yarmouth Borough Council.
 - The application Ref is 06/23/0438/O.
 - The development proposed is outline planning permission for one self-build dwelling with parking and gardens.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is submitted in outline form with all matters reserved for later consideration. Therefore, although a plan has been submitted suggesting how a dwelling could be accommodated on the site, this has been provided for indicative purposes only. I have made my determination of this appeal on that basis.
3. The Council has provided an appeal decision¹ to support their case on the weight to be given to self-build housing in the planning balance. However, the locational considerations were not directly comparable in that instance and it would appear that no detailed case was made to the appointed Inspector as to whether or not the Council was meeting its statutory self-build duty. Therefore, whilst I have had regard to that decision, I am satisfied that its specific circumstances differ to those in the appeal that is before me.

Main Issues

4. The main issues are:
 - (i) Whether the occupants of the proposed development would have reasonable access to shops and services
 - (ii) The effect of the proposed development on designated habitat sites and whether the proposal makes adequate provision for any additional need for open space arising from the development

¹ APP/U2615/W/20/3253503

Reasons

Access to shops and services

5. The main parties are in agreement that the location of the proposed development means that it fails to accord with the strategic policies of the Core Strategy 2015 (CS) and the Part 2 Local Plan 2021 (LP), in particular Policies CS2 and GSP1. However, a dispute remains as to whether, notwithstanding this, the site would have good access to shops and services to the extent that it should be considered to be a sustainable location in which to site a new dwelling.
6. Beccles Road is the main road which runs through Fritton, on which there is the provision of bus stops. The appellant states that an hourly bus service is provided with less than 30-minute travel times to both Great Yarmouth and Bungay, although no details of the start and end times of the services have been provided nor any details of weekend frequency. The distance of approximately 350 metres from the site to the bus stops is within the parameters of what can be considered to be a reasonable walking distance, although New Road is unlit and without a pavement. Whilst this could reduce the attractiveness of using the bus especially during hours of darkness to some people, there is nothing substantive to suggest that walking from the appeal site to Beccles Road would be inherently unsafe.
7. There is no suggestion that Fritton provides any shopping facilities for its residents or any notable employment opportunities, and the Council highlights that the school, post office and the public house in the settlement have now closed. Whilst a playground and village hall remain, there is no alternative other than for residents to travel out of the settlement to obtain most of the services and facilities they would require. They would not be totally reliant on private motor vehicles to do this, but as walking and cycling do not appear to be feasible propositions and due to the limitations in terms of the frequency of bus services, the future occupants of the proposed development would be highly reliant upon their own cars.
8. That said, it remains that Fritton is identified as a secondary village in the development plan settlement hierarchy, such villages being locations in which some new housing is permissible. The appeal site is located outside of the defined development limit but very close to it and there are other properties within the development limits which are further away from Beccles Road and which would share the same general reliance on private motor vehicles. Alongside the fact there is some public transport provision available, this consideration offers moderate support for the proposed development, but neither factors alter the fact that the proposal fails to accord with those strategic policies of the development plan identified above.

Habitat sites/open space

9. The planning application was accompanied by a template Shadow Habitats Regulations Assessment. Subject to a financial payment as set out in the Green Infrastructure and Recreational Avoidance and Mitigation Strategy (GIRAMS) there would not be an adverse impact on designated habitat sites arising from recreation generated by the proposed development and a compliance with Policy CS11 of the CS and Policies GSP5 and GSP8 of the LP. The Council sets out that a financial contribution of £961.57 would ensure that the requirements

of Policies CS14, CS15 of the CS, Policies GSP8 and H4 of the LP and the requirements of the Open Space Supplementary Planning Document 2023 (SPD) are met. The appellant does not dispute that the requirement to pay either sum meets the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and I have no reason to take a different view.

10. An undertaking pursuant to Section 111 of the Local Government Act 1972 has been provided with the appeal relating to the GIRAMS payment, but it remains unevicenced that the Council is in receipt of the necessary sum. No agreement is in place with regard to open space nor is it suggested that any payment has been made or received. Whilst I acknowledge the appellant's reference to the endeavour they have gone to in contacting the Council to resolve these issues, it was within their gift to have provided their own planning obligation to have fully addressed these matters. It was clear prior to the appeal being submitted that these were issues that would need attention, and therefore it is not reasonable to now afford any further time to allow for their resolution.
11. I cannot therefore conclude that the proposed development would meet the requirements set out with respect to designated habitat sites and open space provision. Consequently, the proposal would fail to accord with Policies CS11 of the CS and Policies GSP5 and GSP8 of the LP where they collectively seek to mitigate the cumulative potential adverse impacts on designated sites. There would also be a failure to accord with Policies CS14 and CS15 of the CS, Policies GSP8 and H4 of the LP and the SPD where they seek to make provision for publicly accessible recreational open space.

Other Considerations

12. The Self-Build and Custom Housebuilding Act 2015 (The Act) requires local planning authorities to establish and publicise a local register of custom builders who wish to acquire suitable land to build their own home. The Housing and Planning Act of 2016 added a duty to grant planning permission subject to exemptions at S2A. This provides that authorities must give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period. The appellant states that they have been on the Council's self-build register since 2019.
13. A detailed analysis of the Council's self-build register has been undertaken by the appellant. This highlights a number of planning permissions which they suggest cannot be considered as self-build and therefore should not appear on the register. Furthermore, the appellant considers that the Council have adopted a contrary position in that they would require a planning obligation tying the appeal dwelling to being self-build yet have included on their self-build register other planning permissions that do not have one. That matter is not perhaps as black and white as they suggest, because it is conceivable that a dwelling could be delivered as self-build but not rely on being so as the reason why it was acceptable in planning terms. In such an instance a self-build planning obligation may not be essential.
14. However, the information that the Council has provided with respect to those disputed planning permissions is scant. There is no confirmation as to whether any of the permissions are secured via a planning obligation and, if not, what evidence the Council has that the development that has been permitted will be

delivered as self-build and not market housing. The appellant's contentions that at least some of the permissions that have been included on the register contain no reference to self-build at all, that some identify the development as market housing on their application forms and that some have clearly not been built out as self-build have not been challenged by the Council. Nor has there been any rebuttal to the contention that two permissions were included on the register in error.

15. On the basis of the evidence that is before me, I am not satisfied that the Council has demonstrated that it is meeting its statutory duty under The Act. Indeed, it appears that there are considerable question marks about the inclusion of a number of the planning permissions that are contained on the register. In that context, that the proposal could deliver a self-build dwelling is a matter which carries significant weight in its favour.

Planning Balance & Conclusion

16. The proposed development would fail to accord with Policy CS2 of the CS and Policy GSP1 of the LP, where they set out the strategic aims for new development in the borough. The failure to adequately address the matters relating to habitats sites and open space mean that the proposal would fail to accord with Policies CS11, CS14 and CS15 of the CS and Policies GSP5, GSP8 and H4 of the LP. This means that the proposal would fail to accord with the development plan, taken as a whole.
17. I give moderate weight to the fact that some degree of public transport is accessible from the appeal site and to the close locational relationship that the proposed development would have to the development limits of a secondary village. Of further relevance at this juncture is that, although submitted as an outline planning application with all matters reserved, there is no suggestion from the Council that in principle a dwelling on the appeal site would cause harm to the character and appearance of the area. In my view, it is entirely possible that a property could be accommodated on the appeal site in a manner that would not appear visually out of place, notwithstanding that it would be outside of the development limits of the settlement.
18. Taken together with the significant weight I afford to the self-build consideration, these matters would outweigh the conflict with the strategic policies of the development plan. However, I do not concur with the appellant that the inclusion of the reference to 'self-build' in the description of development would be sufficient to ensure that it would be delivered as such. To my mind, reliance on the description alone for enforcing a requirement that the development meets the legislative requirements of The Act would be too loose and open to ambiguity as to whether there are other ways in which a dwelling could be 'self-built'.
19. Without the guarantee of a self-build dwelling under the terms of The Act being delivered, the moderate weight of the other considerations and the absence of any likely harm to character and appearance do not outweigh the conflict with the strategic policies of the development plan. There has also been a failure to make the necessary provisions with respect to habitats sites and open space. Therefore, the appeal should be dismissed.

Graham Wraight INSPECTOR