



Appeal Decision

Site visit made on 29 October 2024

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st November 2024

Appeal Ref: APP/V2635/W/24/3340513

103 and 107 Wilton Road, Feltwell, Thetford IP26 4AY

- 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 John Bane against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 23/01367/OM.
 - The development proposed is residential development comprising two replacement dwellings and nine additional dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is submitted in outline form with all matters reserved for later consideration except for access. Therefore, whilst plans have been submitted suggesting how eleven dwellings could be accommodated on the site, these have been provided for indicative purposes only.
3. I have used the address given on the decision notice in the banner header above, as it more accurately describes the location of the proposed development.

Main Issues

4. The main issues are (i) whether the proposed development would accord with the development plan where it relates to the provision of new development in the countryside, (ii) the effect of the proposal on the character and appearance of the area and (iii) the effect of the proposal on designated habitat sites.

Reasons

Location

5. Policy DM 2 of the Site Allocations and Development Management Policies Plan 2016 (SADMPP) sets out development boundaries. Outside of those defined boundaries, land is treated as countryside. Policy DM 2 permits only a limited scope of development types in such areas, specifically those identified as being suitable in rural areas by other policies of the local plan. Market housing outside of development boundaries is not one of those development types.
6. The existing two dwellings and their front garden areas are within the development boundary of Feltwell, which is defined as a key rural service

centre by Policy CS02 of the Core Strategy 2011 (CS). However, the majority of their sizeable rear garden areas are outside of the boundary and thus considered to be in the countryside. The indicative plans show development outside of the development boundary, and to accommodate the amount of development proposed it is almost certain that some, if not most, of the proposed dwellings would have to be located outside of the boundary.

7. Although a financial contribution towards the provision of off-site affordable housing would be necessary, the development subject to the appeal would be for market housing. Therefore, in terms of the proposed development that would take place outside of the development boundary, the proposal would fail to accord with Policies CS01, CS02, CS06 and CS08 of the CS and Policies DM 1 and DM 2 of the SADMPP which, at a broad level, seek to direct new development to the most sustainable locations and to maintain the local character of rural areas.

Character and appearance

8. The two bungalows currently present on the appeal site are anomalies in the street scene. They are buildings lower in height than that which generally prevails in the surrounding area, and they occupy much wider plots that, overall, are considerably larger in size. The provision of two pairs of semi-detached dwellings on the frontage of the site as indicatively shown has the potential to better integrate within the street scene than the existing dwellings, in particular in relation to those dwellings located to the north. Therefore, subject to an appropriate design being secured, those proposed dwellings, which are shown within the development boundary, would enhance the street scene and have a positive impact on the character and appearance of the area.
9. The dwellings to the north are arranged in a linear form with long rear garden areas. The appeal proposal which indicatively includes development at depth would be at odds with that arrangement. However, those dwellings to the north are visually distinct from that which currently exists on the appeal site and further south, being reasonably uniform in appearance, scale and relative positioning to one another. To the south there is a collection of dwellings formed by the conversion of older buildings and the provision of new dwellings. That development sits at depth from Wilton Road. In the context of the development to the south, a coherent development at depth on the appeal site with a planned communal access road and layout could, in principle, be achieved in a way that would not result in harm to the character and appearance of the area.
10. That said, I am not persuaded that the eleven dwellings proposed could be accommodated on the appeal site in a way that would be in keeping with the development to the south. What is shown on the indicative plans would include much smaller dwellings and a notably denser development. In particular, the row of four terraced dwellings to the rear of the site would be visually incongruous in their relationship to the other built development that exists in the area. Whilst the proposal is in outline form and thus the indicative layout would not be fixed to come forward at reserved matters stage, I have nothing before me to provide comfort that a development of eleven dwellings could be achieved without causing significant harm to the character and appearance of the area because of its layout and overall density.

11. Consequently, whilst noting that there would be some visual benefit in terms of the frontage of the site and weighing this in favour of the proposed development, taken as a whole the proposal would fail to accord with Policies CS06 and CS08 of the CS and Policy DM 15 of the SADMPP where they collectively seek to deliver high quality design which responds to the context and character of places.

Habitat sites

12. The appeal site immediately abuts the Breckland Special Protection Area (SPA) and the Breckland Farmland Site of Special Scientific Interest. Natural England (NE) consider that subject to a suitable contribution being made in accordance with the Green Infrastructure and Recreation Impact Avoidance Mitigation Strategy 2021, a strategic solution would be in place which would be sufficiently certain and effective in preventing adverse impacts from recreational pressures on the integrity of the identified European Sites whose Zone of Influence the appeal site falls within.
13. However, in the view of NE, the submissions fail to show that there would not be a likely significant effect on Stone Curlews as a result of visual disturbance and cat predation. Stone Curlews are a designated feature of the Breckland SPA. NE refer to a planning tool that is available and has been designed to calculate the predicted change in the number of Stone Curlew nests in an area following changes in the amount of built development. Furthermore, they refer to the potential for the fields adjacent to the appeal site to support breeding Stone Curlew even if no nests have been recorded there, and the link to the conservation objectives of the SPA that exist in that regard.
14. Whilst the appellant has provided an updated Shadow Habitats Regulations Assessment with the appeal, it would seem reasonable that further exploration be undertaken as to the impact on Stone Curlew that might arise from the proposed development, as suggested by NE. As it stands, and without the benefit of that work being undertaken, there is a credible likely significant effect on the conservation objectives of the European Sites from the proposed development with specific regard to visual disturbance and cat predation. No mitigation is put forward that would be capable of reducing such an adverse effect to a *de minimis* level, nor have alternative solutions been identified or imperative reasons of overriding public interest for the proposed development been suggested.
15. Therefore, the proposal fails to accord with Policy CS12 of the CS where it requires development to avoid, mitigate or compensate for any adverse impact on biodiversity. Furthermore, it has not been demonstrated that the proposal would meet with the requirements of the Habitats Regulations.

Other Considerations

16. A completed unilateral undertaking (UU) has been provided by the appellant which seeks to provide custom/self-build housing and make a contribution towards affordable housing. Aside from the Council's concerns about the effectiveness of the drafting of the UU, it is not clear specifically how many custom/self-build houses would be provided or what the exact affordable housing contribution would be. So, whilst there would be some benefits arising from the scheme even with the drafting of the signed UU it is unknown, for example, to what extent the proposal would help to address the Council's

under supply of custom/self-build plots. Collectively therefore, I give these considerations moderate weight in favour of the proposal.

17. The proposal would deliver nine additional dwellings, which would make a valuable contribution to the Government's objective of significantly boosting the supply of homes which is set out in the National Planning Policy Framework. It would do so on a smaller site that is close to the services and facilities in Feltwell and the proposal has the potential to make a contribution to the vitality of the local community. There would also be a time limited benefit to the local economy during the construction phase, and thereafter through spending by the future residents of the dwellings. Due to the quantum of development proposed, these are considerations which offer moderate weight in its favour.
18. That there would potentially be no harm to living conditions and highway safety, along with there being no contamination or flooding issues identified are neutral considerations. Whilst I note that there was no objection from the Parish Council, this is not a consideration that would in itself justify the permitting of a development that would cause the harm I have identified.

Planning Balance and Conclusion

19. Although in the countryside, the dwellings to the rear of the site would enjoy the same level of accessibility to a key rural service centre as the existing dwellings in the area. If a scheme were to be achieved that would address the matters relating to the character and appearance of the area and the designated habitats sites, the benefits arising from the proposal would outweigh the sole conflict with the strategic policies of the development plan.
20. However, I have found that it has not been demonstrated that a scheme of eleven dwellings could be delivered in a way that would not result in significant harm to the character and appearance of the area or without harm to the adjacent designated habitats sites. That harm would not be outweighed by the considerations before me relating to custom/self-build housing and affordable housing and by the benefits associated more generally with the delivery of new market housing.
21. The appeal proposal therefore fails to accord with the development plan taken as a whole and I find that the other considerations in this case do not indicate that a determination should be made otherwise than in accordance with the development plan. Accordingly, the appeal should be dismissed.

Graham Wraight

INSPECTOR