



Appeal Decision

Hearing held on 19 November 2024

Site visit made on 19 November 2024

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st of January 2025

Appeal Ref: APP/F2605/W/24/3350341

Land Off Warren's Lane, Attleborough, Norfolk, NR17 1YL

- 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 Righetti Group Limited against the decision of Breckland Council.
 - The application Ref is 3PL/2023/1223/O.
 - The development proposed is Residential Development with all matters reserved apart from access.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The hearing was closed in writing on 17 December 2024 following written representations from both parties on the outstanding matters in relation to five year housing land supply.
3. The latest update to the National Planning Policy Framework (the Framework) was published on 12 December 2024. The parties have had the opportunity to comment on the implications of the new Framework and I have taken these representations into account.
4. The appellant has submitted a duly executed legal agreement which I have taken into account. It provides for obligations in relation to affordable housing, public open space and secures contribution towards increasing capacity of the library serving the development, ecological mitigation and education. I have contemplated this further later in my decision.
5. The original application was made in outline with all matters reserved except for access and I have dealt with the appeal on this basis and I have treated any details not to be considered at this stage as being illustrative only.

Main Issues

6. During the appeal the parties have agreed matters pertaining to the third and fourth reason for refusal and a planning obligation has been submitted to secure contributions in relation to the fifth and sixth reason for refusal.
7. Therefore, the main issues in this appeal are:
 - whether the appeal site is an appropriate location for the proposed development with reference to the spatial strategy in the development plan;

- the effect of the development on the character and appearance of the area.

Reasons

Spatial Strategy

8. The appeal site is located outside of the settlement boundary for Attleborough, which is defined in Policy GEN03 of the Breckland Council Local Plan 2019 (LP) as one of three market towns within the district in the second tier of the settlement hierarchy. This hierarchy is based upon the utilisation of existing infrastructure.
9. Policy GEN05 of the LP sets out defined settlement boundaries around larger settlements, in order to recognise that those areas are those in which growth will be acceptable in principle. Outside of these areas development will be restricted to recognise the intrinsic character and beauty of the countryside.
10. Development outside of the settlement boundaries will only be permitted where it gains support from other policies within the LP. The strategy in relation to areas outside of the settlement boundary are provided within three policies, but these relate only to Local Service Centres, Villages with Boundaries and Small Villages and Hamlets outside of Settlement Boundaries. I have not been provided with any policies relating to development which are outside of the boundary of Market Towns or Key Settlements.
11. The council confirmed that Attleborough Neighbourhood Plan (NP) does not contain any spatial policies, nor does it allocate sites for housing.
12. The parties agreed that Policy GEN05 does not introduce a blanket restriction on development outside of settlement boundaries as it does allow for development outside of smaller settlements, subject to other criteria being met.
13. At the hearing the Council also confirmed that if no harm was identified to the character and beauty of the countryside and no conflict were to be found with policies ENV05 and GEN02 then the development would accord with policy GEN05.
14. Therefore, whilst policy GEN05 is intended to ensure the protection of the countryside and to ensure housing is located in accessible areas which reduce the need to travel and where a real travel choice is provided, it does not prevent the development of land outside of settlement boundaries and therefore the proposal does not conflict with the Council's overarching spatial strategy.

Character and appearance

15. Policy ENV05 of the LP highlights that the landscape of the District is valued for the benefit it provides to rural character. Furthermore, that development proposals will be expected to contribute to and where possible enhance the local environment by recognising the intrinsic character and beauty of the countryside. Any development proposals will have regard to the findings of the Council's Landscape Character Assessment (LCA) and Settlement Fringe Landscape Assessment (SFLA) and be designed to be sympathetic to landscape character.

16. In addition, Policy GEN02 requires development to respect and be sensitive to the character of the surrounding area.
17. The site is located within the Thet Settled Tributary Farmland, as described by the LCA, with the key characteristics of arable land covered with variable field patterns, ranging from small to medium scale arable fields of both irregular and geometric pattern. The LCA sets out that development considerations relating to the design and materials of proposals will be important, albeit that these matters are not before me as part of the outline application.
18. The SFLA was produced in 2007 and the appellant considers that as evidence it is now dated and therefore should be given limited weight. However, whilst other development will have taken place since this time, I consider that it still provides useful descriptors of the landscape sensitivities within fringe locations such as the appeal site and therefore I have taken it into account in my consideration of whether the proposal complies with the relevant development plan policies.
19. The site is defined as Attleborough Hall Tributary Farmland within the SFLA which acknowledges that the A11 corridor, which is visible from within the site, is a prominent component of the character area. It sets out that to the north of the A11 is higher quality landscape that has a higher inherent sensitivity.
20. The SFLA highlights that the B1077 gateway along Ellingham Road is highly influenced by the A11 and in particular that the Ellingham Road gateway consists of the ramped junction and sliproads onto the A11. Therefore I consider that the gateway element, which the SFLA considers to have a low sensitivity to change, is the area closest to that junction and the built up character which exists at the entrance into Attleborough.
21. Whereas the site itself forms a rural edge and in particular as the road sweeps round the edge of the site it provides a clear transition from the built up character of Attleborough and the rural character between it and the settlement of Great Ellingham. Equally travelling towards Attleborough there is a marked change of character from the open fields and countryside and then as you come round the corner past the site the character becomes more urban and there is a sense you are entering into the outskirts of the built up area of Attleborough. As such the site contributes to the rural landscape setting of the town on the approach from Ellingham Road and as such is sensitive to change.
22. Whilst the development has been sited away from the most elevated parts of the site and would have an area of open space closest Ellingham Road it would extend the built up area of Attleborough and have a harmful and urbanising effect on the rural approach to the town. This is despite the extant permission for the development of 8 dwellings at the southern edge of the field, this is because this is set further away from Ellingham Road and will not be as prominent nor will it interrupt the natural and open character of the settlement edge.
23. It has been put to me that any landscape harm could be mitigated by the introduction of landscaping which could soften the appearance of the development. However, the edge of the settlement is already delineated by the presence of an existing mature tree belt which screens the recent development of Warrens Lane.

24. The Breckland Design Guide emphasises the importance of new development being well- integrated into its surroundings and responding positively to the site and its context. It also suggests maintaining green gaps and backdrops where there are important views or existing mature landscape features. The introduction of development in front of the existing tree belt, where the indicative layout includes its incorporation into rear gardens, would detract from its visual prominence as you approach Attleborough, failing to respond positively to its context.
25. The development would be contrary to policies GEN02 and ENV05 of the LP which collectively seek to be sensitive to and recognise the intrinsic character and beauty of the countryside. As a result of its non-compliance with these policies, the development would also be contrary to policy GEN05 of the LP.

Other Matters

Planning Obligation

26. The appellant has provided a duly executed legal agreement under section 106 of the Town and Country Planning Act 1990, which includes a number of obligations which would come into effect if planning permission were to be granted.
27. I have considered the obligations in light of the Framework, Planning Practice Guidance and the Community Infrastructure Levy Regulations (the CIL Regulations). These state that a planning obligation must be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
28. Affordable Housing: The delivery of 10 affordable dwellings for rent, first homes and intermediate housing would be in line with Policy HOU07 of the LP which requires affordable housing to be provided at 25 per cent of the overall total. Furthermore, the provision of affordable houses as part of the development would accord with the Framework which seeks to ensure a sufficient supply of homes to reflect identified needs.
29. Public Open Space: The unilateral undertaking facilitates public open space provision and the management of this area. Policy INF02 of the LP sets out that proposals for new residential development will be expected to make provision for formal and informal open space required directly to serve the development and contribute to local community facilities.
30. Library Contribution: Attleborough has the closest library to the site and will need to increase capacity to meet the demands arising from the proposed development, this is calculated at £100 per dwelling. The contribution would be used towards providing a library facility to cope with the size of population arising from the development in the area. I am satisfied that this obligation passes the statutory tests and is in accordance with policy INF02 of the LP which sets out the requirements for the delivery of community infrastructure, including libraries.

31. Education Contribution: Norfolk County Council have confirmed that education contributions for early education and special educational needs is required and the obligation secures a contribution towards these. This will ensure that sufficient capacity is available for the potential number of children generated from the development. I am satisfied that this obligation passes the statutory tests and is in accordance with policy INF02 of the LP which sets out the requirements for the delivery of community infrastructure, including education.
32. Norfolk Habitats Sites: The appeal scheme proposes dwellings on a site that lies within the Zone of Influence of a number of Norfolk Habitats sites as set out within The Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy 2021 (GIRAMS).
33. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the Norfolk Habitats Sites. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.
34. Since the development is for approximately 40 dwellings, the number of additional recreational visitors would be modest and the likely effects on the Norfolk Habitats Sites from the proposed development alone may not be significant. However, in combination with other developments it is likely that the proposal would have significant effects on the designated site.
35. Given my findings, the Regulations place a duty on the competent authority to undertake an appropriate assessment of the implications of the appeal scheme in view of the site's conservation objectives.
36. The site is within the zone of influence where new residential development is likely to result in recreational pressure, which would, both alone and in combination with other development within the zone of influence, have a likely significant effect on the interest features of the aforementioned sites. Therefore, I consider that the development would have an adverse effect on the integrity of the site, but regard can be had to whether these adverse effects can be mitigated.
37. The GIRAMS sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the Norfolk Habitats Sites.
38. The appellants have submitted a planning obligation for the per dwelling contribution to fund the Norfolk GIRAMS. Given the evidence before me I am satisfied that the mitigation measures have been secured and would be used for their intended purpose.

39. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.
40. On this basis, I consider the agreement accords with the criteria of Regulation 122 of the CIL and with paragraph 58 of the Framework. I can therefore reasonably take it into account.

Planning Balance

41. The LP is just over 5 years old but the weight to be attached here does not hinge upon its age. Paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. According to the Framework the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning development process should achieve. It also requires that developments are sympathetic to local character and are visually attractive in terms of good architecture and layout. Therefore, the conflict between the proposal and policies GEN02, GEN05 and ENV05 of the LP should be given significant weight in this appeal.
42. Following the publication of the updated Framework and updated Standard Method for calculating Housing Targets, the Council confirmed it can no longer demonstrate a 5 year supply of deliverable housing land, and accordingly paragraph 11(d) of the Framework is engaged. Whereby planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
43. Footnote 9 explains that the policies referred to, which are relevant to this appeal are paragraphs 66, 84, 110, 115, 129, 135 and 139. The proposal accords with paragraph 66 as the scheme provides affordable housing and paragraphs 84, 110 and 115 as the proposal is not isolated and located in a sustainable location with access to the site being safe and suitable.
44. However, the proposal would not achieve the aims of paragraphs 129, 135 and 139 which together support development that makes efficient use of land taking into account the desirability of maintaining an areas prevailing character and setting, is visually attractive as a result of good architecture and layout and accords with the National Design Guide. The proposal would fail to maintain the area's prevailing character and setting (129d) and would not add to the overall quality of the area, failing to be sympathetic to local character, including the landscape setting (135a, 135c). Furthermore, it would not accord with the Breckland Design Guide and therefore does not attract significant weight under paragraph 139.

45. However, the site is well located in terms of its proximity to services and is of a scale appropriate to the size of the existing settlement and as such lies within a sustainable location. There is no evidence that highway safety would be compromised, or that local infrastructure would be unable to meet the needs of the development. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services.
46. In addition, the delivery of affordable houses from this development will result in social benefits. Therefore, noting the scale of the development proposed, I have attributed moderate weight to the delivery of housing in this instance, having regard to its conflict with the policies of the framework.
47. The contributions secured by the planning obligation, set out above, would be required to mitigate the increased demand on those facilities arising from the development and therefore they are neutral in the planning balance.
48. However, the identified adverse impacts of the development, the conflict with the development plan and the adverse impacts to the character and appearance of the area, to which I have afforded considerable weight would significantly and demonstrably outweigh the benefits outlined above.
49. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

50. For the reasons given above the appeal should be dismissed.

G Pannell

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr J Parker Parker Planning Services

Mr P Righetti, Righetti Group Ltd

Mrs G Righetti, Righetti Group Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Chris Hobson BSc, MSc, MA MRTPI - Principal D M Planner

Ed Small BA (Hons) MSc LRTPI - Development Management Planner

Rachel Gibbs BSc (Hons), PGDip, MSc. MRTPI - Senior Planning Policy Officer

Andrew D'Arcy MRTPI BA (Hons) - Principal Planning Officer