



Appeal Decision

Site visit made on 1 May 2018

by **J Ayres BA Hons, Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 25th May 2018

Appeal Ref: APP/F2605/W/17/3185511

Land to the south east of Church Street and South West of Attleborough Road, Great Ellingham, Attleborough NR17 1LE

- 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 Ms Kirsty Barnes of AHH Planning Consultants against the decision of Breckland District Council.
 - The application Ref 3PL/2017/0265/O, dated 27 February 2017, was refused by notice dated 5 September 2017.
 - The development proposed is outline planning application seeking all matters reserved except access for the principle of the proposed residential development on land to the south east of Church Street and south west of Attleborough Road, Great Ellingham, Attleborough NR17 1LE.
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Decision

1. The appeal is allowed and planning permission is granted for outline planning application seeking all matters reserved except access for the principle of the proposed residential development on land to the south east of Church Street and south west of Attleborough Road, Great Ellingham, Attleborough NR17 1LE in accordance with the terms of the application, Ref 3PL/2017/0265/O, dated 27 February 2017, subject to the conditions in the attached schedule.

Preliminary Matter

2. The application is in outline with all matters reserved for future consideration except for the means of access. I have treated all drawings other than those dealing with access as indicative only.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site is located on the edge of Great Ellingham, within the Wayland Plateau landscape character area. The wider surrounding land is predominantly flat, large scale arable farmland, which creates large areas of open land, enclosed at places by mature hedgerows and clusters of trees.
5. The appeal site forms part of a large field which is open to Attleborough Road, and on two sides of the larger field runs a mature, well established hedgerow incorporating mature trees and hedges. The immediate landscape at this part

of the village is not as open as the areas of farmland which extend beyond the village to the north and due to its location on the edge of the settlement the appeal site is also experienced within the context of built form and it has limited landscape value.

6. The development of the site for up to 60 dwellings would mean that the landscape would change and the appeal site would inevitably take on a more developed character. However, the use of the site for residential development would be in line with the residential settlement of Great Ellingham and its location on the edge of the settlement, adjacent to a site that has recently been granted permission, would allow it to be seen as part of the village. Well considered soft landscaping and planting would have potential landscape and biodiversity benefits and would also assist with integrating the development. There is nothing to suggest that the design and layout of the proposal could not be secured in such a way that would ensure it reflected and reinforced the existing patterns of development within the village.
7. The proposal would therefore be unlikely to impact on the wider setting or result in harm to the general character and appearance of the area. Open views across the site from Church Street and Attleborough Lane would be slightly restricted, however the open field to the south of the site would remain undeveloped. The layout of the site, which would be addressed at reserved matters stage, would be an opportunity to ensure that some visual permeability would be retained and incorporated, which would ensure that the development integrated with the village, and would avoid a hard edge.
8. Accordingly, I find that the proposal would not be out of character with the residential nature of the village. The proposal would therefore comply with Policy DC16 of the Breckland Core Strategy and Development Control Policies 2009 (the Core Strategy) with regards to ensuring that development preserves and reinforces local patterns of development.
9. In addition, although I accept that some views across the field would be lost, I consider that due to the existing enclosed nature of the immediate landscape this impact would be limited. There would be opportunity for enhancement of the landscape through the careful layout and design of the scheme. The proposal would therefore comply with Policy CP11 of the Core Strategy which seeks to protect the intrinsic beauty of the landscape and the overarching principles of the National Planning Policy Framework (the Framework) in this regard.

Other Matters

10. There are a number of listed buildings in Great Ellingham. Within the context of the appeal site the church tower spire (Grade I listed), Mill Farm and remnants of the windmill (both Grade II listed) are all visible. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out a general duty to have special regard to the desirability of preserving listed buildings or their settings.
11. The setting of a heritage asset is defined as the surroundings in which it is experienced and its importance therefore lies in what it contributes to the significance of the heritage asset. The listed buildings are seen and experienced within the context of the village. The proposal may impact on far reaching views of the listed buildings, and this may result in some minor harm

to the setting of the listed buildings. However, taking into account the public benefit of the addition of up to 60 homes I consider that any harm would be outweighed by the public benefit of the development. In addition, any impact could be further assessed and properly mitigated to preserve the setting of the listed buildings when the layout and design of the scheme is determined at a reserved matters stage.

12. I have considered the concerns raised regarding flooding issues at the appeal site. A number of options have been put forward by the appellant to ensure that the proposal would be suitably drained and not result in an increase in the risk of flooding elsewhere. These options can only be properly assessed at a reserved matters stage as the detailed design will necessitate having a fixed layout. The concept of the outline scheme is to ascertain in this case whether the principle of development, and the access, would be acceptable. I am satisfied that, subject to appropriate conditions, the issues raised by the Lead Local Flood Agency can be dealt with at the reserved matters stage.
13. Local residents object to the proposal on a wider basis, including in respect of access, loss of agricultural land, the sustainability of the area, and the impact of the proposal on the "dark skies" status of the area. I am satisfied that the access would be suitable subject to a condition ensuring visibility splays are maintained. Public footpaths connecting the site to the village are also being secured through condition. Lighting will be controlled by way of condition to avoid any unacceptable light pollution. The amount of agricultural land lost would not be great, and I do not consider that the harm of this loss of land would justify dismissal of the appeal.

S106 Unilateral Undertaking

14. Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations require that planning obligations should only be sought, and weight attached to their provisions, whether they are; necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonable related in scale and kind to the development.
15. There is a signed and completed unilateral undertaking. On the basis of the County Council's submissions I am satisfied that the contributions are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to the development and therefore consistent with Regulation 122 of the CIL Regulations. The contributions are also in line with pooling restrictions as set out in Regulation 123.

Planning Balance and Conclusion

16. Great Ellingham is defined as a service centre village in Policy SS1 of the Core Strategy. It is therefore identified as containing adequate services and facilities to meet the day to day requirements of existing residents with a strategy to enhance and provide development to meet local needs. The principle aim of Policy SS1 of the Core Strategy is to direct new housing to locations within defined settlement boundaries in order to maintain a sustainable pattern of development and to protect the form and character of settlements. Policies DC2 and CP14 of the Core Strategy direct housing within boundaries of defined settlements. These approaches are broadly in line with

the Framework. The appeal site is adjacent to the settlement boundary, however it falls outside of the boundary, and it therefore conflicts with the Core Strategy in this regard.

17. The parties agree that the Council is unable to demonstrate a five year supply of housing land. It follows that, for the purposes of paragraph 49 of the Framework, policies for the supply of housing are to be considered out of date. Paragraph 14 of the Framework indicates that where relevant policies are out of date 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.
18. The proposal would have the social and economic benefits of contributing up to 60 new units, which would make a contribution to helping to address the overall housing supply shortfall. As such, I attach substantial weight to this benefit. The provision of up to 40% of the total net dwellings as affordable dwellings carries significant weight in favour of the proposal. The proposal would result in investment in construction and related employment for its duration, and there would also be a likely increase in local household spending in the area which would be a benefit to the local economy. I therefore attach moderate weight to these factors.
19. Although I have found that the development would result in the erosion of part of the openness of the landscape, this would be limited due to the site's location adjacent to the settlement boundary. Development of the site would integrate with the existing built form, and would not result in harm to the general character and appearance of the area. These are benefits to which I attach substantial weight.
20. The lack of a five year supply of housing land does not automatically lead to a grant of planning permission. However, taking everything into account, I find that there are no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework as a whole. As a result, the application of paragraph 14 of the Framework indicates that the proposal would represent sustainable development and permission should be granted.
21. For the reasons set out above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Conditions

22. The Council suggested conditions which I have considered in light of the Planning Practice Guidance (PPG). I have amended some of the conditions for clarity.
23. Conditions 1 to 3 are standard conditions for outline permissions. On the basis of the evidence I do not feel it necessary to reduce the standard time limit in order to ensure that the development contribute s to the 5 year supply as this can be achieved through the imposition of the standard condition.
24. A construction management plan is necessary to ensure that the living conditions of neighbouring residents are protected, and in the interest of highway safety. Conditions relating to estate roads, highway improvements, and visibility splays are necessary in the interest of highway safety.

25. Conditions relating to the submission of materials, schemes of external lighting, landscaping, boundary treatment, and ecological assessments are necessary in the interest of protecting the character and appearance of the area and mitigating impacts on biodiversity. Conditions securing archaeological works are necessary to protect the archaeological potential of the site. A condition relating to potential contamination is necessary in the interest of managing risks of pollution. It is necessary to ensure adequate water infrastructure is provided and I have therefore included a condition for the provision of fire hydrants.
26. Conditions relating to the disposal of surface water and foul water are necessary to ensure that the scheme can be properly drained.
27. Suggested conditions 11 and 12 are not necessary as they are dealt with in condition 12, and suggested condition 15 is addressed in condition 11. I have not included condition 16 as, on the basis of the evidence, I do not consider it meets the test of being reasonable.
28. Some conditions require approval of details before development commences. This is necessary for conditions 3, 5 and 6 because these conditions may affect the design and/or layout of the development. It is necessary for condition 4 because this condition relates to matters arising during the construction period.

J Ayres

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) No development shall commence until the plans and descriptions giving details of the reserved matters shall have been submitted to and approved in writing by the local planning authority and these plans and descriptions shall provide details of the appearance, layout, scale and landscaping of the development.
- 4) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;

- vi) measures to control the emission of dust and dirt during construction;
- vii) a scheme for recycling/disposing of waste resulting from construction works;
- viii) delivery and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- i) a statement setting out the design objectives and how these will be delivered;
 - ii) means of enclosure and retaining structures;
 - iii) boundary treatments;
 - iv) vehicle parking layouts;
 - v) other vehicle and pedestrian access and circulation areas;
 - vi) hard surfacing materials;
 - vii) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, etc.);
 - viii) retained historic or other landscape features and proposals for restoration, where relevant;
 - ix) water features;
 - x) Soft landscaping planting plans;
 - xi) Schedules of planting, noting species, plant sizes and proposed numbers/densities;
 - xii) an implementation programme, including phasing of work where relevant.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- 6) No demolition/development shall commence until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
- i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

- 7) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 6.
- 8) Prior to commencement of any works above slab level precise details of the colour of the external materials shall be submitted to and approved in writing by the local planning authority. Only those materials as agreed shall be used in connection with the development.
- 9) Prior to commencement of any works above slab level a scheme specifying the provision of fire hydrants to be served by main water supply for use in connection with the development shall be submitted to and agreed in writing by the local planning authority. The fire hydrants as approved shall be installed in accordance with the scheme prior to occupation of the development.
- 10) Prior to commencement of any works above slab level details of the standards to which the estate roads and footways serving the development are to be constructed shall be submitted to and approved in writing by the local planning authority. No house / building shall be occupied until the roads and footways have been constructed in accordance with the approved details.
- 11) Notwithstanding the details indicated on the submitted drawings prior to the commencement of any works above slab level a detailed scheme for the off-site highway improvement works as indicated on drawings numbered 1700101a, 1700110a, 1700111a, 1700112a in addition to the footway improvements on Church Street from the site frontage to the junction with Chequers Lane shall be submitted to and approved in writing by the local planning authority in consultation with the highway authority. The highway improvement works shall implemented in accordance with the approved scheme and completed prior to first occupation of the development.
- 12) Prior to the commencement of any works above slab level precise details of the means of surface water disposal shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.
- 13) Prior to the commencement of any works above slab level precise details of the means of foul water disposal shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.
- 14) Pursuant to the reserved matters and submitted "Extended Phase 1 Habitat Survey, Land off Church Street, Delta Simons", an Ecological Impact Assessment and further surveys as detailed below shall be submitted to and approved in writing by the local planning authority;
 - (i) An assessment of the impact on ground nesting birds as a result of habitat loss should be undertaken. On or off site retained/created suitable ground nesting bird habitat should be implemented and protected from development, if impacts are envisaged.
 - (ii) All of the measures in Section 5.2 must be implemented on site. This includes measures for nesting birds, restricted artificial lighting, retaining all habitats other than the improved ploughed field, measures for great crested newts (and other amphibians) and on site native planting.

- (iii) The landscaping plan should include blocks and linear features comprising native trees, hedgerows, wildflower planting and shrubs/scrub habitat which are not impacted by artificial lighting. Gaps should be left under areas of any fencing on site to allow the movement of any small mammals and herpetofauna that may use the site.
- (iv) It is advised that the attenuation pond should be planted with native species in and around this habitat to increase its biodiversity value. This should be advised by an ecologist. Bird and bat boxes should also be installed on buildings and retained trees and/or integrated into the buildings such as with the use of 'bat bricks'.

These measures would ensure the development progresses in line with the National Planning Policy Framework (NPPF) in aiming to achieve sustainable development and the obligations on public bodies to conserve and enhance biodiversity as required by the Natural Environment and Rural Communities (NERC) Act 2006.

This should detail an ecological impact assessment as well as measures to be agreed with the applicant to avoid impacts to biodiversity, and provide avoidance, mitigation and, if necessary as a last resort, compensatory measures for any loss of, or impacts to, biodiversity. The development shall be implemented in accordance with any approved recommendations.

- 15) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.
- 16) Prior to first occupation of the development hereby permitted a plan indicating the positions, design, materials and type of boundary treatment/screening to be erected shall be submitted to and approved in writing by the local planning authority. The boundary treatment/screening shall be completed in accordance with a timetable agreed in writing with the local planning authority. The development shall be carried out in accordance with the approved details and timetable. The boundary treatment/screening shall thereafter be retained in perpetuity.
- 17) Prior to first occupation of the development hereby permitted details of the external lighting to the site shall be agreed in writing with the local planning authority, and only lighting as agreed shall be installed on the site at any time.
- 18) Prior to first occupation of the development hereby permitted a visibility splay measuring 4.5 x 160 metres shall be provided to each side of the access where it meets the highway and such splays shall hereafter be maintained at all times free from any obstruction exceeding 0.225 metres above the level of the adjacent highway carriage.

- 19) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological written scheme of investigation approved under condition 6 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
- 20) The development hereby permitted shall not exceed sixty dwellings.

END OF SCHEDULE

Richborough Estates