



Appeal Decision

Site visit made on 14 July 2015

by Y Wright BSc (Hons) DipTP MSc DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 August 2015

Appeal Ref: APP/T3535/W/15/3008369

Land at Swan Lane, Barnby, Suffolk

- 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 Badger Building (E. Anglia) Ltd against the decision of Waveney District Council.
 - The application Ref DC/14/3682/OUT, dated 5 November 2014, was refused by notice dated 15 January 2015.
 - The development proposed is residential development including access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline, with access, layout and scale to be determined at this stage. I have dealt with the appeal on this basis.
3. A previous outline planning application for the development of 12 dwellings on this site made in 2014 was refused by the Council. However I determine this appeal on its own merits.
4. As part of the appeal, the appellant has submitted a revised layout plan numbered 6780 – SK03. This proposes the development of 11 dwellings on the site and includes 3 bungalows adjacent to the A146 Barnby bypass rather than 4 two storey houses. I note the Council has made representations in respect of this plan. However, as no consultation has been carried out on this revised plan, interested parties have not had the opportunity to consider the revisions. Accordingly, I have considered the proposal on the basis of the plans submitted as part of the original planning application and as determined by the Council.
5. At the site visit, with the agreement of both parties, I accepted a plan showing the location of a residential site at Heritage Green, Kessingland to assist me in finding the site. This site is referred to by both parties in their appeal statements.
6. As part of the appeal the appellant has provided a Unilateral Undertaking dated 28 May 2015 which would secure the provision of 4 affordable homes on plots 3, 4, 5 and 6. I shall return to this matter later in my decision.

Main Issues

7. The main issues raised are:

- Whether or not the proposal would provide a suitable site for housing, having regard to the principles of sustainable development;
- Whether or not the proposal would make adequate provision for affordable housing;
- The effect of the development on the character and appearance of the surrounding area; and
- The effect of the development on highway safety.

Reasons

Suitability of the site for housing

8. The site forms part of a larger agricultural field which extends along Swan Lane to the east and is located immediately adjacent to the physical limits of the village of Barnby. The A146 Barnby bypass lies to the south of the site with open countryside beyond. To the north and west there is residential development and the Barnby garden centre.
9. Although part of the site has previously been used for a number of years as an open storage area for the adjacent garden centre, during my site visit I saw that the site and rest of the agricultural field was planted with an agricultural crop.
10. Barnby, when combined with the adjacent village of North Cove, is identified as a larger village under the settlement hierarchy set out in Policy CS01 of the Waveney Core Strategy Development Plan Document 2009 titled 'The Approach to Future Development in Waveney to 2021' (CS). There are a limited number of local facilities serving Barnby/North Cove including a primary school, a hairdresser, a pub and the garden centre and limited other employment opportunities within the village. I note that there is a bus stop around 400 metres from the site.
11. Within the appellant's statement, a recent appeal decision in Kessingland (APP/T3535/A/14/2218439) has been cited, which was allowed by the Inspector. Although a copy of the decision has been provided, I do not have full details for the development and therefore cannot be sure that it is directly comparable. In addition, the decision would not set a precedent for similar development, as each case is considered on its merits. Nevertheless I recognise that there are some similarities between the proposals as Kessingland is defined as a larger village (though it is a much larger settlement with more services and facilities than Barnby/North Cove) and the site is greenfield and located immediately adjacent to the physical limits of the village. Where appropriate I therefore refer to the Inspector's reasonings in my decision. However I have determined this appeal on its own individual merits.
12. The Framework advises that policies for the supply of housing should not be considered up to date if the local planning authority is unable to demonstrate that it has a 5 year housing land supply of deliverable sites. The Council advise that it has a 5 year supply of deliverable housing sites and this was confirmed by the Inspector for the Kessingland appeal decision. Although time has passed since that decision, there is nothing to suggest that I should conclude

- otherwise. Consequently I find that the Council's housing policies are up to date and consider the proposal on this basis.
13. CS Policy CS01 states that up to 5% of the housing growth for the Plan period will be focused in larger villages, with most development on brownfield land. The policy adds that '*some development may be needed on greenfield sites on the edge*' and continues by stating that '*outside these locations, development will be regarded as being in the open countryside where the objective is to preserve the countryside for its own sake.*'
 14. CS Policy CS11 identifies that up to 300 dwellings are proposed to be built in total across the 7 larger villages within the District between 2001 and 2025. It also sets out a sequential approach to site delivery with '*greenfield sites on the edge of settlements*' being last in the order of four site types. This policy also adds that outside larger villages, development will be restricted to small infill plots and specific types of housing including affordable housing and agricultural workers dwellings.
 15. Although the Council acknowledges that the housing target is not an upper limit, it states that of the 6,960 dwellings required to be provided between 2001 and 2025, up to March 2015 4,114 dwellings have already been delivered within the District. Of this total, 380 dwellings have been built in larger villages. In addition the Council indicates that there are 1,685 dwellings with permission for development in the District still to be completed, 112 of which are within the larger villages. This demonstrates that whilst the housing requirement within the larger villages has more than been achieved, more housing development is continuing to come forward to boost significantly the supply.
 16. Although the phrase '*greenfield sites on the edge of settlements*' is not defined in CS Policies CS01 and CS11, I note that the Council as part of the Kessingland appeal decision accepted that it could be reworded as sites '*outside of but adjacent to the physical limits of*' the settlement. On this basis the appeal proposal would not automatically be contrary to the development plan just because it would be outside but adjacent to the physical limits of the village. I acknowledge that as there are no housing land allocations at Barnby/North Cove, this site would boost the supply of housing in the area which is an important aim of the Framework. I also recognise that such development could support local services and create housing choice for purchasers.
 17. However the use of the term '*may be needed*' in CS Policy CS01 when referring to such sites on the edge of settlements, does not mean that residential development would automatically be acceptable. In fact such sites are sequentially the least preferable in accordance with the sequential approach set out in CS Policy CS11. Although the appellant states that there is a lack of available development sites within the village I have no substantial evidence before me to support this view. I also have nothing to show that there is a need for this development on this site and no evidence to demonstrate that other sequentially preferable sites are not available within the village.
 18. I also note that although the site would not form isolated development in the countryside as it is adjacent to the village, it would still involve developing part of a large open agricultural field and would therefore not constitute the infilling of a small gap between existing development.

19. I therefore conclude that the proposal would be contrary to CS Policies CS01 and CS11. It would also conflict with the Waveney Development Management Policies Development Plan Document titled 'Policies to Help Make Decisions on Planning Applications' 2011 (DMP) Policy DM01 which promotes development within the physical limits of the main towns and villages; and DMP Policy DM22 which seeks to restrict housing development within the countryside.
20. Concerns have been raised that if allowed, this proposal would set a precedent for the development of the rest of the large agricultural field. Whilst each application and appeal must be treated on its individual merits, I can appreciate the concern that approval of this scheme could be used in support of the development of the remainder of the field. I consider that this is not a generalised fear of precedent, but a realistic and specific concern about the loss of a significant part of the rural character of Swan Lane and the surrounding landscape, particularly as the appellants have control of this land through a legally binding option agreement. Allowing this appeal would make it more difficult to resist further planning applications for the development of the rest of the field and I consider that the cumulative effect would significantly exacerbate the harm which I have already identified. I therefore apply considerable weight to this matter.
21. The extent of the physical limits of the village is queried by the appellant, as the houses along the north of Swan Lane are outside this boundary. Notwithstanding the fact that the Council indicates that these properties are more rural in character, the village boundary has been adopted within a development plan. It is not my role in determining this appeal to challenge this adopted policy.

Affordable housing

22. Policy DM18 of the DMP requires that due to concerns over viability, until the end of 2014 planning applications for 5 to 14 dwellings shall provide 20% affordable housing, whereas from the start of 2015 35% affordable housing shall be provided. This is to be provided on-site or through an equivalent off-site financial contribution. I note that the planning application for this proposal was submitted in 2014. However it was determined in early 2015 and the unilateral undertaking is dated 2015 and therefore it seems to be appropriate to apply the 2015 policy requirement of 35% affordable housing.
23. The appellant has made provision in the unilateral undertaking to provide 4 of the 12 proposed dwellings as affordable homes within the site which would equate to a provision of around 33%. A provision of 35% would be the equivalent of about 4.2 houses. The accompanying text to the policy specifically states that "*where less than one full unit of affordable housing could be achieved on site then the Council would expect an off-site financial contribution equivalent to the maximum affordable housing contribution that could be afforded by the site.*" I have no evidence before me to suggest that the proposal would not be viable at 35% and although the appellant is willing to provide the additional 2% as a financial contribution, this is not included in the unilateral undertaking that is before me.
24. I therefore conclude that although the development would boost the supply of affordable housing in the area, it would not meet the policy requirement and would be contrary to DMP Policy DM18.

Character and appearance

25. Swan Lane is characterised by a predominantly rural character with hedges, trees and rural views to the east and south and a mixture of one and two storey dwellings to the north, set well back from the highway on mainly spacious plots. A further one storey property on a large plot lies to the west, adjacent to the Barnby garden centre. The appeal site forms part of the open expanse of agricultural land which dominates the character of the southern side of Swan Lane. As the majority of this land is raised above Swan Lane and adjacent development, the two storey proposed dwellings particularly along the front of the site would appear imposing and visually dominant. This would not be in keeping with the rural character of the site and surrounding area.
26. Although the A146 Barnby bypass runs adjacent to the south of the site, the size and scale of the entire field is such that the site is not confined. The field is large enough to provide a distinct rural character within the locality which links with the open countryside beyond, and which separates it from adjacent built development. As such the appeal proposal is dissimilar to the Kessingland site, which as I saw on my visit, is a small area of land confined by the adjacent A12 highway and new housing estate. As such the development of the appeal site for housing would adversely affect the local countryside and detract from the intrinsic rural character of the site and surrounding area.
27. I also note that the site lies within the Waveney Tributary Valley Farmland Character Area as defined in the Waveney Landscape Character Assessment 2008. Although views into and out of the site are limited by the mature boundary hedgerow along the A146 bypass, as the land at the rear of the site is higher than this road, the development of two storey dwellings would be visible from viewpoints within the wider landscape. The appellant considers that any permission could be made conditional on the plots to the rear of the site being single storey to reduce the visual intrusion in the landscape. However as scale and layout are before me as part of this application, it would not be appropriate for such matters to be dealt with later by condition.
28. Specifically in relation to scale, limited detail has been submitted. The appellant's design and access statement provides some development dimensions but it does not provide elevation measurements. Therefore based on the evidence provided I am not satisfied that the scale of the development would not have an adverse impact on the character and appearance of the local area.
29. The proposal would therefore be contrary to DMP Policy DM02 which includes seeking development that respects the site and its surroundings and contributes towards the distinctiveness of the local area and the surrounding landscape; and DMP Policy DM27 which seeks, amongst other things, development that is sympathetic to the distinctive character areas, including in relation to location and scale.

Highway safety

30. Swan Lane is a narrow single track unclassified road with limited passing places and no pavement. The lane is used by a variety of road users including cyclists and horse-riders as well as pedestrians.

31. The development proposes to provide a single vehicular access point into the site. As shown on the application drawing, a visibility splay of 2.4 m x 45m is proposed. This would involve the removal of some of the bank and hedgerow along Swan Lane. I note that the Council state that this element of the development could be addressed through reserved matters. However access is before me for consideration as part of this outline application. As such I have no detail demonstrating how the required visibility splay would be achieved, taking into account the narrowness of Swan Lane, the difference in land levels and the existing bank and hedgerow features. In addition I saw on my site visit that visibility along Swan Lane to the east is restricted as the lane bends. I am therefore not convinced by the evidence provided that a safe and satisfactory access would be delivered.
32. The appellant proposes to provide 3 passing bays along Swan Lane on land within their control. Although this does not form part of the planning application it is included in the unilateral undertaking submitted as part of this appeal. I also agree that this element could be provided through a Grampian condition. However as the majority of traffic would access the site from the west, I am not convinced that the passing bays proposed to the east would mitigate the hazards resulting from the additional traffic. In addition I note local concerns about dangerous highway junctions within the area including those to the west of Swan Lane. Consequently I am not satisfied by the evidence before me that the highway solutions proposed would mitigate the traffic impacts of the development.
33. I therefore conclude that the proposed development would have a significant adverse impact on highway safety and would conflict with DMP Policy DM02 which includes seeking development that does not compromise highway safety and ensures that traffic generated can be accommodated by the surrounding transport network.
34. In reaching this conclusion I have noted local residents concerns about the level of car parking within the site. The Highways Authority has not objected to this matter and I have no evidence before me to demonstrate that this would adversely affect highway safety. I am therefore satisfied that the parking provisions within the site are adequate. However this does not outweigh the harm I have already identified on this main issue.

Other matters

35. The appellant states that a benefit of the proposal would be the funds obtained through the Council's Community Infrastructure Levy (CIL). The collection of any CIL contribution would be undertaken by the Council on service of a notice that planning permission has been granted in relation to chargeable development. As such, the requirement for, and enforcement of, the payment of a contribution in relation to this site is not a matter for consideration in this appeal.
36. With regard to the impact on utilities, flooding and pollution, whilst I note the concerns of local residents in this respect, there is no substantive evidence before me to demonstrate that development would exacerbate any existing problems in respect of these issues. I also note that the statutory agencies for these matters have not objected to the development. In relation to ecological concerns I have no substantive evidence to demonstrate that the development

would have a significant effect on local wildlife that should be considered at outline stage.

37. As regards overlooking, the Council does not object on these grounds and I am satisfied that the proposed separation distances between the new dwellings and existing properties would not result in significant overlooking. Consequently the living conditions of neighbours would not be prejudiced. In relation to the existing farming business, I have no evidence before me to demonstrate that this specific development would adversely impact on the business.
38. Therefore, although on the evidence before me I have found no harm on these local concerns this does not outweigh the harm I have identified on the main issues.

Conclusion

39. For the reasons given above I conclude that the appeal should be dismissed.

Y. Wright

INSPECTOR

Richborough Estates