



Appeal Decision

Site visit made on 4 October 2022

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2022

Appeal Ref: APP/V2635/W/21/3287289

Land SE of Hall Road, Outwell PE14 8PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dene Homes Limited against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 21/00739/FM, dated 16 April 2021, was refused by notice dated 15 September 2021.
 - The development proposed is described as 'proposed residential development of 29 units.'
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Decision

1. The appeal is dismissed

Main Issues

2. There are two main issues. These are a) the principle of the proposed development with specific regard to its location; and b) the effect of the proposed development on the character and appearance of the area.

Reasons

Principle of Development

3. It is common ground that the appeal site is located outside of the settlement boundary (as defined by Policy DM2 of the Local Plan¹) and thus, for planning policy purposes, in the countryside. This would be contrary to the approach of the Council's spatial strategy to direct development first to within the largest settlements and subsequently to others, in a hierarchical manner. This is introduced by Policy CS01 of the Core Strategy², developed by CS02 which identifies Outwell as a Key Rural Service Centre and thus a settlement that could accommodate growth in terms of the ready access incumbent residents would have to services on which they would rely for day to day living. In this manner, the spatial strategy follows the Core Strategy's commitment to ensuring sustainable patterns of new development.
4. Policy CS06 addresses development in rural areas and promotes, as per the Core Strategy, sustainable communities and where the focus of new development should be. It seeks to, as well as in the interests of the protection thereof, restrict development in the countryside. In essence, such a place is not where residential development in the open market sense would normally be.

¹ Kings Lynn and West Norfolk Site Allocations and Development Management Policies Plan 2016

² King's Lynn and West Norfolk Borough Council Local Development Framework Core Strategy 2011

5. Whilst I shall return to this matter later in my decision, the appeal site benefits from an extant planning permission for residential development as a reserved matters scheme, Council reference 18/01463/RMM. It is part of a wider site which has an extant planning permission for the erection of 20 units. The portion which relates to the appeal site (which is slightly smaller) accounts for 17 of those. The scheme before me would uplift the extant number from 17 to 29, 32 overall in total.
6. I would agree that this would represent an uplift in units in a location where residential development would not normally be permitted under the terms of the spatial strategy and that the extant units relate to a different policy landscape. The decision thereon taking place at a time when the Council could not demonstrate the supply of housing sites required by the relevant iteration of the National Planning Policy Framework (the Framework) at the time.
7. That said, and since a total of 20 units would be, on the basis of the evidence before me, brought forward on the wider site regardless of the outcome of the appeal, the argument of whether or not the proposed development would satisfy the sustainable approach to the location of new development as advocated by the spatial strategy has to be looked at in a slightly different context. To that end, it would be difficult to say that 12 more dwellings would be inherently less sustainable in locational terms when looked at in the context of the aims of the spatial strategy. At least materially speaking. In effect, the occupiers of those 12 more units would have the same level of access to services as the extant number. This is a circumstance that is applicable to the history of the appeal site itself and not a situation that could be readily repeated to the extent that the aims of the spatial strategy would be undermined in the long term.
8. However, it would remain the case that by being residential development of a not insignificant number of new dwellings outside a settlement boundary and in the countryside (in terms of the total number of wholly new ones) the appeal scheme would be contrary to the development plan as a point of principle, purely in terms of being outside of the remit of its policies concerning the spatial strategy and development within settlement boundaries and how it is restricted in the countryside. This is set out by Policies CS01, CS02 and CS06 of the Core Strategy and DM2 of the Local Plan. The aims of which I have set out. There would also be some conflict with the aims of the Framework in the same regards.

Character and Appearance

9. The appeal site as a whole is a flat agricultural field on the edge of Outwell. It was, at the time of my site visit, still in crop and backs onto the southern side of Hall Road. Since it is bounded on its northern and southern side by fingers of residential development protruding into the more open and undeveloped land to the east, it does not contribute significantly to the overall quality of the countryside as a whole. Indeed, and as I have identified, there is an extant planning permission for its development.
10. Still, and looking at the appeal scheme in the context of that benefitting from said extant planning permission, it would introduce a multi-tiered layout, with a large number of back land plots. Individual plots would be contextually small and thus the resulting density noticeably higher than the surrounding area.

11. Whilst in number terms that density would not be the source of identified harm, taking into account the evident lack of a policy specifying acceptable levels, it would give rise to a totality of development which would be tightly clustered and lack the sense of spaciousness at this edge of settlement location which, overall, does contribute positively to the character and appearance of the area in built form terms. Indeed, this trait is reflected by the extant scheme which would comprise of frontage units with generous rear gardens.
12. In terms of the back land units, this would fail to relate positively to what is a prevailing character of single tier frontage development. The structure and homogeneity of which is another positive aspect of the area's character and appearance. Whilst as back land development some may be obscured from Hall Road by the frontage units, there would be views across the site from the roundabout with the A1101 and Basin Road, as well as driveways across the frontage which would allude to the presence of more buildings behind.
13. Taking these matters together, the appeal scheme as it is presented would be harmful to the character and appearance of the area. Such that it would conflict with Policies CS08 of the Core Strategy, DM15 of the Local Plan and the Framework. Together, and amongst other things, these seek to ensure that new development responds to the context and character of places and promotes high standards of design, as well as being assessed in terms of its visual impact, ensuring that the layout of development responds sensitively and sympathetically to the local setting.

Other Matters

14. As I have alluded to above, the appeal site does benefit from extant planning permission, and this is quite rightly worthy of some weight as a fallback position. Weight however, in each and every case, is a matter for the decision maker. I note the examples of such situations with other schemes as raised by the appellant and responded to by the Council.
15. True though this is, and implications though it clearly has for whether the proposed development would go further than conflicting with the wording of the spatial strategy's supporting policies, the fallback position is only as strong as what it is. And that is as a residential development for a finite number of units. Which this scheme is more than marginally greater than. Moreover, and putting any harm in regard to the first main issue aside, it would be of a number and layout specifically that would give rise to harm in terms of the second main issue. Harm that would lead to conflict with the development plan.
16. There is some discussion of the matter of isolated dwellings in the countryside for the purposes of the Framework and the implications of paragraphs 79 and 80 thereof. As far as I can see however, whether or not the proposed development would be isolated for its purposes is not a contentious matter in the appeal. There would appear to also be areas where the proposed development would be acceptable and thus comply with the development plan. Be this as it may, this would be a lack of harm in each case which, by definition, cannot be used to weigh against it.
17. It seems to be uncontested in the evidence that the Council can now demonstrate the supply of housing as required by the Framework. As such, my decision is not taken to the circumstances of paragraph 11 which would involve

the most important policies being out of date and the granting of planning permission unless the adverse impacts of the proposed development significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. That said, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise.

18. The benefits of the provision of new housing and its knock on social and economic effects over and above that accounted for in the extant scheme, would carry some weight as such considerations. The total additional number in the grand scheme however would be contextually low, accordingly reducing the wider beneficial effect thereof. It would also give rise to harm in the manner I have described. There is a completed planning obligation before me to secure required developer contributions for this scheme. Whilst some matters, such as open space, are provided to offset an impact of the new housing, I would attach some weight to the provision of affordable housing through the appeal scheme. That weight would however be tempered by the units already secured as part of the extant schemes. The difference between the two would not be significant so as to attract more than moderate weight.
19. In the absence of the applicability in this particular case of any planning balance explicitly tilted in favour of benefits, this becomes a more conventional weighing exercise with an emphasis on the primacy of the development plan. I would attach significant weight to the conflict I have found therewith and the associated harms. Such that the other material considerations that have been raised would not be sufficient, for the reasons I have given, to outweigh them.
20. The Council have referred to Policy DM1 of the Local Plan in their reasons for refusal. This concerns the presumption in favour of sustainable development as it is reflected by paragraph 11 of the Framework. I have no compelling evidence before me that the Council have not responded to the commitment to work positively and proactively with the appellant in the consideration of their scheme but, as a matter of circumstance, the actions of DM1 are not directly applicable to the policy situation in which the proposed development finds itself.

Conclusion

21. The appeal scheme would conflict with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance therewith. The appeal should therefore be dismissed.

John Morrison

INSPECTOR