



Appeal Decision

Site visit made on 1 September 2020

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2020

Appeal Ref: APP/F4410/W/20/3249615

Land off B1396, Branton, Doncaster E464295 N 401545

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Richard Mowat against Doncaster Metropolitan Borough Council.
 - The application Ref 19/02702/FUL, is dated 30 October 2019.
 - The development proposed is demolition of existing building (including ancillary structure) and the erection of 1 no. residential dwelling.
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Decision

1. The appeal is dismissed and planning permission for the demolition of existing building (including ancillary structure) and the erection of 1 no. residential dwelling at Land off B1396, Branton, Doncaster E464295 N 401545 is refused.

Preliminary Matters

2. The appeal is made against the Council's failure to give notice of its decision within the prescribed period. The Council's case is set out in its Statement of Case, from which I have drawn the main issue of the appeal.
3. Both parties refer to the emerging Doncaster Local Plan, which has been submitted for examination, with hearings scheduled for October and November 2020. The Council indicates that weight can be attributed to the emerging policies in accordance with Paragraph 48 of the National Planning Policy Framework (the Framework). However, it acknowledges that a number of potentially relevant policies are subject to significant outstanding objections. Given these policies may yet change, I consider that no more than limited weight should be afforded to them. Ultimately, the Council does not cite conflict with any emerging policies in its Statement of Case. Therefore, I have based my decision on the relevant policies of the Local Development Framework Core Strategy 2012 (the CS) and the Unitary Development Plan 1998 (the UDP) which make up the adopted development plan for the area.

Main Issue

4. Based on the Council's Statement of Case, I consider the main issue is whether the proposal would represent a suitable location for housing, having regard to national and local planning policy relating to housing in the countryside.

Reasons

Development Plan

5. The appeal site is a grassed field aside the B1396 road between the villages of Branton and Auckley. It contains an agricultural-type building and other smaller structures. Hedgerows extend around three boundaries, with the site open to an adjacent paddock on the Auckley side.
6. The site lies outside the development limit of Branton and in the countryside for planning purposes. It also lies within the Countryside Policy Area (CPA) as defined under the UDP. Saved Policy ENV2 sets out the purposes of the CPA as being effectively equivalent to those of the Green Belt, whilst saved Policy ENV4 sets a restrictive approach to development in the CPA, except for certain listed forms of development. CS Policy CS3 reiterates the protection of the CPA, but provides support for proposals which would be appropriate to a countryside location and would protect and enhance the countryside for the sake of its intrinsic character and beauty. The proposed development of a new residential dwelling would not constitute one of the supported forms of development in the countryside, and therefore there would be conflict with Policies CS3, ENV2 and ENV4 in this respect.

Location & Accessibility

7. Paragraph 78 of the Framework sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 79 adds that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more specific circumstances applies. The judgement in *Braintree*¹ established that 'isolated' in terms of the Framework refers to physical proximity to other dwellings and settlements. The site is close to the built up area of Branton, separated by one agricultural field, with development coming closer to the site boundaries on the opposite side of the B1396. Yorkshire Wildlife Park is a further notable development to the rear of the site. In this respect I do not agree with the Council's characterisation of the site as isolated due to it not physically adjoining other built form. I consider the proposal would not amount to an 'isolated home' for the purposes of the Framework and none of the exceptions at Paragraph 79 are therefore required to be met. I note that, in any event, the appellant has clarified that it is not part of his case that the proposal would constitute a 'truly outstanding or innovative' dwelling under Paragraph 79.
8. In terms of accessibility, there is a footpath on the opposite side of the road leading into Branton, where a number of local services including a primary school, pub, shop/post office, takeaway and hair salon could be reached on foot, as could bus stops with services to Doncaster, the airport and other villages. The footpath also extends into Auckley where further services could be accessed on foot, or by cycle. As such, the site's location would reduce to some extent the reliance of future residents on the private car, in accordance with the aim of the Framework to identify and pursue opportunities to promote walking, cycling and public transport use.

¹ Braintree District Council v SSCLG & Ors [2017] EWHC 2743 (Admin)

Character and appearance

9. The dwelling is a bespoke design which would be partially sunken below ground level to reduce its overall height and visual impact. From the road, a sloping green roof would be visible rising from ground level, with a void to one side forming a sunken terrace. The dwelling would present two storeys to the opposite elevation which would face onto private gardens.
10. The Council acknowledges the dwelling is well designed, and it is evident from the appellant's submissions that energy efficiency is a principal driver of the design, exemplified through the dwelling's orientation to maximise light and solar gain, the use of photovoltaic panels and heat recovery systems. The green roof is intended to help the dwelling assimilate into the landscape and reduce its visibility; however, I find this would have limited effect as the significant overall size of the dwelling, together with the visible side and rear walls and voids, and associated domestic features such as the driveway and parking areas, would be visible to passers-by on the road and occupants of nearby dwellings. Therefore, whilst I recognise the efforts to minimise the visibility of the dwelling, the proposal would result in a substantial new building being introduced into the open countryside where there presently is none, and a domestic character replacing an agricultural/rural character.
11. The appellant argues that the proposal would replace existing buildings on site. However, I saw the existing building, though itself large, is a fairly typical modern agricultural building and is set deep into the site within a copse of trees which limits its presence and visibility from the road and other properties, and allows a sense of openness to be retained across the majority of the site which continues to the adjacent paddock and wider surroundings. The proposed dwelling's position in the centre of the site and closer to the road would increase its visibility relative to the existing building, both from the B1396 and in views from properties to the east on Glen Road which presently face open countryside, from where the change to the appearance and character of the site would be evident.
12. I acknowledge proposals to strengthen planting to the boundaries and within the site would soften the visual impact of the proposal in some of these views from outside the site and the use of the existing access would preserve the extent of hedgerows along the B1396. I also recognise that the surroundings are not identified as being a valued landscape. However, the edge of development in Branton is well defined along the rear of dwellings in Willow Glen and Glen Road, and along Milton Road to the north and, although the site is close to the existing limits of Branton, it is not adjacent to them and the proposal would stand apart from surrounding development where it would have an incongruous presence within the undeveloped and open surroundings. Whilst the development would not be of a scale that would infill the gap between Branton and Auckley or lead to demonstrable coalescing of the two settlements, it would represent an unjustified incursion of development into the open countryside, which would detract from the undeveloped, agricultural landscape between the villages.
13. The proposal would therefore significantly harm the character and appearance of the countryside, in conflict with Policy CS3 of the CS and Policies ENV2 and ENV4 of the UDP, which together seek to protect and enhance the intrinsic character and beauty of the countryside to ensure it may be enjoyed by all.

There would also be conflict with Paragraph 170 of the Framework which states that decisions should contribute and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Other Material Considerations

Self-build housing

14. I have looked closely at the evidence put to me with respect to the dwelling being a self-build project, including the provisions of the Self Build and Custom Housebuilding Act 2015 (the SBCHA), and recent appeal decisions² cited by the appellant. The Council points to its self-build register having 21 entries as of 2019, and to permissions having been granted for 57 self-build plots across two schemes granted in 2013 and 2017, as evidence of it meeting its statutory obligations. The appellant argues that these permissions have either been built out or have not reached a stage where serviced plots can be made available for self-build projects. However, the evidence before me in respect of these other schemes is limited, but a total of 57 permitted plots far exceeds the stated number of entries on the register, meaning it is unlikely that all of these plots will already have been secured for other self-build projects.
15. Moreover, whilst the appellant argues that his desire to build a home in the Branton area demonstrates an immediate and pressing need, the Planning Practice Guidance states that there is no duty on an authority to permission land which specifically meets the requirements expressed by those on the register.³ Overall, the evidence before me does not conclusively demonstrate that the Council is failing to meet its statutory duties under the SBCHA.
16. This aside, I note that in the appeals referred to, the appellants respectively provided a Section 106 Agreement and a unilateral undertaking to ensure that the proposed dwellings would meet the definition of self-build and custom housebuilding. The appellant makes brief reference to providing an undertaking, but none is before me, nor has any suggested condition been advanced by either party. However, I have doubts that a condition would be appropriate to secure the necessary legal requirements for self-build and custom housebuilding, including binding successors in title where the property is sold. In the absence of such a mechanism, there is no guarantee that the proposal would meet the statutory definition of self-build or custom housebuilding and it could be constructed as a regular market dwelling. In view of this uncertainty, I attach only limited weight to the benefit of the proposal in increasing by one the supply of self-build plots in the Council's area.

Ecology and Green Infrastructure

17. The evidence before me indicates there is relatively low biodiversity value on site. The proposal would provide green infrastructure enhancements through new tree and hedge planting, a reed bed and a wildflower grass roof. I note the concern raised by the Council's ecologist to the lack of detailed biodiversity mitigation and enhancement measures; however, it would be possible to secure further details through a suitably-worded planning condition. I therefore find that the proposal would provide a benefit in this respect, albeit a limited one given the scale of the development.

² Appeal Refs: APP/G2435/W/18/3214451 – Land off Hepworth Road, Woodville and APP/WO530/W/19/3230103 – Green Heath / Heath Road, Gamlingay

³ Paragraph: 028 Reference ID: 57-028-201760728

Other Matters

18. The Council has not raised objection in respect of highway safety, pollution control, flood risk and drainage or the effect on neighbours' living conditions, subject in some cases to recommended planning conditions. On the evidence before me, I have no reasons to conclude otherwise; however, an absence of harm in these matters means they are neutral factors in the planning balance, weighing neither for nor against the proposal.

Planning Balance

19. I have had regard to arguments put to me by the appellant that certain development plan policies are out-of-date and should not attract full weight. The Council accepts, having regard to the Secretary of State's conclusions in an appeal decision from February 2019⁴, that Policies ENV2 and ENV4 are not in line with the direction of travel of local and national policies, particularly in respect of the restrictive approach to development in the CPA, which is not entirely consistent with the more balanced approach of Framework to development in the countryside. However, Policies ENV2 and ENV4 are not entirely inconsistent with the Framework in terms of Paragraph 170, and I agree with the Council that they should still be afforded at least moderate weight. I consider CS Policy CS3 generally reflects the balanced approach of the Framework and attracts significant weight.
20. Given the site's location in the countryside, I regard policies CS3, ENV2 and ENV4 as the most important for determining the application. For the reasons set out, Policies ENV2 and ENV4 are not entirely consistent with the Framework in terms of the location of housing and are therefore out-of-date. Paragraph 11(d)(ii) of the Framework sets out that where the policies which are most important for determining the application 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. On this basis, and notwithstanding that there is no dispute that the Council can demonstrate in excess of a five year supply of deliverable housing land, the 'tilted balance' at Paragraph 11 of the Framework is engaged.
21. The proposed development, through its unjustified location in the countryside, would result in significant harm to the character and appearance of the area, in conflict with the Framework's recognition of the intrinsic character and beauty of the countryside.
22. The Council can demonstrate well in excess of a five year supply of deliverable housing land, and the addition of one dwelling would make a negligible contribution to the housing stock and to the aim of the Framework to boost the supply of housing. There would be some economic benefits from the construction of the dwelling, though these would be temporary, and later from the participation of future residents in the local economy, which would make a small positive contribution to maintaining the vitality and viability of rural communities as espoused by the Framework. However, the small scale of the proposal means I attribute only limited weight to these benefits.

⁴ APP/F4410/W/17/3169288

23. There would be environmental benefits through enhancement of green infrastructure and incorporation of various energy and water saving technologies. I recognise that the Framework directs great weight to outstanding or innovative designs which promote high levels of sustainability; however, this is a high bar, I do not regard the measures proposed as outstanding' or 'innovative' so as to meet the requirements of Paragraph 131 of the Framework. Still, I accept that the energy efficiency of the dwelling weighs in favour of the proposal, though as a single dwelling the environmental benefits would not be significant and would attract limited weight. The accessibility of the site to local services on foot or cycle would attract limited weight in favour given there would still be reliance by future occupants on the private car.
24. Overall, I find that the adverse impacts I have found in respect of the conflict with the policy approach to development in the countryside and to the character and appearance of the area would significantly and demonstrably outweigh the limited benefits identified, when assessed against the policies in the Framework taken as a whole.
25. The proposal would therefore not benefit from the presumption in favour of sustainable development provided by Paragraph 11 of the Framework. As a material consideration, this does not indicate this appeal should be decided other than in accordance with the development plan, where I find there to be conflict when considered as a whole.

Conclusion

26. Therefore, for the reasons given, the appeal is dismissed and planning permission is refused.

K. Savage

INSPECTOR