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## Appeal Decision

Site visit made on 13 September 2017

**by Andrew Owen BA(Hons) MA MRTPI**

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

**Decision date: 27 September 2017**

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**Appeal Ref: APP/F2605/W/17/3176267**

**Mill Farm Fisheries, Church Street, 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 Mr Derek Beales against the decision of Breckland District Council.
  - The application Ref 3PL/2016/1190/O, dated 29 September 2016, was refused by notice dated 9 March 2017.
  - The development proposed is residential development.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was submitted in outline with all matters reserved for later consideration. As such I give little weight to the indicative site plan showing a possible layout of the site.
3. The description of development used on the application form did not specify the number of houses proposed. However elsewhere on the form it stated that 16 units were proposed. During the determination of the application this was reduced to eight units. The Council considered the application on this basis and I have done the same for this appeal.

### Main Issues

4. The main issues are:
  - i) The principle of the development outside the settlement boundary;
  - ii) The effect of the proposal on the character and appearance of the area;
  - iii) The effect on ecology; and
  - iv) The effect on the existing recreational facility.

### Reasons

*Principle of development outside the settlement boundary*

5. Policy CP 14 of the Breckland Core Strategy (BCS) relates to rural communities. It states that, in most cases, residential development must be within the settlement boundary. The site is outside the settlement boundary.

6. The Council accept that they do not have a five year supply of housing, though there is disagreement between the parties as to the extent of that shortfall with the Council suggesting a 4.6 year supply and the appellant providing a range of alternative figures starting from around 2.5 years<sup>1</sup> and above. The appellant also queries many of the assumptions made by the Council in calculating their housing supply, but I do not consider it would be appropriate or advantageous to scrutinise these fully as part of my determination of this appeal, especially as the Objectively Assessed Need has not been formally examined.
7. It is clear though that the lack of a five year housing supply activates paragraph 49 of the National Planning Policy Framework (the 'Framework') which advises that relevant local policies should not be considered up to date if they have contributed to the Council's failure to provide a five year supply.
8. I consider that Policy CP 14, in so far as it restricts housing development beyond the settlement boundary, could influence the Council's failure to provide a five year housing supply and is therefore out of date. Similarly Policy DC 2 of the BCS seeks to focus housing to areas within the settlement boundaries, and Policy SS 1 of the BCS suggests Great Ellingham is one of 10 Service Centre villages that will not see any housing allocations in addition to existing commitments. These policies can also be deemed to have contributed to the Council's failure to provide a five year supply of housing. As such, Policies CP 14, SS 1 and DC 2 are inconsistent with the aim of paragraph 47 of the Framework which is to boost significantly the supply of housing. I therefore give them little weight, and although the proposal would conflict with them, I give little weight to that conflict.

*Character and appearance*

9. The site generally comprises two parts. The northern part includes a dwelling and a number of outbuildings used as storage, a garage, and shower and toilet facilities for the adjacent caravan club site. The southern part accommodates two fishing ponds and surrounding vegetation.
10. As a result of the various structures and some areas of hardstanding, the northern part of the site constitutes previously developed land. This, along with its proximity to, and view of, neighbouring buildings, means this part of the site has a built up character.
11. The southern part however is devoid of any structures, save for small fishing stations and a footbridge to the island in one of the ponds. I do not consider this part is previously developed land. It also has a distinctly more rural feel, being substantially screened from neighbouring properties by mature trees along the rear and side boundaries.
12. As a result, any houses proposed for this southern part of the site would represent an intrusion into countryside. I recognise the aforementioned trees would prevent significant views of any houses in this part of the site from most positions beyond the site. However from within the site, the character would change from being a tranquil leisure facility with a strong rural component to a busier and more comprehensive urban development.

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<sup>1</sup> Based on the BCS targets and using the 'Sedgefield' method

13. Although layout is a reserved matter, it would be highly unlikely that the proposed eight houses could be provided solely within the northern part of the site so that the rural character of the southern part would be retained.
14. Consequently, the proposal would most likely lead to an encroachment of urban form into a rural area which would be to the detriment of the character and appearance of the area. As such it would be contrary to Policies DC 11 and DC 16 of the Core Strategy which aim to ensure that development preserves or enhances the character and appearance of an area.

#### *Ecology*

15. A protected species assessment was submitted following a walkover site survey which investigated the potential for the site to provide habitats for bats, great crested newts, water voles, reptiles and breeding birds. The assessment considered that the buildings had low potential as bat roosts and that the ponds on site had low potential for accommodating great crested newts. It did find that the ponds and their banks had an optimal potential for water vole habitat, but none were seen during the survey. It also found that the site may support reptiles and breeding birds.
16. I do not consider that the lack of any water voles at the time of the walkover survey is a sufficient basis on which to assume this species would not be adversely affected by the loss of the fishing ponds. Likewise, though the public use of the site affects its potential for reptiles, I consider it unlikely that the levels of public use are such that it makes the habitat unattractive to reptiles, particularly as the tall herb habitats, the ecologist considers necessary for reptiles, are present, as confirmed in paragraph 4.1.6 of his assessment. It also is not sufficient to make an assumption on the likely breeding birds that would use the trees on site, notwithstanding the ecologist's experience in this.
17. As such, I consider it would be necessary for specific surveys for water voles, reptiles and breeding birds to be undertaken so that a full assessment could be made as to the extent that these species would be affected by the development. Circular 06/2005<sup>2</sup> states that where there is a reasonable likelihood of protected species being present, surveys should be carried out before planning permission is granted.
18. I acknowledge that full details of any necessary replacement habitat could be provided as part of a landscaping scheme to be considered at the reserved matters stage. But this would need to be informed first by a fuller investigation of the species present. As this has not been done, I cannot conclude that the proposal would not adversely harm the biodiversity of the site. Therefore it would be contrary to Policies CP 10 and CP 11 of the Core Strategy which aim to protect and enhance biodiversity.

#### *Protection of the recreation facility*

19. The development would follow the closure of the existing fishery business. Policy DC 18 guards against the loss of key local services, and identifies a list of such facilities. Outdoor recreation facilities are not included. Although this list is not exhaustive, I do not consider the fishery is essential to the ongoing vitality of Great Ellingham, even accounting for its designation as a Local

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<sup>2</sup> ODPM Circular 06/2005 - Biodiversity and Geological conservation – statutory obligations and their impact within the planning system

Service Centre village. I do not doubt the fishery provides a valued facility for its patrons, but I expect it holds little interest for large parts of the community and so, in my view, it would not constitute a key local facility. Therefore its loss would not be contrary to Policy DC 18.

20. Similarly, I do not consider that the loss of the toilet and shower block, which serves the adjacent caravan site, would have any material impact on the ability of that site to continue to operate. It is a small site and in view of the lack of any other facilities there, I consider it likely that it is most attractive for caravan owners who have their own such facilities on board. Indeed that appeared to be the case at the time of my site visit.

### **Other matters**

21. I have been made aware that the adjacent Mill Farmhouse is a Grade II listed building. At the site, it is the collection of buildings in the northern part which primarily affects the setting of this listed building. The siting, design and layout of the development are reserved matters but, at this outline stage, I cannot conclude that the development would fail to preserve the listed building's setting.
22. I accept the resultant increase in the population of the village as a result of the development would support the vitality of local services and, during its construction, it would provide a short term boost to the local economy. However I also consider that the loss of the existing fishery, whilst not a key local facility, would have a small adverse impact on the vitality of the village. As such, overall, the advantage to the village would be modest.
23. I note works are proposed to provide a pavement opposite the site to link to other sections of pavement, and a shorter section in front of the site. The Highways Authority supports the works and I agree that they would create a safe pedestrian access from the site to the nearby shop and Chequers Lane, and would provide a continuous safe pedestrian route along this part of Church Street. Whilst the section immediately in front of the site would be of little benefit to the wider population, that part opposite would be of value to the village, though I note other parts of Church Street to the east would remain without pavements.

### **Planning balance and Conclusion**

24. Paragraph 14 of the Framework states 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.
25. The provision of eight homes to the Council's supply of housing would be a benefit. However, even allowing for the most pessimistic housing supply figure provided by the appellant, eight units would not be a significant contribution. When combined with the benefits to the local economy, the vitality of the village, and highway safety opposite the site, I consider the totality of the benefits of the development would be less than substantial.
26. I give little weight to the proposal's conflict with Policies CP 14, SS 1 and DC 2. However the proposal would harm the rural character and appearance of the area, and I cannot be confident that the biodiversity of the site would be preserved. I give these matters considerable weight and conclude that they would significantly and demonstrably outweigh the benefits of the proposal.

27. Therefore, for the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

*Andrew Owen*

INSPECTOR