



Appeal Decision

Site visit made on 25 June 2019

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 7th November 2019

Appeal Ref: APP/U2615/W/19/3223483

**Land Rear of St Marys Roman Catholic School, East Anglian Way,
Gorleston, Great Yarmouth NR31 6TY**

- 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 Mr Edward Gilder on behalf of Badger Building (E. Anglia) Ltd against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/17/0247/F, dated 12 April 2017, was refused by notice dated 5 November 2018.
 - The development proposed is the extension of East Anglian Way and the construction of 71 dwellings, a car park and a drop-off point for the adjacent school; and construction access from Church Lane.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Edward Gilder against Great Yarmouth Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on the safe and efficient operation of the highway network in the vicinity of the appeal site.

Reasons

4. The appeal site is an area of ground which lies off East Anglian Way ("EAW"), which is a residential cul-de-sac of some 73 dwellings and a school, the St Mary and St Peter Catholic Primary School. The sole access road which would serve the proposed estate of 71 dwellings would meet EAW. The evidence indicates that EAW is subject to a significant level of on-street parking at either end of the school day, and this accords with what I saw at my site visit.
5. The Council estimates that 458 vehicular movements over a 24 hour period during term time are associated with the school, excluding those of staff. This figure appears to have been obtained by a doubling of the number of pupils currently on roll at the school, in order to obtain the number of trips if each pupil arrived and were collected by car every day. Only minimal evidence concerning the means of transport of pupils at the school is before me, however I consider that the number of pupil trips by car is likely to be somewhat less than 458 due to the school's location within a large urban area.

6. However, whilst the school lies close to several large residential areas, the distance for pedestrian or bicycle journeys between school and most local residential areas would preclude the use of these modes of transport with primary school aged children, who are likely to find journeys by these means more onerous and time-consuming. Furthermore, the Council's analysis does not take account of vehicular trips by school staff and visitors. Nevertheless, the school is relatively large and the number of vehicular trips per day by staff and visitors is consequently likely to be significant. I additionally concur with the submission that, as a faith school, the school is likely to have a relatively large catchment area due to the more limited availability of such schooling. Therefore a relatively high proportion of pupils are likely to attend school by car. All of these factors would increase the total number of vehicular trips associated with the school during term time.
7. The Council considers that the existing estate of 73 dwellings on EAW produces 410 vehicular movements per 24 hour period. Whilst this figure has been produced using TRICs analysis for other similar developments and hence site-specific factors have not been used in its calculation, no substantive contradictory evidence on the matter is before me. Dwellings on the estate are generally of a size to accommodate a family, and therefore a figure of 5-6 vehicle trips per household over 24 hours is reasonable. Accordingly, I consider that the figure of 410 trips represents a fair assessment of the situation.
8. Analysis using a similar method shows that the proposed new estate of family-sized dwellings would produce 378 vehicular movements per 24 hour period, all of which would use EAW as it would provide the sole access out of the development.
9. A total of 788 vehicular movements would consequently be associated with the existing and proposed housing over 24 hours. Many of these trips would be at peak times, and hence would be likely to coincide with either end of the school day. Whilst figures for the vehicular movements associated with the school are unclear, given my above analysis I consider that the total number of movements which the combination of the existing and proposed estates and the school would produce would be likely to significantly exceed 1000 in 24 hours during term time.
10. The relatively short section of EAW which passes the school would consequently be subject to a significant number of additional vehicular movements as a result of the proposal. Furthermore, many of these would coincide with the school drop off time of 0830-0900 and pick up time of 1500-1530.
11. The proposed car park and drop off point at the edge of the new estate would serve drivers conveying and collecting school pupils. A new school entrance would be provided between the car park and the school. The provision of these facilities seeks to mitigate the addition, by the new development, of traffic to EAW at either end of the school day.
12. The period over which car park spaces would be occupied for the purpose of school drop offs and pick ups would generally be limited to approximately 10-20 minutes, twice a day, during term times. Limited use of the parking would occur outside the school hours of approximately 0850-1500 for the conveyance of pupils to breakfast club or their collection from after school activities.

13. However, a significant majority of the necessary parking would be required concurrently. Moreover, given the age of pupils at the school and its nursery, a majority of drivers are likely to park and leave their cars so as to accompany children to the building, rather than using the drop off point. This is likely to reduce the number of available parking spaces at school drop off and pick up times.
14. Furthermore, the limited current parking spaces to the front of the school are unlikely to cater sufficiently for the staff members and visitors associated with a facility of a significant size. As a result, it is likely that staff and visitors would additionally use the new parking facility. The vehicles of school staff are likely to occupy parking spaces over a longer period than the extent of the school day, thus reducing the number of spaces available for use for the conveyance and collection of school and nursery children.
15. The submitted plans show approximately 50 parking spaces rather than the 60 to which the appellant refers. In either case, the number of proposed spaces appears insufficient to adequately provide for the concurrent parking needs which would arise from the conveyance and collection by car of a significant majority of the school's 210 pupils and nursery attendees, and use by its staff and visitors.
16. Whilst I acknowledge that the parking facility would remove some of the school-related congestion and parking on EAW, this benefit would be limited because of the additional vehicular movements associated with the new housing, which would add to congestion. Furthermore, any congestion within the parking is likely to result in continued parking along EAW or on the new estate road, to save time. Thus, a moderate level of on-street parking associated with the school is likely to continue if the proposal were permitted.
17. The highway authority requests that a number of conditions are attached to any grant of permission. One of these proposes the promotion of a Traffic Regulation Order ("TRO"), which would prevent school frontage parking by setting waiting restrictions on EAW.
18. Existing "School-Keep Clear" road markings lie to the front of the school complex. These require motorists to keep the school entrance clear of stationary vehicles, including those picking up or setting down children. Yellow lines denote limited further waiting restrictions on EAW near its junction with Church Road, but on-street parking is generally otherwise available.
19. The appeal describes the extent of the proposed TRO as "the school frontage". The existing "Keep Clear" markings prevent parking to the entirety of the school's immediate road frontage. Therefore the remaining area of EAW to which the TRO would be applied, according to the description provided, is a similar distance on the opposite side of the road. This area allows for the parking of approximately 6 cars.
20. Whilst the highway authority would have control over the area which would be subject to the TRO, this matter would only be determined following a grant of permission. The evidence currently before me suggests the extension of waiting restrictions to an area which could accommodate only approximately 6 cars. Thus, the evidence does not indicate that waiting restrictions on EAW would be extended by any significant degree in the event of permission for the proposal. As such, there is insufficient assurance that on-street parking on

EAW at either end of the school day would be reduced to an acceptable level if the proposal went ahead.

21. Thus, a level of on-street parking would be likely to continue given the limited number of school parking spaces provided and the apparent extent of the TRO. On-street parking by residents or visitors to dwellings on EAW, many of which have a garage and a single parking space, would add to this. On-street parking may additionally occur on the new estate road, given the limitations of the car parking area. Both roads would have a width sufficient for two vehicles, resulting in the need for motorists to wait behind parked vehicles on the street when traffic is approaching from the other direction and to manoeuvre round them when possible. Any significant on-street parking would consequently contribute to the inefficient operation of the highway network, given the substantial number of vehicular movements which the new development would add to the existing quantity.
22. The peak time for the conveyance of school children of 0830-0900 coincides with a peak time for traffic generally. EAW and the junction onto Church Road would carry what is likely to amount to several hundred vehicular movements within that short period if the proposal went ahead, and additional congestion would occur at school collection time. Church Road is one of the main routes through Gorleston and carried regular traffic at the time of my visit, which was carried out at school collection time on a weekday afternoon. The appeal does not provide sufficient assurance that the proposal would not result in unacceptable levels of congestion at these points. As a result, the proposal would be likely to result in regular inconvenience to users of the highway. The development would consequently have a harmful effect on the convenient use of the highway network.
23. My main concerns regarding congestion consequently relate to school drop off and pick up times over term time. The numbers of pedestrians and cyclists using EAW are likely to peak at these times. The number of these types of users accessing EAW would also increase as a result of the new development. A significant number of these types of highway users are likely to be children, given the presence of the school, and hence more vulnerable. The proposal would result in a significant increase in vehicular movements along EAW, coupled with the potential for conflict between vehicles and more vulnerable road users due to congestion and manoeuvring. It would consequently increase the potential for accidents, with resulting harm to highway safety.
24. I note that the highway authority did not object to the proposal, subject to recommended conditions. I attach some weight to the authority's lack of objection, however, I am not bound by it to find the development's effect on the highway acceptable in light of all other available evidence.
25. The proposal would have an unacceptably harmful effect on the safe and efficient operation of the highway network in the vicinity of the appeal site due to the likely levels of congestion it would generate. Accordingly, it conflicts with Policy HOU7 of the Great Yarmouth Borough-Wide Local Plan (2001), which allows for new residential development within Gorleston providing that suitable access arrangements are made. Further conflict exists with Policy CS9 of the Great Yarmouth Local Plan Core Strategy (2015) ("the CS"), which requires developments to promote a positive relationship between existing and proposed streets, to provide safe access and convenient routes, and to provide

vehicular access and parking suitable for the use and location of the development. Additional conflict exists with Policy CS16 of the CS, which states that development should not have an adverse impact on the safety and efficiency of the local road network. Further conflict exists with the provisions of the National Planning Policy Framework ("the Framework"), which sets out that development should be refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

26. The parties have completed a Section 106 Agreement in conjunction with Norfolk County Council which includes a number of obligations which would come into effect if planning permission is granted. I have considered these in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy ("CIL") Regulations 2010. They relate to the following matters.
27. Affordable Housing: The Agreement provides for the development to include a number of affordable and intermediate houses. However, I am not aware of the policy basis for this requirement. Furthermore, only minimal details of existing provision, additional demands which would result from the development and the methodology for calculating the level of proposed provision are before me. I am therefore unable to conclude with confidence that this obligation passes tests (a) and (c) in CIL Regulation 122.
28. Off-site open space and children's recreation: Policy HOU7 of the Great Yarmouth Borough-Wide Local Plan (2001) requires the provision of adequate open space and play space for developments. Notwithstanding this, it does not require a quantity of such space per dwelling, as is requested. Financial contributions on these matters are set out within the obligation, however only minimal details of the methodology for calculating these are before me. As a result, I am unable to conclude that this obligation passes test (c) of the CIL Regulation.
29. Natura 2000: A financial contribution is requested in respect of this network of internationally protected sites. Policy CS14 of the CS provides for the Council to seek appropriate contributions in respect of such sites. The Council's Habitats Monitoring and Mitigation Strategy (2019) ("the HMMS") provides quantified evidence of additional demands which would result from the development, and details of the effect on existing sites and of the methodology for calculating the requested contribution. The contribution would be put towards the monitoring or implementation of mitigation measures for designated sites.
30. As such, the contribution would provide for measures to ensure that the development would have no likely significant effect on the interest features of the Natura 2000 network. In arriving at this view I have taken account of the comments of Natural England, the Government's statutory adviser on these matters, who consider that the proposal is unlikely to have an adverse effect on the integrity of the protected site subject to the principles of mitigation outlined in the HMMS. The contribution is therefore necessary, directly related to the development and fair and reasonable in scale and kind to the development proposed. Thus, I am satisfied that it meets the appropriate tests and it is therefore an obligation which I can take into account.

31. Library contribution: Development plan policy permits development where an adequate range of community facilities can be provided. As such, there is policy support for the contribution. However, minimal details of existing library facilities, the additional demands which the development would place on them and how the contribution would be spent are before me. Accordingly, I cannot be certain that the contribution is necessary, directly related to the development and fairly and reasonably related to it in scale and kind. I am therefore unable to conclude that this obligation passes the tests of the CIL Regulation.
32. Education contribution: Development plan policy provides support for the contribution and I am satisfied that there is sufficient quantified evidence before me of additional demand, the methodology for calculating the contribution and the facilities on which it would be spent. The effect of the proposal is calculated in combination with that of two other planning applications which were pending at the relevant time, however it is clear that the requested contribution passes the CIL Regulation tests even if these are discounted from the calculation. I therefore conclude that I am able to take this obligation into account.
33. Car park contribution: this obligation seeks to resolve the Council's concerns regarding the effect of the proposal on the safe and efficient operation of the highway network. Without it, there would be additional material planning harm to that which I have identified above. Thus, I conclude that the obligation passes the relevant tests, and that I am able to take it into account.
34. Green infrastructure: Whilst there is policy support for the provision of such facilities, minimal details of existing facilities, the additional demands which the development would place on them and the methodology for calculating the contribution are before me. Accordingly, I cannot be certain that the contribution is necessary, directly related to the development and fairly and reasonably related to it in scale and kind. I am therefore unable to conclude that this obligation passes the tests of the CIL Regulation.
35. I note the proposal's location on a site allocated for development. However, the historic position of the highway authority on that allocation does not overcome the specific concerns I have regarding the proposal's effect on highway matters. Moreover, only minimal evidence on the matter is before me. Thus, I attach only minimal weight to this matter in determining the appeal.
36. Although officer recommendations were to grant permission in this case, planning authorities are not bound to accept the recommendations of their officers and therefore councillors were entitled to reach an alternative view to officers on the main issue. As such, I attach only minimal weight to this matter in determining the appeal.

Planning Balance and Conclusion

37. The parties concur that the Council is unable to demonstrate a 5 year Housing Land Supply, suggesting that there is a 4.13 year supply only. In such circumstances, paragraph 11 of the Framework sets out that it is necessary to grant permission unless, amongst other things, any adverse impacts of doing

so would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies taken as a whole.

38. There would be a social benefit from the provision of the additional dwellings. Economic benefits would arise from the construction work and from the occupation of the new houses. Local finance considerations are advanced in support of the proposal.
39. The submitted planning obligation allows for the provision of a school car parking and drop off point. However, I have found above that this benefit would be limited because of the additional vehicular movements associated with the new housing, which would add to congestion in the area. The obligation additionally provides for mitigation of the proposal's effect on the Natura 2000 network and for contributions to be made towards educational facilities. Notwithstanding this, all three matters are relatively neutral aspects of the proposal and I consequently attach only minimal weight to them as benefits.
40. Nevertheless, the harm to the safe and efficient operation of the highway network would be unacceptable. As a result of this, the environmental aspect of sustainable development would not be achieved.
41. Accordingly, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Therefore the proposal would not be a sustainable form of development when considered against the Framework taken as a whole. The conflict with the development plan is not outweighed by other considerations, including the Framework.
42. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR