
Appeal Decision

Hearing Held on 21 January 2020

Site visit made on 21 January 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 3 February 2020

Appeal Ref: APP/Y2620/W/19/3236740

Land off Thornage Road, Letheringsett, Norfolk

- 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 Raven Cozens-Hardy against the decision of North Norfolk District Council.
 - The application Ref PF/18/1980, dated 2 October 2018, was refused by the Council by notice dated 10 June 2019.
 - The development proposed is a new Paragraph 79 (NPPF) single storey 4 bedroom eco-house with garage and associated landscaping works.
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Decision

1. I dismiss the appeal.

Main Issues

2. These are;
 - Whether the site is 'isolated' and hence whether the exception in Paragraph 79e of the National Planning Policy Framework may be applied.
 - The effect of the proposal on the character and appearance of the Glaven Valley and Letheringsett Conservation Areas, and the landscape character of the locality within the North Norfolk Area of Outstanding Natural Beauty.
 - The effect of the proposal on highway safety and the free flow of traffic.
 - The weight to be attached in the planning balance to other considerations in favour of the proposal.

Reasons

Assessment of Isolation

3. Neither Letheringsett nor Little Thornage appear in the list of settlements in Core Strategy Policy SS1 and so the site is, in policy terms, within the countryside. The proposal is for development that is not listed in Policy SS2, which states that proposals which do not accord with the listed exceptions will not be permitted.
4. Paragraph 79 of the Framework requires policies and decisions to avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply, and the appeal proposal is promoted to meet

paragraph 79e); *'the design is of exceptional quality, in that it is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.'* It is noted that the list in Policy SS2 does not include the criterion e) exception, although it does include elements of criteria a), b) and c).

5. The meaning of the word 'isolated' in paragraph 79 was the subject of the 'Braintree' judgments¹ which determined that the word should be given its ordinary objective meaning of *'far away from other places, buildings or people; remote'*. The Appeal Court Judge stated that whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of a particular case.
6. The appellant has supplied examples of appeals where this matter was determined, and these include cases where the site was apparently close to other buildings, as well as where there was open space between the site and the nearest development. Some at least pre-date the Braintree judgments, such as where a Council were reported as being satisfied that the countryside location in policy terms was sufficient for it to be considered 'isolated' in the paragraph 79 sense. The circumstances of the Braintree case, again shown as a plan in the appellant's submissions, differed from many of the cited examples, and from the appeal situation, but the judgment was clear in the use of the phrase *'far away from other places, buildings or people'* which is more than just 'away'.
7. The appeal site is a large field and whilst the red-line boundary on amendment D encompasses the whole site, the stated intention is that domestic activity would be more restricted closer to the building, in addition to which, permitted development rights are suggested to be removed, which would restrict built form across the site. The house is designed to take advantage of water flow and hence is sited close to the centre of the field, with the landscaping proposals seeking to introduce natural features to the wider site area.
8. Seen from the location of the proposed house there is limited built form visible in each direction and there are views of open countryside across the valley. In fact, there is development on each of the 4 roads surrounding the area, and that to Riverside Road is a near-continuous ribbon of dwellings on both sides of the road having a suburban character and appearance in places, moderated only by the rural nature of the road itself. The Norfolk Coast Partnership refer in their representation over the Area of Outstanding Natural Beauty to the site being adjacent to other buildings in the village.
9. The site is part of a visual gap along Thornage Road, separating a cluster of buildings at Little Thornage from that at Letheringsett, and the effect on that gap will be considered in the next main issue. Nevertheless, the proximity of other buildings and activity from people lead to the conclusion that the site cannot be considered 'isolated' in the terms of paragraph 79e) as determined by the Braintree judgments, as the degree to which it is 'away' from places, building and people is limited, let alone 'far away'.

¹ Braintree District Council v Secretary of State for Communities and Local Government & Others [2017] EWHC 2743 (Admin) of 15 November 2017, and subsequently in the Court of Appeal judgment of 28 March 2018

10. The result of that conclusion is that the exception in paragraph 79e) should not be applied, and that the proposal, being in a location not listed in Policy SS1 and for development not listed in Policy SS2, would be contrary to local and national policies of restraint.
11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the Development Plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. Whilst chapter 12 of the Framework on achieving well-designed places and paragraphs 124 and 131 in particular are predicated on the development being in an otherwise acceptable location, it is reasonable to consider the design and technical credentials of the proposals under the provision for material considerations.

Character and Appearance

12. The site is, somewhat unusually, within 2 different designated areas which overlap; the Glaven Valley Conservation Area and the Letheringsett Conservation Area. Core Strategy Policy EN 8 reiterates the requirements of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
13. In addition, the site is within the North Norfolk Area of Outstanding Natural Beauty although the Reason for Refusal does not include harm to that designated area and it is Common Ground that the proposal accords with Policy EN 1 on that subject.
14. Policy EN 2 requires development proposals to be informed by and be sympathetic to the distinctive character areas defined in the Landscape Character Assessment, and the site is within area LV3 of that adopted Supplementary Planning Document, showing how valley-side settlement locations nearer the coast change to valley floor ones upstream at Letheringsett. The site is within area RV5 of a draft document which lists characteristics which are unique to the River Glaven and its tributaries.
15. Whilst not a particularly steep sided valley, the built form of Letheringsett is concentrated on the valley floor and the linear ribbon of development along Riverside Road continues that pattern. There is a dwelling to the west of the appeal site and hence higher on the valley side, but that is an exception and it, together with its curtilage, interrupts the run of open fields that remain on either side of it and is mirrored to the east side of the valley. That pattern of development is of significance in the character and appearance of both conservation areas, the Letheringsett designated area being the smaller and containing only that feature, while the Glaven Valley area extends from the sea to inland of the appeal site encompassing the LV3 landscape character area.
16. The appeal proposal would introduce a building and domestic uses, however restricted in area of the site as claimed, to an open field that is a significant feature of the conservation areas and highly characteristic of the landscape character area. The building would be visible from the high ground to the east

- on a public right of way, and over a long section of that path as it descends to the valley floor. That view does take in the buildings already on the valley floor, but that is part of the character and appearance of the area, while the appeal proposal would introduce an uncharacteristic form and use of materials that would be at a different scale, being long across the valley side, and that latter failing would not be overcome by the articulation into smaller blocks.
17. It is acknowledged that Framework paragraph 79e), from its origins in Planning Policy Guidance Note 7 and the aim of adding to the country house tradition, may well be predicated on a degree of visibility and being different from the local vernacular. However, the first main issue has determined that the level of isolation is insufficient to trigger that exception, and the requirement in paragraph 131 is that proposals should *'fit in with the overall form and layout of their surroundings'* and the appeal proposal fails to meet that aim.
 18. The development of the field would break the run of open areas on this side of the valley, and similar to the effect of the house to the west previously mentioned, this would cause harm to the character and appearance of the conservation areas through disrupting the predominance of valley floor development. The design seeks to limit the effect of large areas of glass referred to by the Norfolk Coast Partnership, by reducing the extent and numbers of openings, and with screens to ensure internal lighting is not intrusive in the wider landscape. Such provision could be required by condition, but enforcing their use could be problematic.
 19. The landscape proposals seek a natural appearance, with an orchard similar to that to the south and swales or scrapes alongside the river matching those on the adjoining County Nature Reserve. The ecological and habitat value will be weighed in the balance later in this Decision, but although the aim would be to appear as natural features, the reality would more likely be a managed landscape associated with residential use with a visible and discordant style of dwelling in the centre. The site access would require only limited cutting back of roadside vegetation to form the required visibility splays, but the driveway and bellmouth would disrupt the rural character of the lane.
 20. To conclude, the proposal would cause harm to the character and appearance of the conservation areas, and harm to the landscape character of the river valley, failing to satisfy the requirements of Policies EN 2 and EN 8, paragraphs 131 and 193 of the Framework and the statutory tests in the 1990 Act. It would not fit in with the overall form and layout of its surroundings or be sensitive to the defining characteristics of the local area as designated heritage assets.
 21. The level of harm to the conservation areas would be 'less than substantial', a differentiation required between paragraphs 195 and 196 of the Framework. In this case the latter applies, and this states that the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. That will be considered in the planning balance later in this Decision.

Highways

22. The concern relates specifically to an intensification of the use of the junction between Thornage Road and the A148 Holt Road which is alleged to have restricted visibility out to both to the east and west. Core Strategy Policy CT 5

on the transport impact of new development requires safe and convenient access using private transport, and a safe access to the highway network. The supporting text also refers to access to the highway, which is Thornage Road, rather than any further parts, and Framework paragraph 108b) seeks a safe access to the site. Paragraph 109 does however state that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

23. It is agreed that a safe access can be formed onto Thornage Road, and the appellant offers the formation of 2 widened areas as passing bays that are only in place as informal overruns at present. The use of the road to near the junction with the A148 is acceptable. It is matter of fact that the visibility distances for a 30mph road are lacking, and that the intended use of the site would generate more daily trips than the present agricultural use.
24. The junction itself is somewhat ambiguous in its intended use, there are 2 arms separated by a grassed triangle on which there are utilities and road furniture, and both show only the full-width road marking for a 'give-way' exit although either could also be used by vehicles entering. The eastern arm appeared particularly hazardous as vehicles coming in could meet those approaching to exit, the inter-visibility being poor and the carriageway narrow. The western arm is better in that respect for both a left and a right exit turn and in terms of conflict with incoming vehicles, the point of having to stop would likely be clear of the eastbound lane and highly visible to westbound traffic, although the free-flow could be interrupted.
25. It was noted that some, presumably regular, users turn left then right around a triangle on the far side to gain the eastbound lane. This involves 3 separate conflicting moves in quick succession that risk being mis-understood by drivers on the main road and serves to indicate that there is an existing problem. However, the increase in use is not large, and whilst the present situation is sub-standard, there is no formal record of accidents, although the local residents cite incidents and the Highway Authority state their aim of avoiding accidents in the future.
26. Alternative routes were discussed; that from Little Thornage to the A148 further west is a more hazardous one with the national speed limit in force on that part of the main road, while the route past the crossroads to the south would be a long and narrow detour for many local journeys. Lastly is the route through the ford across to Riverside Road, where the evidence is that a high waterline and poor un-metalled base militate against normal use, and that water level rises when the mill downstream is preparing to grind corn.
27. It is reasonable to assume that occupiers of the site, their visitors and deliveries would make use of the nearest junction onto the A148. In addition to the passing bays, the appellant offers signage improvements which would go some way to mitigating the risk. Were all else acceptable, a scheme could be sought that took an holistic approach to the present junction signage and road markings, to make clearer the 2-way nature of the triangle arms, or substituting 'stop' markings for the 'give-way' ones. Having mind to the numbers and the familiarity of the shortcomings on the part of occupiers of the dwelling, improvements could result in no residual increased risk.

28. It is concluded that the risks could be sufficiently managed to ensure that the residual cumulative impacts are not severe, and hence the proposal would accord with the requirements of Policy CT 5 and the Framework.

Other Materials Considerations and Planning Balance

29. Although the site has been found not to be isolated and paragraph 79e) is not the appropriate test, paragraph 131 of the Framework contains elements of those criteria. Whether judged under the requirement to be '*truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas*' from 79e), or to be '*outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area*' from 131, there is a need to test the credentials of the design as promoted.

Management of Water Resources

30. The evidence is that there is pollution from agricultural chemicals on the land and passing through the land from surface run-off and seepage further up the slope on the far side of Thornage Road. It is proposed to intercept and control these flows through an innovative filtration and aeration system, resulting in clean water proceeding to the river system to the benefit of the river's ecology. There is reference to residual nutrients being of use in growing indoor plants.
31. The flow of water is also to be used to control the comfort conditions of the house, a risk in well-insulated buildings being a build-up of heat through casual gains; people, lights and other electrical equipment, with a common solution being energy-expensive chilling or wasteful extract ventilation. The water would provide thermal buffering to even out the peaks and troughs.
32. Much was made at the Hearing of the limited flow of surface water seen in the vicinity, its apparent cleanness and the acknowledged fact that only a relatively small area of agricultural land and hence contaminants would be treated. The comfort controls would still operate on a closed loop of water, through a solar-powered pump, but the relatively small scale is really immaterial if seen as a test-bed for innovative technology, and if, once validated the scheme could be used more widely. The appellant states that the figures used for available water are conservative in any event.
33. However, although there is a claimed symbiosis between the filtration system and the house, the comfort control would not be needed without the residential use, and the wider application on any meaningful scale to address the many other hectares of contaminated agricultural land in the countryside cannot be a justification for a house in every case.
34. To conclude on this matter, the water management scheme is innovative and could lead to raising standards, but it is far from clear that a dwelling is an essential part of the scheme or its applicability to other than houses having access to large areas of land.

Hibernacular Façade

35. This design features has been developed with an ecologist and uses a void behind the timber wall cladding incorporating a 'hit-and-miss' arrangement of slats with varying gaps for different creatures. There is scope for using this innovative feature on other buildings in rural and urban areas, as a form of

mitigation where the building's presence is otherwise essential. That is not the case here and whilst the ecological value of the land is stated to be low due to years of farming activities, there are various habitats in the vicinity and enhancement could be carried out without a dwelling, albeit that may be unlikely.

Educational Opportunities

36. Apart from any concerns expressed over the likely increase in traffic that this initiative may bring about, there is merit in disseminating knowledge as that ensures the raising of standards more generally. A countryside location may well be required to test the filtration system, but as with before, the need for the house is less clear. The proposed 'open day' to increase the carbon literacy of the wider population is laudable but would also bring concerns over accessibility.

Landscape Proposals

37. These are described as diverse and rich, and it appears that apart from the hedgerow, there might be limited diversity on the land, although evidence of birds and mammals passing over was referred to. There appears to be an element of mitigation of the effects of the house, both visually and with regard to carbon offsetting, although as with the Hibernacular wall, real doubt persists as to whether the enhancements would occur otherwise.

Architectural Design

38. The credentials of the architect and team are impressive, and they have accomplished some successful paragraph 55/79 houses previously. The Council has criticised the building for being '*simple, plain and boxy*', which is for the most part a reasonable description, but the form very much follows the function of water flow, and the architect's references to such as Mies van der Rohe and his simple forms are understood.
39. The dwelling is well designed as an entity but has been found to cause harm to the landscape character and appearance of the area, the location in 2 conservation areas being of particular significance. No matter the quality of the design alone, the building does not respond successfully to its valley-side and conservation area context.

Norfolk Coast Partnership

40. As representatives of the interests of the Area of Outstanding Natural Beauty, it is significant that the group give their backing, their stated primary role being to help preserve and enhance the natural beauty, special qualities and character of the area. They are clearly concerned at what is described as an influx of very striking modern buildings elsewhere; large dwellings on tiny plots with balconies, highly landscaped gardens and '*large swathes of glass*'.
41. This comparison with recent development is referred to further in their submissions, and the benefits cited by them have mostly been looked at in the foregoing paragraphs. Mitigation of light pollution is praised particularly and clearly derives from the concerns expressed over recent developments. The proposed measures are necessary to promote 'dark skies', but as mentioned previously, enforcement of the use of the mitigation measures could be difficult

and there would be no concern were it not for the proposal being for a building, and a residential building in particular.

42. It is nevertheless acknowledged that no harm to the Area of Outstanding Natural Beauty is alleged by the District Council and the Management Plan Policies PB3, PB4 and PB5 are not referred to in the Reasons for Refusal.

Climate-Change

43. The United Kingdom Parliament declared a climate-change emergency in May 2019 and the North Norfolk District Council had done likewise. The proposal is agreed to be for the first zero-carbon house in Council's area. However, real action to address climate-change would need to apply to the mass housing market; the dwellings on small plots referred to by the Norfolk Coast Partnership. There may be some cross-over in the use of technology between this scheme and that greater market, but that does not appear to readily apply to the water management proposals.
44. The appellant refers to aspects of his lifestyle including the use of an electric bicycle, and he clearly feels strongly to limit his carbon footprint. Limited weight can be attached to these statements as any permission would not be personal to the appellant and the scheme is for an open-market dwelling.
45. The development of a single house on a large plot in an unsustainable location, reliant on private transport to access services and shops, is not a significant exemplar for sustainable living and the zero carbon credentials and offsetting of construction emissions by tree-planting is mitigating an effect that has been found to cause other harm which cannot be mitigated.

Planning Balance

46. Whilst highway concerns may be capable of being overcome or satisfactorily mitigated, the proposal has been found to cause 'less than substantial' harm to the character and appearance of 2 conservation areas as designated heritage assets, and great weight should be given to the asset's conservation. Harm has been identified to the landscape character of this part of the valley, and there is a failure to accord with local and national policies on the location of dwellings to achieve sustainable patterns of development.
47. The architectural design of the proposed house has merit, but much appears predicated on solving problems that do not require residential development, or to mitigate the results of introducing the development. There may be elements that would inform other efforts to address climate-change, but it is unclear the extent to which the technology, particularly the water-based functions, would readily transfer to the smaller plots that will need to be engaged in any meaningful action.
48. With regard to the effect on the designated heritage assets, the conclusion is that the harm is not outweighed by the public benefits of the proposal. Other material considerations have not been found to be so compelling as to indicate a decision other than in accordance with the Development Plan. Having tested the credentials of the scheme, that conclusion would not have been different had the material considerations of paragraph 79e) been engaged.

Conclusions

49. The site is outside settlement boundaries, contrary to local and national policies of restraint. Harm would be caused to matters of acknowledged importance including the character and appearance of 2 conservation areas. There are no material considerations to indicate a decision other than in accordance with the Development Plan Policies SS1 and SS2. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

S Ashurst	Development Manager North Norfolk District Council
D Watson	Interim Development Manager North Norfolk District Council
C Young	Conservation and Design Officer North Norfolk District Council
C Batchelar	Landscape Officer North Norfolk District Council
J Hanner	Engineer (Highways and Development Management) Norfolk County Council

FOR THE APPELLANT:

J Ellis	Planning Consultant Rural Solutions
W Meynell	Architect Studio Bark
K de Savary	Hydrologist Amber Planning
R Cozens-Hardy	Appellant
C Holland	Appellant's sister

INTERESTED PERSONS:

L Stevens, G Sands, I Shepherd, P Wallace, J Holland, C Monteith, J Sorrell, R & L Brett, and others

DOCUMENTS

Document	1	Signed Statement of Common Ground
Document	2	Statement of support from Cllr G Perry-Warnes, Ward Councillor North Norfolk District Council
Document	3	Submissions from Norfolk County Council Highways regarding application PF/16/1645
Document	4	Map of determined applications in the vicinity
Document	5	Bundle of documents regarding River Glaven Conservation Group, County Wildlife Site and photographs