

Appeal Decision

Site visit made on 11 May 2021

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Appeal Ref: APP/K2610/W/20/3259971

**Adam and Eve House, Little Hautbois, Coltishall, Norwich, Norfolk
NR12 7JS**

- 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 Ms Ann Charmley against the decision of Broadland District Council.
 - The application Ref 20200861, dated 6 May 2020, was refused by notice dated 24 September 2020.
 - The development proposed is new-build two bedroom detached Passivhaus in the garden infill plot between Foxwood and Adam and Eve House.
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Decision

1. The appeal is allowed and planning permission is granted for a new-build two bedroom detached Passivhaus in the garden infill plot between Foxwood and Adam and Eve House, Little Hautbois, Coltishall, Norwich, Norfolk NR12 7JS. The permission is granted in accordance with the terms of the application Ref 20200861, dated 6 May 2020, subject to the conditions included in the Schedule at Annexe A.

Preliminary Matters

2. The appeal site lies outside defined settlement boundaries and, as such, the appellant submitted the application on the basis that paragraph 79 of the National Planning Policy Framework (the Framework) applies. This requires that policies and decisions should avoid the development of isolated homes in the countryside unless one or more of five criteria apply. The appellant relies on criterion (e), that the design is of exceptional quality, in particular that it is likely to be the first dwelling in the country designed to meet the Passivhaus Premium standard, whereby the dwelling would generate more energy than its occupants use. The Council assessed the proposed dwelling on the basis of paragraph 79(e) and this informs one of its reasons for refusal.
 3. Based on the appeal submissions and site inspection, I consider that the dwelling is not isolated in the terms provided for in paragraph 79 of the Framework. This is because Little Hautbois is a hamlet, which includes a number of existing dwellings. The proposed dwelling would be sited close to these within the curtilage of Adam and Eve House and it cannot, therefore,
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reasonably be considered to be an isolated location in terms of the Framework, as confirmed by case law¹. For this reason, I have not considered the proposal against the provisions of paragraph 79(e). However, in support of their assessments against this paragraph of the Framework the parties make substantive arguments about the design of the proposed dwelling and its effects in this location, and I have had full regard to these matters under the second main issue below.

Main Issues

4. Accordingly, based on the Council's reasons for refusal and the matters set out above, the main issues are:
 - having regard to local and national policies, the suitability of the location for the proposed dwelling, including whether its occupants would have adequate access to services and facilities without undue reliance on private vehicle use; and
 - the effect of the proposed dwelling on the character and appearance of the appeal site and surrounding area.

Reasons

Suitability of the Location

5. The appeal site forms part of the garden of Adam and Eve House, a Grade II listed former public house, which is now in residential use. To the other side of the site is Foxwood, also a Grade II listed residential property. There are a number of other detached, largely historic properties nearby within the hamlet of Little Hautbois. The surrounding area is open countryside. I note that the proposal is being promoted as a self-build property under the Self-build and Custom Housebuilding Act 2015.
6. Policy GC2 of the Broadland Development Management DPD 2015 (DM DPD) says that new development will be accommodated within the settlement limits defined on the proposals map. Development outside these limits would need to accord with a specific allocation and/or plan policy. The appeal site is outside the defined settlement limits of Coltishall and Buxton, the nearest villages; and it does not accord with a specific policy outside these development boundaries.
7. Policy 17 of the Joint Core Strategy for Broadland, Norwich and South Norfolk 2014 (amended) (JCS) limits development outside of development boundaries to specific types and uses, which do not include the type of dwelling proposed in this case. Policy 1 of the JCS concerns climate change and protecting environmental assets, including that development should minimise the need to travel and give priority to low impact modes of travel.
8. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions² and should be taken into account in dealing with applications³. The Framework says that policies and decisions should play an active role in guiding development towards

¹ In particular *Braintree DC v SCLG, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610.

² Paragraph 2.

³ Paragraph 212.

sustainable solutions, but in doing so should take local circumstances into account⁴. It also says that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making⁵.

9. The appeal site lies broadly equidistant between the two nearest villages, which would provide the necessary services for day-to-day living. The Council indicates that Buxton is approximately 2km away and Coltishall 1.75km. These are not significant distances to travel to services within a rural area, although I acknowledge that such journeys are more likely to be undertaken by private vehicle than by walking or cycling. However, it is to be expected, as the Framework indicates, that some travel by private vehicle is likely in rural areas such as this and both settlements are not so distant that long journeys would occur. Moreover, the distances involved do not preclude some journeys being undertaken by cycle, particularly given the proximity of the Bure Valley railway path.
10. While there are no apparent opportunities to use public transport from this location, the addition of a small single dwelling with limited occupation would not significantly add to the journeys that already occur from the other nearby dwellings. As such, I find that no material harm would result from the proposed dwelling in this location with regard to the purposes of Policy 1 of the JCS.
11. I accept that there is a policy conflict due to the proposal's location outside defined settlement boundaries. I acknowledge also the intention behind Policy GC2, to focus residential development in settlements which are well-linked and well-related to existing development and services. However, I have found in the particular circumstances of this case that no material harm would result from a single dwelling, which is not in an isolated or remote location. Moreover, due to its location close to other dwellings within the curtilage of an existing dwelling it would not physically encroach into open countryside. As such, it would not conflict with the underlying objectives of Policy 17 of the JCS and the Framework does not preclude residential development in the circumstances of this case.
12. Therefore, taking these findings as a whole, I conclude that the location would not be unsuitable for the proposed development. There is no conflict with Policy 1 of the JCS and any such conflict with Policy GC2 of the DM DPD and Policy 17 of the JCS is outweighed by the considerations set out above for the reasons given.

Character and Appearance

13. Policy 2 of the JCS and Policy GC4 of the DM DPD both concern the promotion of good design, including the requirement that development should respect local distinctiveness. As such, these policies are consistent with the Framework's advocacy of well-designed places. The Framework also says that in determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout

⁴ Paragraph 9.

⁵ Paragraph 103.

of their surroundings⁶. This is relevant to the appeal proposal because, as the Council notes, the design of the dwelling represents the highest standard of architecture in terms of energy efficiency as it will meet the demanding Passivhaus Premium standard. Moreover, it will be innovative as it is believed that that this would be the first dwelling built to this standard in the country. Accordingly, great weight should be accorded to the proposal, subject to it fitting in with the overall form and layout of its surroundings.

14. The design and appearance of the dwelling would in part reflect the functional requirements of the Passivhaus Premium standard. This would be evident from the building's greater than normal height for a two storey dwelling, resulting in a larger gap between the upper floor windows and eaves; the window sizes and roofing material. Nonetheless, the dwelling would be of traditional rectangular plan form with a dual pitched roof and gable ends.
15. The Council raises concerns about a number of design elements, which it is contended, do not reflect the local distinctiveness of buildings. These include the combination of render and brick, the tall thin gable ends, the small and unusually spaced windows, and the large gap between the upper windows and eaves. As already noted, some of these elements reflect the requirements of the sustainability standards of the building. Moreover, the appellant responds to these concerns with credible evidence that a number of these features are evident on nearby buildings and are generally reflective of the Council's Design Guide. I concur with this view based on the appeal submissions and site inspection.
16. The proposed dwelling will inevitably reflect to some extent a contemporary appearance, but this is balanced with well-integrated elements which reflect the local vernacular. This finding together with the siting of the dwelling close to other dwellings and appropriate on-site landscaping, means that the proposal will not be an incongruous or uncharacteristic addition in this setting. Consequently, I accord great weight to the proposal in accordance with the requirements of the Framework.
17. Therefore, I conclude that the proposed dwelling would not have a harmful effect on the character and appearance of the appeal site and surrounding area. Consequently, it is not contrary to Policy 2 of the JCS or Policy GC4 of the DM DPD, or to the Framework, all as described above.

Other Matters

18. I have had regard to the representations made by interested parties in support of the proposed dwelling, although these raise matters already addressed under the main issues.
19. The Framework says that plans and decisions should apply a presumption in favour of sustainable development⁷. However, given the above findings in the appellant's favour it is not necessary to consider this matter further.

⁶ Paragraph 131.

⁷ Paragraph 11.

Conclusion and Conditions

20. I have found in the appellant's favour with regard to both main issues and, therefore, for the reasons given, the appeal should succeed.
21. Of the Council's suggested conditions I have imposed the standard time condition and, to ensure the proper implementation of development in accordance with the submitted details, one requiring development to be carried out in accordance with the approved plans. I agree that external materials and landscaping should be approved in the interests of the character and appearance of the area.
22. I note that the Council's Environmental Management Officer says that the appeal site is close to infilled ground and that a condition should be imposed to require an assessment of ground gas conditions. I agree with this precautionary approach. As this assessment can only reasonably occur before development starts, a pre-commencement condition is necessary and justified⁸. The appellant's agreement to it was sought and has been given⁹. Accordingly, I have imposed the condition.
23. Conditions requiring appropriate access and on-site parking and turning areas to be provided before occupation are necessary in the interests of highway safety. Finally, I accept that due to the innovative design of the proposed dwelling, any alterations to it or additional development within its curtilage should be carefully controlled. I have had full regard to policy in the Framework, which says in this regard that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so¹⁰. In this case, for the reason given, such justification does exist.

J Bell-Williamson

INSPECTOR

⁸ In accordance with paragraph 55 of the Framework.

⁹ In accordance with The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018.

¹⁰ Paragraph 53.

Annexe A

Schedule – conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PD 03-1 Revision F Location Plan, PD 03-2 Revision C Proposed Site Plan, PD 04 Revision F Proposed Plans, PD 05 Revision G Proposed Elevations, PD 06 Revision E Proposed Section A:A, PD 07 Revision B Proposed Section B:B and PD 08 Revision B Proposed Section C:C.
- 3) Development shall not progress above slab level until details, including colours where required, of the materials used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall then be constructed in accordance with the approved details.
- 4) Development shall not progress above slab level until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall indicate:
 - i) the species, number, size and position of new trees and shrubs at the time of their planting;
 - ii) all existing trees and hedgerows on the land, with details of any to be retained;
 - iii) specification of materials for fences, walls and hard surfaces;
 - iv) details of any proposed alterations in existing grounds levels and of the position of any proposed excavation or deposited materials; and
 - v) details of the location of all service trenches.

The scheme as approved shall be carried out not later than the next available planting season following the commencement of development or such further period as the local planning authority may allow in writing. If within a period of TEN YEARS from the date of planting any tree or plant or any tree or plant planted in replacement for it, is removed, uprooted or is destroyed or dies, or is seriously damaged or defective another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

- 5) Development shall not begin until a site investigation for the methane, carbon dioxide and oxygen in the ground on the site has been undertaken and the results provided to the local planning authority. Precise details of the methodology of the site investigation shall be agreed in writing by the local planning authority prior to the site investigation being undertaken. Where the site investigation identifies methane and/or carbon dioxide to be present or a significant risk of their production following the completion of the development, a scheme to protect the development and its users from these gases shall be submitted to and agreed in writing by the local planning authority. This scheme, as approved, shall be fully implemented and completed before the dwelling hereby permitted is first occupied.

- 6) Prior to the first occupation of the dwelling hereby permitted the vehicular access on the private track from the highway (Little Hautbois Road) shall be upgraded in accordance with the Norfolk County Council residential access construction specification for the first 5 metres as measured back from the near channel edge of the adjacent carriageway in accordance with details to be agreed in writing by the local planning authority. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
- 7) Prior to the first occupation of the dwelling hereby permitted the proposed on-site car parking and turning area shall be laid out in accordance with the approved plan and retained thereafter available for that specific use.
- 8) No enlargement, improvement or other alterations of the dwelling [Class A]; no additions or alterations to the roof [Class B & C]; no provision of porches [Class D]; nor the provision within the curtilage of the dwellings of any building or enclosure, swimming or other pool [Class E]; or chimneys, flues or soil and vent pipes [Class G] or any other works as defined by Classes A, B C, D, E and G of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification), shall be erected or brought onto the land unless an appropriate planning application is first submitted to and approved by the local planning authority.

[End of Schedule]