
Appeal Decision

Site visit made on 7 March 2022

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 13 July 2022

Appeal Ref: APP/Y2620/W/21/3286322

Park Farm Office, Wolterton Park, Wolterton, NR11 7LX

- 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 Michael and Clare McNamara against the decision of North Norfolk District Council.
 - The application Ref: PF/20/2072, dated 6 November 2020, was refused by notice dated 20 May 2021.
 - The development proposed is the erection of new dwelling and change of use of land to residential curtilage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. During the course of the appeal, Natural England provided updated advice in relation to nutrient level pollution within a number of existing and new river basin catchments. This identifies that long-term nutrient pollution has led to adverse impacts upon Habitats Sites to the extent that some sites are no longer considered to be in favourable conservation status. This includes the Broads Special Area of Conservation (SAC) and Ramsar. I have therefore sought the comments of the parties with regards to this matter.
3. The effect upon the integrity of a European Site did not feature as a reason for refusal on the Council's decision notice. However, during the course of the appeal this issue became pertinent, and I have therefore determined this matter as a main issue in this appeal.

Main Issues

4. The main issues are:-
 - i) whether the appeal site is a suitable location for residential development having regard to the settlement strategy of the development plan and the accessibility of services and facilities; and
 - ii) whether the proposed development would have an adverse effect on the integrity of The Broads Special Area of Conservation and Ramsar.

Reasons

5. It is common ground that by reason of the appeal site's location, for the purposes of applying planning policy, the site lies within an area designated as Countryside.

6. Policy SS2 of the North Norfolk Core Strategy (2008)(CS) is permissive of certain types of development within the countryside. However, it is restrictive of open market dwellings in such a location in order to prevent the dispersal of residential uses that may otherwise result in a dependency on travel by car to reach basic services, to ensure more sustainable patterns of development, and to protect the intrinsic landscape character of the countryside.
7. Given the proximity of other dwellings, I do not consider that the appeal site would be 'isolated' for the purposes of the National Planning Policy Framework (the Framework), since it cannot be said that it would be far away from other places, buildings or people, albeit the location is rural. However, it does not necessarily follow that a site that is not 'isolated' will be reasonably accessible to services when considered in the context of other requirements of the Framework.
8. As the closest settlement, Wickmere is located approximately 1km away, however, it has no services and facilities capable of meeting the day to day needs of future occupiers. Limited services and facilities are available with the Designated Service Villages of Aldborough and Corpusty, are located at some 3km and 5.3km respectively, as the crow flies, together with Itteringham at 2.3kms, approximately, where there is a small shop. A wider range is available at Holt and Cromer, however, these are located a greater distance away. Given the distances involved and the nature of the route along unlit, narrow country lanes with an absence of a footway, I find that it is highly unlikely that anyone, particularly those with a young child, a pushchair or wheelchair would attempt to walk or cycle these routes, particularly during inclement weather or at night.
9. Whilst the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas, in this instance, the route would not be an attractive option for future residents to travel by foot or cycle and together with an absence of a bus service, occupants would be heavily dependent on the use of a private motor vehicle to access services and facilities to meet their day to day needs. In the absence of sustainable modes of transport, I find that the proposal fails to satisfy the environmental objective of the Framework.
10. Overall, I conclude that future occupiers would be highly dependent on travel by private motor vehicle to access services and facilities and thus the location of the appeal site within the countryside, would not be an appropriate location for residential development. The proposal would fail to accord with CS Policies SS1 and SS2 insofar as these policies seek to focus new development to sustainable locations through limiting the need to travel and offering a genuine choice of transport modes. For similar reasons, the proposal fails to satisfy the environmental objective of the Framework.

Nitrates

11. The appeal site lies within the catchment area of The Broads Special Area of Conservation (SAC) and Ramsar. The proximity of these European Sites means that determination of the appeal should be undertaken with regard to the requirements of the Habitats Regulations 2017. The appeal scheme would involve a net gain in overnight accommodation and thus lead to an increase in foul water discharge from the appeal site and a corresponding increase in nutrients, nitrogen and phosphorus, thus degrading water quality and which,

in-combination with other development, would have a likely significant effect on the integrity of the designated site.

12. The parties have assessed the additional nutrient load that would be created by the proposed development. I note that there are significant differences between the parties within the submitted figures. Obtaining a precise and accurate nutrient calculation is crucial to assess whether the proposed mitigation would address all the potential effects on site. Notwithstanding this, it has not been necessary to seek any further views on the discrepancies for the following reasons.
13. I note that the appellant has undertaken significant work in order to come up with a solution that would provide a nutrient neutral development via off-setting the additional impact on nutrient levels via mitigation. The proposed mitigation would involve the installation of an on-site treatment plant which would connect to an existing off-site foul drainage system and an associated reed bed taking discharges from the waste water treatment. However, from consideration of the plans, the off-site system and reed bed are both located well outside of the appeal site and there is little information before me to demonstrate that either are within the ownership or control of the appellant.
14. Importantly, it is noted that in order to mitigate the additional load, the existing reed bed would need to be extended. There is some discrepancy within the evidence as to the size of this extension, Figure 1 noting an extension of 7m², whereas the remaining body of text refers to 5.9m². Setting aside the conflict, it is clear that an extension would be required. There is no planning obligation before me to secure the delivery of the extended reed bed nor its ongoing servicing and maintenance including that of the foul water drainage system and therefore, I cannot be certain beyond reasonable scientific doubt that a nutrient neutral development would be secured as part of the proposal.
15. I have given consideration to an appropriately worded planning condition. Even if I were minded to find that a condition would ensure that the mitigation is in place before any harm were to occur to the features of the European Site, in my view, it would not be possible to address the ongoing effectiveness of the mitigation for the lifetime of the development. Accordingly, on the evidence before me, I am unable to conclude that there would be no adverse effect on the integrity of the SPA and Ramsar and in this instance a precautionary approach is appropriate. Accordingly, there would be conflict with the Framework insofar as it seeks to protect the integrity of habitats sites.

Other Matters

16. The Council acknowledges that the proposed development is acceptable in terms of its design, its effect on the character and appearance of the surrounding area, the living conditions of neighbouring occupiers and highway safety. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.
17. There would be temporary economic benefits during construction arising from the purchase of materials and labour costs. Further economic benefits would be generated from the residential use and increased spending within the surrounding villages and towns and a consequent contribution to the vitality of the rural area. There would be some social benefits generated from the provision of a new dwelling which would add to the mix and choice of housing

and contribute to the housing supply within the District. However, given the scale of the scheme any benefits would be limited.

18. There would be some visual enhancement to the appearance of the site and as a result a minor improvement to the setting of nearby designated heritage assets through the removal of the portacabin, storage containers and stored materials. These are matters that weigh in favour of the appeal scheme.
19. Reference is made to a fallback position in respect of the conversion of the portacabin office building to a dwelling for which prior approval was granted in June 2020. I note that given the existing size of the building, the consequent size of any dwelling would be similarly restricted. In addition, there is dispute between the parties as to any consequent extension that could be added to the dwelling under permitted development rights. However, given the varying housing needs of individuals, even if the scope for further development and extension were to be restricted and the extent and quality of the outdoor amenity space is limited, I am not persuaded that it would preclude or make it unlikely for the fallback development being brought forward.
20. There is limited information before me as to the likelihood of the fallback scheme being brought forward in the event that the appeal scheme does not proceed. That being said, even if I were minded to accept that there was more than a theoretical prospect of the permitted development occurring, the weight I would attach to the fallback would be limited for the following reason. As a small sized dwelling the number of proposed occupants of the fallback scheme would be far less than that of the proposed development which proposes a four-bedroom dwelling. Consequently, the appeal scheme is likely to generate a considerably greater amount of foul water discharge and thus a subsequent increase in nutrients, namely nitrogen and phosphorus. Thus, there would be a far greater impact as a result of the appeal scheme upon water quality and the effect on the integrity of the SAC and Ramsar. There would be adverse harm to the integrity of a European Site and this is a matter to which I attach great weight.

Conclusion

21. In accordance with S38(6) of the Planning and Compulsory Purchase Act 2004, and as set out within the Framework, development which conflicts with the development plan should be refused unless material considerations indicate otherwise. In this case, there are no material considerations, either individually or cumulatively which indicate that the proposal should be determined other than in accordance with the development plan.
22. Accordingly, for the reasons given above, the appeal is dismissed.

E Brownless

INSPECTOR