



Appeal Decision

Site visit made on 9 August 2022

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2022

Appeal Ref: APP/Y2620/W/22/3297791

Three Owls Farm, Saxlingham Road, Blakeney NR25 7PD

- 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 K Schilling against the decision of North Norfolk District Council.
 - The application Ref PF/21/3265, dated 25 November 2021, was refused by notice dated 7 April 2022.
 - The development proposed is installation of outdoor swimming pool with associated ground works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has submitted an agreement under section 106 of the Town and Country Planning Act 1990 (as amended) during the course of the appeal. The agreement, a unilateral undertaking, would commit the appellant to only implementing one of the planning permissions for an outdoor swimming pool at the host property were this appeal to be allowed. I will return to this matter.

Main Issue

3. The main issue is the effect on the character and appearance of the surrounding area, with particular regard to the Norfolk Coast Area of Outstanding Natural Beauty (AONB) and the Glaven Valley Conservation Area (CA).

Reasons

Character and appearance

4. The site falls within the AONB which is designated for the purposes of conserving and enhancing natural beauty and section 85(1) of the Countryside and Rights of Way Act 2000 (CROW) places a duty on me to have regard to these purposes in this decision. The proposed swimming pool would be set into the ground, with very limited features at, or slightly above ground level and the supporting plant located within the dwelling. Some localised ground works would be required. It would be sited in close proximity to the substantial dwelling and would not be readily visible from any public area. The surrounding landholding within the appellant's control includes substantial landscaping and planting, the management of which is secured by condition.

5. The proposed swimming pool would encroach into an area identified as part of the south garden flowering meadow. The Council have described this as a large part of the meadow. However they have not contested the appellant's calculation of this at less than 4% of the area of the meadow and it is apparent from the plans that it could not reasonably be described as a large part of its area. No evidence has been provided as to how this loss would compromise the integrity of the Landscape Mitigation and Enhancement Strategy, which covers the wider area within the appellant's control. While I attach great weight to conserving the landscape and scenic beauty of the AONB, I consider that the addition of a pool in close proximity to the dwelling would not detract from the special qualities of the AONB.
6. The site also lies within the CA where s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area". It is a very extensive CA and the appeal site is immediately adjacent to its western boundary. The significance of the CA lies in the rural setting and character of the towns and villages that lie within it.
7. The proposed swimming pool would not be readily visible from any public location. It would be for domestic use at an existing domestic property. The materials used and lighting of the pool could be controlled by condition. It would therefore have a neutral impact on the significance of the CA which would remain rural in nature.
8. Therefore, the appeal proposal would have an acceptable impact on the character and appearance of the surrounding area. However, it has been confirmed that permission has been granted for a swimming pool in the north garden of the site¹. If this appeal were allowed, it would be possible for both schemes to be implemented. Were this to happen, there would be a significant urbanising effect on the AONB arising from the cumulative impact of the existing substantial dwelling, the buildings along the boundary, the associated access and parking areas and potentially two swimming pools.
9. The appellant has sought to overcome this issue through the submission of a unilateral undertaking which would, if this appeal were allowed, commit the appellant to only implementing one of the permissions. This would be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development and so would accord with the tests set out in the Framework. However, although a draft copy of the unilateral undertaking is before me, it is not executed. There is therefore no mechanism before me to secure the implementation of only one permission and as such, I must attach no weight to it.
10. Paragraph 176 of the National Planning Policy Framework (the Framework) is clear that the scale and extent of development within the AONB should be limited and North Norfolk Local Development Framework Core Strategy September 2008 (CS) Policy EN 1 requires the cumulative effect of proposals within the AONB to be considered. For the reasons above therefore, I conclude that the appeal proposal would, due to the potential for a cumulative impact with other approved development, not be in accordance with CS Policy EN 1 as it would detract from the special qualities of the AONB and would not conserve

¹ PF/22/1132

its landscape and scenic beauty in accordance with paragraph 176 of the Framework. The character and appearance of the CA would be preserved and therefore there would be no conflict with CS Policy EN 8 and the requirements of the LBCA.

Other Matters

11. I acknowledge that the reason for refusal refers to paragraph 176 of the Framework, and that this not only refers to conserving and enhancing the landscape and scenic beauty of the AONB but to the conservation and enhancement of wildlife. There is no evidence before me as to the effect of the appeal proposal on the wildlife value of the site, and I note there is no reference to the south garden flowering meadow in the 'Landscape and ecological management plan' (Catherine Bickmore Associates Ltd, November 2017) that has been submitted as part of the appeal. I therefore attach limited weight to this consideration.
12. Any noise, disturbance and animation associated with the swimming pool would be typical of that which could be expected from a family dwelling, particularly one with an extensive garden. I attach no weight to this consideration.

Planning Balance

13. I have found that the proposed swimming pool in and of itself would be in accordance with the policies of the development plan. However, the potential cumulative effect alongside the subsequently approved swimming pool would not conserve the landscape and scenic beauty of the AONB. Given the duties placed on me by the CRow, and the associated requirements of the Framework that great weight should be placed on the conservation of landscape and scenic beauty, I attach significant weight to these harms. The proposal would therefore be contrary to CS Policy EN 1 and paragraph 176 of the Framework.

Conclusion

14. For the reasons given, the appeal would conflict with the development plan. There are no material considerations, including the policies of the Framework, that would indicate a decision otherwise than in accordance with the development plan should be taken. The appeal is therefore dismissed.

J Downs

INSPECTOR