



Appeal Decision

Hearing held on 22 March 2022

Site visit made on 24 March 2022

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

an Inspector appointed by the Secretary of State

Decision date: 12 October 2022

Appeal Ref: APP/Y2620/W/21/3272150

Kelling Park, Holgate Hill, Kelling, NR25 7ER

- 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 Kelling Estate LLP against the decision of North Norfolk District Council.
 - The application Ref: PF/20/1056, dated 26 June 2020, was refused by notice dated 26 February 2021.
 - The development proposed is the erection of 8no. dwellings, car parking, associated access and landscaping following the demolition of the existing buildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council are in the process of replacing the adopted development plan. A First Draft Local Plan (Part 1)(the Plan) was published for public consultation during 2019. A Regulation 19 consultation was commenced in January 2022 with submission likely to be in June 2022 and adoption around June 2023. Given this early stage the Plan remains at an early stage and it attracts limited weight in my consideration of the appeal case.
3. Since the determination of the application by the Council, the appellant has undertaken further bat surveys and an additional report has been prepared. Consequently, subject to this additional report and the payment of a contribution calculated in accordance with the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy, the agreed statement of common ground (SOCG) confirmed that the Council did not wish to pursue that part of its reason for refusal which concerned the impact of the proposed development on ecology and biodiversity. This matter was no longer disputed.
4. A signed and dated unilateral undertaking (UU) made in accordance with section 106 of the Town and Country Planning Act 1990 (as amended) was submitted as part of the appeal. It makes provision for the payment of a financial contribution calculated in accordance with the Council's Recreational Impact Avoidance and Mitigation Strategy together with the provision of bicycle vouchers. This legal agreement is a material consideration in my determination of the appeal and I consider these matters further in my reasoning below.

5. The AONB Management Plan 2019-2024 has not been adopted and has been withdrawn by the Council. Consequently, the AONB Management Plan 2014-2019 is relevant to the determination of the appeal.
6. Shortly before the hearing, Natural England (NE) issued a letter detailing nutrient pollution in the protected habitats of the River Wensum Special Area of Conservation and Ramsar site. The appellant submitted additional evidence in this regard and their comments regarding the effect upon the Council's five year housing land supply position. Given the short timeframe, the Council were not in a position to deal with this matter at the hearing. Accordingly, it was dealt with by way of written representations of the parties. I have had regard to their comments and will return to these issues within this decision.

Main Issues

7. The main issues are:-

- i) whether the appeal site would be an appropriate location for the proposed development having regard to policies for the location of new housing and its accessibility to services and facilities;
- ii) the effect of the proposed development on the character and appearance of the surrounding area and the landscape character of the North Norfolk Area of Outstanding Natural Beauty;
- iii) the effect of the proposed development on local facilities and services;
- iv) whether the Council has an adequate five-year housing land supply; and
- v) the weight to be attached in the planning balance and other material considerations.

Reasons

Settlement strategy

8. The development plan for the area comprises the North Norfolk Core Strategy, Incorporating Development Control Policies (CS) which was adopted in September 2008. CS Policy SS1 sets out the Council's spatial strategy for development within the district. It seeks to focus the majority of new development to towns and larger villages. By reason of the appeal site's location, the appeal site is deemed to be considered as Countryside where development is restricted to particular types of development to support the rural economy, meet affordable housing needs and provide renewable energy. The appeal scheme does not include affordable housing or renewable energy.
9. The supporting text to CS Policy SS1 explains that new market housing in the Countryside is restricted in order to prevent dispersed dwellings that lead to a dependency on travel by car to reach basic services and to ensure a more sustainable pattern of development.
10. CS Policy SS2 is permissive of certain types of development within the Countryside, however, in the absence of anything to suggest that the scheme would satisfy any of those categories listed, the appeal site is not a location towards which new housing is directed. To do so would undermine the development plan in this regard. The proposal would conflict with CS Policies SS1 and SS2, the requirements of which are set out above.

Accessibility of services and facilities

11. The appeal site is located on Holgate Hill, a rural road with a small number of dwellings positioned sporadically along its length. To one side and sharing a common boundary is the large and sprawling premises of Holt Garden Centre. Given the proximity of these other dwellings and premises, the appeal site is not 'isolated' for the purpose 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.
12. 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.
13. The adjacent garden centre sells goods which are not solely limited to plants, gardening supplies and gifts. In addition to a café serving hot and cold foods, it also sells a range of dried and fresh food items including dried pasta, grains, pulses, pre-made sauces, bread, milk, cheese, eggs and meats. It operates reasonably extensive hours and is open 7 days a week for the full year. A future occupant would be capable of reaching the garden centre on foot.
14. The business employs a number of people and could offer employment opportunities for future occupiers, however, in the absence of anything to suggest that the business is due to expand in the near future, any employment opportunity would be dependent upon existing employees leaving their posts and as such, employment opportunities in this instance would be limited.
15. Notwithstanding a reasonably extensive range of convenience goods within the garden centre, in order to access other retail and employment, education, health and recreation opportunities, the future occupants of the proposed dwellings would need to travel further afield.
16. The nearest settlements of Kelling Village, High Kelling and Weybourne are located at varying distances of approximately 2.5-3kms from the appeal site. Kelling Village comprises a limited range of services and facilities restricted to a church, primary school and a hotel. High Kelling includes a hospital, pharmacy, dentist, post office with store and a rugby club. Weybourne consists of a public house, store and a church. A train station at Weybourne serves the North Norfolk Railway, a heritage line operating on a seasonal basis. Holt is a 'Principal Settlement' with a comprehensive range of retail, services and employment opportunities.
17. Access to nearby settlements is mainly along modestly undulating rural roads that I observed to be moderately trafficked at the time of my site visit, particularly along Holgate Hill leading to and from the garden centre. I appreciate that my observations provide only a snapshot of the highway conditions, however, there is no evidence before me to suggest that what I saw was untypical.
18. There is no continuous pedestrian footway between the appeal site and nearby settlements. Consequently, future occupants travelling on foot would have to walk within the highway or its grass verges, several of which are overgrown and uneven. Taken together with an absence of street lighting, the nature of the road and the distances involved, I do not consider that the route would be perceived as a safe and convenient pedestrian environment for future

occupants of the proposed dwelling, particularly during inclement weather or at night, and particularly for more vulnerable groups such as the elderly, disabled or those with young children.

19. I have similar reservations concerning the cycle routes into nearby settlements. Whilst the distance would not be excessive, I consider it would be far more likely that the future occupants of the proposed dwellings would make the vast majority of their journeys to shops, schools, employment and other services and facilities by private motor vehicles. Albeit those trips may be relatively short and may link journeys to a variety of services and facilities within a single trip, I consider there would be an undue reliance on the use of a private motor vehicle to access day-to-day services and facilities. In my view the provision of cycle vouchers is unlikely to substantially improve the uptake of cycling as an alternative transport mode.
20. Several bus services operate in the locality. However, the nearest bus stops are positioned some 2.5km from the appeal site, taking the appellants evidence, which has not been disputed by the Council and given my findings above, I find it unlikely that future occupants are unlikely to travel on foot or bicycle to the bus stop and this would be likely to discourage the use of the bus for many journeys and it reduces its potential as an alternative mode of transport.
21. The Framework recognises that opportunities to maximise sustainable transport solutions will not be the same in rural areas as in urban locations. Notwithstanding that some journeys on foot to the adjacent garden centre would be capable of being undertaken to purchase some day-to-day goods, the appeal sites' location offers little genuine choice of transport modes to minimise the need to travel and thus by reason of my findings above, I consider the location is not well served in terms of sustainable modes of transport. Therefore, it is likely that the majority of journeys by future occupiers of the proposed dwellings to reach essential day to day services, facilities and employment opportunities in nearby larger settlements would be made by private motor vehicle.
22. The appellants have expressed a desire to incorporate electric vehicle charging points within the appeal scheme and have also drawn my attention to the ability of future occupiers to work from home, shop online and carry out linked vehicle trips when commuting. However, I am not persuaded that a planning condition could effectively control this usage, or other essentially personal lifestyle choices relating to the carbon footprint of future occupiers of the proposed dwellings.
23. Given that I have found that the appeal site would not be reasonably well located and connected to local services and facilities to avoid an undue reliance on the use of a private motor vehicle, the proposal would conflict with the CS Policies SS1 and SS2 insofar as these policies seek to direct new development towards the most sustainable locations.

Character and appearance

24. The appeal site lies within the Rolling Heath and Arable (RHA) Landscape Type, as set out within the North Norfolk Landscape Character Assessment Supplementary Planning Document (2021)(SPD). The area is mainly comprised of medium to large scale arable fields, low hedgerow, extensive heathland and woodland blocks within a gently undulating and open topography. Settlement is

- sparse and mostly arranged in informal clustered settlements. It is characterised by an attractive open, tranquil and strong rural character.
25. The SPD notes that the demand for new homes can result in buildings that do not reinforce the local vernacular and that lighting and domestic external curtilage can be prominent in an otherwise sparsely populated area thus affecting the areas sense of remoteness and historic rural character.
26. Aside from a large commercial format garden centre and a detached dwelling adjacent to the site, there is little built form within the vicinity. However, where it does exist, it is mainly isolated farmsteads and well-established scattered dwellings that are set within reasonably large plots with extensive mature vegetation. Built form is typically arranged in a loose knit pattern and possesses a fragmented and incremental rural character.
27. The appeal site comprises an irregular shaped area of broadly flat land enclosed mainly by mature hedgerow along its borders and occupied by a sizeable building of a mix of one and two storeys with additional accommodation space set within its roof structure. It is accepted that the building is of little architectural or historic merit and thus unworthy of retention. Its demolition is not opposed. It is located within the North Norfolk Coast Area of Outstanding Natural Beauty (AONB).
28. By reason of its significant height, footprint and scale the building appears as a fairly imposing structure when viewed from within the appeal site that undermines the strong rural character of the area. However, its visibility within the wider area is considerably constrained by the presence of extensive woodland blocks and the existing built form of the neighbouring garden centre and a dwelling, such that most views of it are limited to only small areas of the tallest rooftop together with a very brief glimpse from the highway of built form through the driveway opening. Being mostly constructed in light-coloured external material softens its appearance such that, together with its vegetated boundaries and its position away from these edges it is not prominent and obtrusive within the wider landscape.
29. The site is considered to properly satisfy the Framework's definition of previously developed land (PDL) despite a large part of the site being comprised of unmanaged and overgrown garden areas and not occupied by built development. Consequently, these areas of the appeal site, which are presently devoid of built form provide a gradual and important transition from the existing built form to open countryside. The introduction of a number of dwellings together with associated residential garden areas, boundary treatments and hardstanding for access, parking and the manoeuvring of vehicles would substantially alter this part of the site's character by eroding the sense of openness and providing a more stark and deleterious transition from the built to the natural environment thus appearing to encroach into the countryside.
30. The appeal scheme relies considerably upon the screening effect of the existing boundary vegetation to lessen the visual impact of the appeal scheme. Taking account of the proposed layout and having regard to the landscape masterplan, whilst additional planting would utilise native species, there would be limited opportunity for any purposeful additional planting. Consequently, by reason of their considerable height a number of the dwellings would be visible above the vegetated boundary and such views would become more visible during the

winter months when foliage is less dense and the screening effect of vegetation is diminished.

31. When viewed from the direction of the garden centre, several glimpsed views of gable elevations would appear as an expansion of the built environment into presently undeveloped areas thus appearing to encroach a significant distance into the open countryside. By reason of its orientation and its close proximity to the southern boundary, plot 1 would present a large mass of roof form when viewed from the direction of the railway line. This would serve to draw the eye towards the development thus increasing its prominence and being read as a harmful incursion into the rural landscape.
32. Notwithstanding that the proposal seeks to add variety through the use of differing heights and sizes of dwellings, the proposed layout largely involves a pattern of similar subdivision, spacing and orientation between buildings with a recurring pattern of parking that conveys rhythm, repetition and formality. Rather than appearing as an informal grouping of buildings, it would include a layout that is at odds with the prevailing incremental and ad-hoc pattern of built form within countryside areas. The curved fanning arrangement of plots 1 to 4 would have little effect in preventing those properties being seen as an uncharacteristic row of dwellings. As a result, the layout would create a suburban estate-like development that would be unsympathetic to rural character.
33. The inclusion of similar roof and elevational designs together with large areas of glazing and balconies serves to provide further uniformity and increase their prominence. Whilst there are some examples of the use of black stained weatherboarding within the locality it is not commonplace. The use of such a material as a large part of the external facades would fail to reflect the local vernacular and overall, the dwellings would be unsympathetic to local distinctiveness.
34. It appears to me that even with additional planting and once established, vegetation could not realistically screen the proposed development to a satisfactory extent that would avoid the development being seen as a protrusion of built form into the rural environment such that its effect would be no worse than the existing situation. To my mind, by reason of its discordant design, scale, height, detailing and layout the appeal scheme would fail to reinforce local distinctiveness and integrate well within the wider landscape.
35. Overall, I conclude that the appeal scheme would have a significant harmful effect on the tranquil and rural character and appearance of the area. The proposal would therefore conflict with CS Policy EN4 insofar as this policy requires a high quality development that respects local context.

AONB

36. The AONB Management Plan 2014-2019 (the Management Plan) explains how the AONB is characterised by a varied character containing a wide variety of landscapes, seascapes and locally distinctive features, including variation in geology and topography, land use, field and settlement patterns, the character of settlements, buildings and materials. Inland areas are noted for their relative remoteness and tranquillity and the area is celebrated for the quality of its night skies and the relative lack of artificial lighting away from the main roads and towns.

37. Within its Statement of Significance, the Management Plan explains the key qualities of the natural beauty of the Norfolk Coast comprising seven defining elements of its character. They include; dynamic character and geomorphology of the coast; strong and distinctive links between land and sea; diversity and integrity of landscape, seascape and settlement character, with a diversity of character types rather than uniformity across the area, including landscapes, seascapes, settlement pattern, building materials and styles; biodiversity; geology; sense of remoteness, tranquillity and wildness arising from a low level of development and population density for lowland coastal England, leading to dark night skies and a general sense of remoteness and tranquillity away from busier roads and settlements.
38. The appeal site forms part of a cluster of buildings. The adjacent large format garden centre is comprised of several sizeable commercial barn type structures, arched canopies, outdoor dining terraces, play areas and extensive areas of hardstanding for the parking of vehicles and deliveries. Taken together, the appeal site and its neighbouring buildings form a group of properties that are an unexpected sight outside of settlements within the AONB landscape. Taking account of their visual features and the activities associated with the use of a busy garden centre including the comings and goings of large visitor numbers and consequent vehicular movements, I conclude that this collection of built form is not characteristic of the defining components of the RTA landscape type and the AONB and accordingly, it diminishes the defined remote and tranquil qualities that are an important contributor to the wider significance of the AONB.
39. Whilst I accept that the footprint and volume of built form would be similar to that of the existing building, for reasons explained above, the expansion of built form and activities associated with residential dwellings into areas of the site where there is presently little built form would represent an encroachment into the countryside for which the reliance upon the screening effect of vegetation would be insufficient to mitigate its adverse effect. It would erode the strong rural character of the wider area and undermine the areas' sparsity of development quality, thus further diminishing the sense of remoteness and tranquillity which is a significant failing in terms of the appeal scheme.
40. I accept that the use of the existing building outside of daylight hours would have inevitably involved a reasonable degree of light spillage. However, the expansion of built form over a wider area together with the inclusion of large glazed elevations would in my view, increase the amount of lighting experienced over the appeal site and beyond its boundaries such that the development would undermine the 'dark skies' special quality of the AONB landscape which stems from a low level of development. This would worsen the uncharacteristic and jarring nature of the existing cluster.
41. Reference has been made to the use of technology and design techniques, including the use of brise soleil. However, on the basis of the evidence before me I cannot be certain that these would adequately limit the spillage of light, nor that the use of such features could be properly controlled through the use of a planning condition.
42. Whilst the adverse impact of the appeal scheme would be relatively localised given that longer range views are mostly prevented by reason of the containment provided by nearby woodland blocks and the topography of the

land, there would nonetheless be substantial harm to the immediate locality. In my view, this would have a significant adverse effect on the designated AONB. The Framework¹ sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues. The scale and extent of development within this designated area should be limited. Thus, the appeal scheme would conflict with CS policies EN1 and EN2 insofar as these policies require development to facilitate delivery of the AONB management plan objectives and not to detract from the special qualities of the AONB.

Loss of local facilities and services

43. CS Policy CT3 resists development that involves the loss of sites or premises currently, or last used for, important local facilities and services. The policy footnote specifies a list of facilities and services that the policy is applicable to. There is no express reference to a care home within that list and, in the absence of a clear definition of what should constitute a 'small scale health care facility' there is some dispute between the parties as to whether the appeal property falls to be considered as such, and this is a matter which I am not able to definitively resolve on the evidence before me.
44. That being said, I do not consider the list provided within Policy CT3 to be exhaustive. It is not expressed in such a manner but rather it lists the types of services and facilities that may be considered as such. The supporting text explains the importance of protecting existing facilities in a large rural area and recognises that the loss of an important facility can have significant impact upon the ability of local residents to access services, thereby increasing the need to travel and threatening the viability and vitality of rural communities. As such, whilst 'care home' is not expressly referred to, I find that it is appropriate to assess the appeal scheme against Policy CT3.
45. The appellant's evidence is that the last use of the care home was for 'active vulnerable adults suffering with mental health and learning difficulties'. As a result of providing a more specialised nature of care the facility therefore drew residents from a wide catchment area beyond the administrative boundaries of North Norfolk. It was put to me that the facility is not 'local' for the purposes of Policy CT3. I disagree. Notwithstanding its use by a wider population, this does not preclude the use of the facility by persons within the immediate locality and, moreover, as a specialist facility this may be the nearest accessible equivalent facility, which in its absence, persons who would have used the facility need to travel even further afield. Consequently, for these reasons, I consider the last use of the appeal property as a type of service and facility that is important to the local area and that Policy CT3 is applicable to the appeal proposal in this instance.
46. In such circumstances where the loss of a local facility and service is proposed, such development is restricted unless it satisfies certain criteria. The first criterion is concerned with establishing an alternative provision of equivalent or better quality within the area or, that it will be provided and made available prior to the commencement of development. Albeit the premises do not presently offer any care provision and it has not done so since its closure in November 2017, the appeal scheme would lead to the permanent loss of that facility.

¹ Paragraph 176 of the Framework

47. My attention has been drawn to several existing care home sites within a five-mile radius of the appeal site and others that may come forward shortly. However, there is little evidence before me that these existing care home facilities would have capacity to accommodate the numbers that would be lost from the permanent closure of the appeal facility. There is no assessment of need nor any detailed quantitative or qualitative evidence before me to properly discharge the burden imposed by the first criteria nor evidence to demonstrate that additional care home schemes would be available prior to the commencement of the development that is sought.
48. In the absence of adequate alternative provision, a proposal for redevelopment falls to be considered against the second criterion of Policy CT3 and will not be permitted unless it can be demonstrated that there is no reasonable prospect of retention at its current site and, by reason of being a commercial operation, that a viability test has demonstrated that the use is no longer viable and that all reasonable efforts have been made to sell or to let the property at a realistic price for a period of at least 12 months.
49. The appellant's evidence of audit of the existing accommodation against industry standards notes that there are numerous identified inadequacies, and I observed the state of decline of the building at the time of my site visit. Notwithstanding the undesirable size and condition of the property, there is little substantive evidence before me to demonstrate that the existing facility could not be improved to an adequate standard to rectify these issues. The supporting text of the policy explains that 'developers should not seek to demonstrate that the age or poor condition of a facility makes it no longer viable to maintain, or reduces demand for it, as these can be addressed and the facility can continue successfully'.
50. It is put to me that the semi-rural location of the facility precludes the supply of a sufficient workforce of skilled staff, that the upgrades to the building would be prohibitively expensive and that small scale care homes are no longer viable. This evidence is based on the views of the previous operators. However, in order to support there being no reasonable prospect of retention of the use at the appeal premises the appellant is required to demonstrate that all reasonable efforts have been made to sell or let the property at a realistic price for a period of at least 12 months. There is limited evidence before me to demonstrate that this approach has been properly followed. I note that one developer declined the opportunity offered by the Kelling Park site, however, there is no comprehensive evidence of an adequate marketing exercise being undertaken to canvass the views of the wider market.
51. Whilst the trend towards larger purpose-built homes is noted, the appellant's table as part of the Planning Needs Assessment accompanying a development at Hempstead Road, Holt, shows that some smaller facilities, albeit a smaller proportion, have also been built since 2016.
52. My attention has been drawn to the consistency of decision-making in respect of a recent decision by the Council to grant planning permission for a change of use of a care home to two dwellings at Bacton². The provided Officer Report observes that the proposal would result in the loss of a care home but makes no specific reference to CS Policy CT3. Nonetheless, it appears to me that some consideration was given by the Council to the availability of other care homes

² The Heathers, Pollard Street, Bacton

within Bacton and as such there is some broad reference to the requirements of Policy CT3. Accordingly, I do not find that this justifies making a decision without having regard to CS Policy CT3.

53. For the reasons given above, I conclude that the appeal proposal would lead to the unjustified loss of a local service and facility and thus it conflicts with the requirements of CS Policy CT3, the requirements of which are set out above.

Five year housing land supply

54. At the hearing, it was the Council's case that they were able to demonstrate an adequate five year housing land supply of some 5.16years. The appellant disputes this and accordingly there was a discussion regarding this issue. However, it has not been necessary for me to deal with this matter in detail for the following reason.
55. Shortly before the hearing, Natural England (NE) issued a letter detailing nutrient pollution in the protected habitats of the River Wensum Special Area of Conservation and Ramsar site. NE advise that new development comprised of overnight accommodation within the catchment of these habitats has the potential to cause adverse impacts with regard to nutrient pollution. The appeal site lies outside of these areas and is not directly affected by the proposal.
56. Nevertheless, prior to granting planning permission for developments comprised of overnight accommodation and in order to comply with the Habitats Regulations (2017), the local planning authority will need to be satisfied that a new development will not adversely impact the integrity of these protected sites.
57. Given the uncertainty at this stage and whilst the Council works with neighbouring authorities and NE to better understand the implications and identify possible options for mitigation to ensure new development can proceed, the Council takes a pragmatic view and accepts that some sites which were relied upon to demonstrate a five-year supply could not now be 'realistically expected to deliver dwellings within the period covered by the Five Year Land Supply Statement 2020-2025. Such sites include those at West Raynham and Tillia Business Park. As a result, the Council concedes that their exclusion would be to reduce the deliverable supply to the extent that a five year land supply cannot be demonstrated within the district. On the basis of the Council's concession, their supply position would stand in the region of 4.9 years.
58. However, the appellant argues that other sites should have also been omitted from the deliverable supply figure which would give rise to a supply of less than four years. At the hearing, the appellant suggested that all but one of the sites discussed would be affected by water neutrality, however, the Council's additional evidence is silent on those other sites. As such, I find that the uncertainties relating to nutrient neutrality requirements cast into doubt the timely deliverability of these other sites included in the Council's supply. At best the Council's housing supply figure stands in the region of 4.9 years, however, I consider it more likely that the actual figure is a lesser amount than the figure advanced by the Council.

Other Matters

59. The appeal scheme would make use of PDL and I note that the Council have not met their target to provide 60% of new dwellings on PDL over the last 5 recorded years. However, whilst the Framework is permissive of the development of PDL the determining factor is whether or not this can be achieved without conflict to other policies within the Framework.
60. The appeal scheme would provide future occupiers of the dwellings with adequate living conditions in terms of the size and quality of their private amenity space, outlook and natural light. No adverse impact on the living conditions of neighbouring occupiers has been identified and the mix and tenure of the proposed dwellings is acceptable.
61. Furthermore, no adverse impact in terms of heritage assets, archaeological interests, trees, flood risk, highway safety, parking provision, waste and emergency vehicle access has been identified.
62. Reference has been made to an appeal decision at Sonning Common, Oxfordshire.³ However, I have considered the appeal before me based upon the special qualities of the North Norfolk AONB and the impact of the appeal scheme upon it. I take the view that the two schemes are not directly analogous with each other and therefore a comparison is of little relevance in this instance. My attention has also been drawn to an application at Land North of Blogg Cottage, that was granted by the Council. However, as this appeal concerned a replacement dwelling it is not comparable to the appeal scheme. I have determined the appeal based upon its individual planning merits.

Planning Balance and Conclusion

63. The Council are presently unable to demonstrate a five year supply of deliverable housing sites and as such, paragraph 11 d) is engaged by virtue of Footnote 8. Paragraph 11d)i) sets out the Framework's policies that protect areas or assets of particular importance. Given my findings about the effect of the proposed development on the character and appearance of the area, as set out above, I consider that applying the Framework's policies for the AONB provides a clear reason for refusing the appeal scheme. Consequently, the provisions of paragraph 11d)i) disengage the tilted balance. Therefore, the planning balance in this case is a straight balance of benefits against harm.
64. It is put to me that the CS is now of some age and it predates the Framework. Nonetheless, the Framework recognises that existing policies should not be considered out of date simply because they were adopted prior to its publication. Weight should be given to them according to their degree of consistency with policies in the Framework. The closer the policies in the plan to those in the Framework, the greater the weight that may be given.
65. Policy SS1 sets out the spatial strategy for North Norfolk and seeks to direct new development to towns and larger villages in accordance with the settlement hierarchy. Outside of those areas, the rest of North Norfolk is designated as Countryside where development is restricted to particular types to support the rural economy, meet affordable housing needs and provide renewable energy.

³ Appeal decision APP/Q3115/W/20/3265861

66. The supporting text to CS Policy SS1 identifies the reasons for protecting countryside areas from development. In part it refers to the requirement to prevent dispersed dwellings that lead to a dependency on travel by car to reach basic services which concurs with the aims of the Framework⁴ that aims to direct new development to locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. In addition, it also states that the quality and character of this area should be protected and where possible enhanced. Similarly, this accords with the requirements of the Framework⁵ insofar as it recognises the intrinsic character and beauty of the countryside and seeks to protect and enhance valued landscapes.
67. Policy SS2 limits the types of development within the Countryside. It makes no express mention of the redevelopment of previously developed land, however, the list of types of development permitted is reasonably extensive and not heavily restricted and as such the overall aims of these policies are broadly consistent with the Framework such that I do not consider them to be out of date. The consistency of CS Policies SS1 and SS2 with the Framework was considered in a fairly recent appeal decision⁶. In that instance, the Inspector found that those policies were not out of date for similar reasons.
68. CS Policies EN1, EN2 and EN4 seek high quality development that respects local distinctiveness and facilitates the delivery of the AONB management plan objectives to preserve the special qualities of the AONB. As such, I find these policies to be consistent with the aims of the Framework which recognises the intrinsic character and beauty of the countryside.
69. Furthermore, I find that CS Policy CT3, which is restrictive of development that involves the loss of sites or premises currently, or last used for, important local facilities and services, is aligned with the aims of paragraph 93 of the Framework insofar as it seeks to guard against the unnecessary loss of valued facilities and services and seeks their retention for the benefit of the community.
70. Overall, notwithstanding the age of the development plan the consistency of its policies with those within the Framework leads me to the view that the most important policies should not be considered out of date.
71. I have identified that there would be conflict with CS policies SS1 and SS2 insofar as these seek to distribute new development in accordance with a settlement hierarchy to prevent dispersed dwellings that lead to a dependency on travel by car to reach basic services and to ensure a more sustainable pattern of development. Whilst the majority of trips from the appeal site would be undertaken by private motor vehicle, I am mindful that there would have been a number of vehicular trips generated from the mixed Class C2 and C3 use when it was in operation as a care home and that such a position could be reinstated if the authorised use of the appeal site were to be resurrected. In my view, this moderates the level of environmental harm. Nonetheless, there would be conflict with CS Policies EN1, EN2, EN4 and CT3 and these are matters which I afford significant weight in the planning balance.

⁴ Paragraph 105 of the Framework

⁵ Paragraph 174 of the Framework

⁶ Appeal Decision 3248468 – Land off Beresford Road, Holt

72. The appeal scheme would contribute additional market housing to the District's housing supply which is particularly important in light of the Council's absence of a five year housing land supply. In addition, it would provide employment during construction and future occupants would contribute spending to the local economy. The proposed landscaping and ecological enhancements would be beneficial for wildlife. The appeal scheme would utilise sustainable building techniques, make the most out of the arrangement of windows within the dwelling to maximise benefits of passive solar gain, include roof based solar panels and utilise a heat recovery ventilation system to more efficiently retain heat. Electric underfloor heating and air pumps would provide energy that uses less fossil fuel intensive types. Together with rainwater harvesting and the inclusion of green sedum roof planting to a number of the dwellings to aid surface water run off and support biodiversity, these are all matters that weigh in favour of the appeal scheme.
73. However, given the scale of the proposal, a contribution of eight additional dwellings together with their associated benefits would weigh moderately in favour of the proposal. The proposal would cause significant harm and it would therefore be contrary to the provisions of the development plan taken as a whole. There are no material considerations in this instance, either individually or collectively, which indicate determination of the appeal should be other than in accordance with the development plan.
74. A signed unilateral undertaking (UU) dated the 21 January 2022 was submitted as part of the appeal. It makes provision for the payment of a Recreational Impact Avoidance and Mitigation financial contribution to mitigate the in-combination effects of recreational disturbance caused by the development upon the integrity of the North Norfolk Coast Combined Habitat sites. However, as the scheme is not going ahead it has not been necessary for me to undertake an appropriate assessment in this instance as no harm will arise.
75. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

E Brownless

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Phillip Rowson	Assistant Director Planning
Cathy Batchelar	Senior Landscape Officer
Chris Young	Conservation & Design Officer
Mark Ashwell	Planning Policy Manager

FOR THE APPELLANT:

Clare Parry	Cornerstone Barristers
Geoff Armstrong	Armstrong Rigg Planning
Roger Welchman	Armstrong Rigg Planning
Ben Wright	Aspect Landscape
Peter Morgan	Thrive Architect

DOCUMENTS SUBMITTED AT THE HEARING:

Norfolk Coast Area of Outstanding Natural Beauty Management Plan Strategy 2014-19.

Appeal Decision APP/Y2620/W/20/3256225 – Land at Mill Road, Briston, Norfolk.

Planning application PF/20/1151/ - Land North of Blogg Cottage, The Street, Kelling – Decision Notice, Site Location Plan and Officer Report.

Planning Application PF/21/1459 – Heathers, Pollard Street, Bacton, Norfolk – Decision Notice, Site Location Plan, correspondence and Officer Report.

Letter from Armstrong Rigg Planning dated 18 March 2022 enclosing letter of Natural England – Nutrient neutrality – dated 16 March 2022