



Appeal Decision

Site visit made on 18 April 2023

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 7 July 2023

Appeal Ref: APP/F2605/W/22/3309255

Development plot adjacent to The White House, Sandfield Lane, Eccles, Quidenham NR16 2PB

- 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 & Mrs C DeBoos against the decision of Breckland Council.
 - The application Ref 3PL/2022/0746/F, dated 22 June 2022, was refused by notice dated 18 August 2022.
 - The development proposed is erection of two dwellings and garages (revised application following approval under Reference 3PL/2016/0075/D) revised application.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two dwellings and garages at development plot adjacent to The White House, Sandfield Lane, Eccles, Quidenham, NR16 2PB in accordance with the terms of the application, Ref 3PL/2022/0746/F, dated 22 June 2022, subject to the conditions included in the schedule at the end of this decision.

Preliminary Matters

2. I have taken the description of development in the decision above from the application form, removing wording that does not form an act of development, in the interests of clarity.
3. A revised Unilateral Undertaking (UU) was provided by the appellant on the 22 May 2023 in relation to mitigation of likely significant effects on European Sites. I have had regard to its contents when considering the appeal and return to this matter below.

Main Issues

4. The main issues are:
 - whether the proposed development would be an appropriate location with particular regard to development plan policies;
 - whether suitable contributions to mitigate recreational impact on European Sites would be provided.

Reasons

Location

5. The appeal site comprises a roughly rectangular shaped parcel of land with frontage onto both Sandfield Lane and Station Road. The appeal site is verdant

in character with a number of mature trees located within the site boundary. To the west of the site is the dwelling The White House and to the east on the opposite side of Station Road are two pairs of semi-detached dwellings. Opposite the corner of the appeal site is The Old School building. To the north and south is open agricultural land.

6. The locational strategy for development is set out in Policy GEN 03 of the Breckland Local Plan November 2019 (LP). The strategy is formed of a settlement hierarchy, whereby key settlements, market towns, local service centres and villages with boundaries are the focus for new development. Eccles Road (Quidenham) is identified under the village with boundaries category of the settlement hierarchy.
7. The appeal site is not within the defined settlement boundary of Eccles Road (Quidenham) but is situated outside, with Station Road forming the intervening land between the edge of the appeal site and the red line of the defined settlement boundary. Policy GEN 05 of the LP confirms that outside the defined settlement boundaries, development is restricted to recognise the intrinsic character and beauty of the countryside except in cases where it is compliant with all relevant policies set out in the development plan.
8. Policy HOU 04 of the LP identifies the type of development that is supported in settlements identified as villages with boundaries, such as Eccles Road (Quidenham). This policy states that appropriate development will be allowed immediately adjacent to the settlement boundary, subject to being supported by other policies within the development plan and where a number of criteria are met.
9. The Council's first reason for refusal does not identify any conflict with the four criteria set out under policy HOU 04 relating to the appropriateness of the scale and design, the overall increase in the number of dwellings in the settlement, design in relation to historic nature and connectivity of communities or the avoidance of coalescence of settlements. The dispute between the parties appears to relate only to whether the appeal site can be considered to be immediately adjacent to the settlement boundary.
10. The appellant has referred me to the case of *Corbett v Cornwall Council and Dymna Wilson* [2022] EWCA Civ 1069 (Corbett) in which it was held that the Council's interpretation that a site, despite being separated from a settlement by a road, immediately adjoined the settlement had been reasonable. In the Corbett case, it was found that the words 'immediately adjoining' should not be given an unduly prescriptive meaning and that there is a degree of flexibility in them. The case found that the words do not necessarily mean contiguous or coterminous or next to or very near and that the decision maker should judge, on the facts, whether a site and proposed development can be regarded as sufficiently close to the settlement in question to be 'immediately adjoining' it.
11. I found on my site visit that the appeal site could reasonably be described as being immediately adjacent to the settlement boundary in the context set out in Corbett. I found this given that the dwellings to the east, which are identified within the settlement boundary are directly opposite and have a visual relationship with the appeal site that would be sufficiently close for the proposal to be considered as immediately adjacent to the settlement boundary.

12. I therefore find that the proposal would be an appropriate location with particular regard to development plan policies and would therefore comply with the requirements of policies HOU 04, GEN 03 and GEN 05 of the LP. These policies seek, amongst other things, to locate development in line with the settlement hierarchy and locational strategy.

Recreational impact

13. The appeal site lies within an identified Zone of Influence of a number of European Sites including The Wash Special Protection Area (SPA), The Wash and North Norfolk Coast Special Area of Conservation (SAC), The Wash Ramsar, Breckland SPA, Breckland SAC and the Norfolk Valley Fens SAC. Natural England has identified that there is potential for recreational activities to disrupt the protection objectives of European Sites in and around Norfolk, specifically as a result of an increase in population resulting from residential growth and an increase in tourism accommodation, resulting in more people visiting and possibly harming European Sites.
14. The appeal proposal would result in a net increase of two dwellings, with an associated increase in local residents living within the Zone of Influence. This would be likely, in turn, to increase recreational pressure. It is therefore likely that the proposal, both alone and in combination with other developments, would adversely affect the integrity of the European Sites identified above. As such, it is necessary for me, as the competent authority, to conduct an appropriate assessment in relation to the effect of granting planning permission on the integrity of the European Sites.
15. The European Sites identified above are covered by the Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy Habitats Regulations Assessment Strategy Document March 2021 (GIRAMS). In partnership with other affected local planning authorities, the Council has adopted the GIRAMS which sets out measures for the avoidance and mitigation of recreational disturbance. The GIRAMS comprises a range of mitigation measures including the provision of open space as part of developments, monitoring, education and communication with recreational users, collating information about habitats and working with landowners and partners.
16. The GIRAMS identifies a financial contribution to be sought in connection with new residential development, to fund avoidance and mitigation measures on a wider strategic basis. The appellant provided a revised UU on the 22 May 2023 which undertakes to make the required GIRAMS payment. I note that the Council were consulted on the revised UU and that it has stated that it would not be acceptable, given that it has been signed and is already dated. The Council has not provided any further explanation as to why the UU would be unacceptable in its current form. Nevertheless, for me to consider the UU it has to be signed and dated so that it forms an effective mechanism for securing the financial contribution. I am therefore satisfied that the UU would be effective and also that it meets the relevant tests for planning obligations set out in the National Planning Policy Framework (the Framework).
17. Natural England has been consulted as part of this appropriate assessment and has agreed with my conclusion that the GIRAMS payment would appropriately address the effects of increased recreational pressure on European Sites. I am therefore satisfied that the proposal would not adversely affect the integrity of European Sites, either alone or in combination with other developments.

18. The revised UU would ensure that suitable contributions to mitigate recreational impact on European Sites would be provided. The proposal would therefore comply with Policy ENV 02 of the LP, which seeks, amongst other things, that the highest level of protection is given to European Sites, with development only permitted where the proposal is in accordance with the requirements of the Conservation of Habitats and Species Regulations 2017.

Conditions

19. The Council has suggested a number of conditions which I have considered against the Framework and the Planning Practice Guidance (PPG). I have made some amendments to the wording for clarity and consistency and reordered where necessary. I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. I have separated out the requirement for the development to be carried out in accordance with the Arboricultural Impact Assessment for clarity. I have not included reference to the Design and Access Statement as this does not provide specific details that could be subject to condition over and above what is provided on the drawings.
20. I have not imposed a condition relating to materials as they are stated on the approved plans which compliance is required with under the approved plans condition in any case.
21. I have imposed a condition requiring a scheme for biodiversity net gain to be submitted and approved and implemented prior to occupation. This condition is required in the interests of biodiversity enhancement.
22. I have imposed a more concise condition in relation to the vehicular access scheme to be submitted, approved and implemented prior to occupation. I have also imposed conditions relating to the width and length of the private drive, visibility splays and the laying out of the access, parking and turning area which are required to be retained. I have not included drainage in condition 8 as no drainage details are identified on the approved drawing. Surface water drainage is dealt with under condition 5. These conditions are required in the interests of highway safety and to ensure that the site is appropriately drained.
23. A condition is imposed relating to any contamination that has not been identified at this stage in the interests of any future users of the land, controlled waters, ecology and third parties.
24. An informative is suggested by the Council about works within the public highway. As this has no legal status it is not included, however, as it was included in the Council's suggested conditions, I am satisfied that the appellant has been provided with this information.

Other Matters

25. Whilst not raised by the Council, I note that the UU requires an administration and monitoring fee to be paid prior to determination of the planning application. I have not been advised as to whether these payments were made prior to the Council's decision being issued. Given the scale of the development and the type of contribution being required by the UU I do not consider that the administration and monitoring fees are necessary to make the development acceptable in planning terms, in this case.

Conclusion

26. For the above reasons, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions set out in the schedule below.

G Dring

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: TL-4613-22-11 and TL-4613-22-12.
- 3) The development hereby permitted shall be carried out in accordance with the Arboricultural Impact Assessment OAS 21-178-AR01 dated November 2021.
- 4) Prior to the first occupation of the dwellings hereby approved, a scheme demonstrating how net gains for biodiversity are being secured as part of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, prior to first occupation and thereafter retained.
- 5) Prior to the first occupation of the development a scheme for the construction of the vehicular access shall be submitted to and approved in writing by the Local Planning Authority. Arrangements shall be made for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway. No dwelling shall be occupied until the vehicular access has been constructed in accordance with the approved details. The vehicular access shall be thereafter retained in accordance with the approved scheme.
- 6) Notwithstanding the submitted details, the private drive shall be maintained in perpetuity at a minimum width of 4.5 metres for its complete length and shall be constructed perpendicular to the highway carriageway for a minimum length of 10 metres as measured from the near edge of the highway carriageway.
- 7) Prior to the first occupation of the development the visibility splays shall be provided in accordance with the details shown on the approved drawing TL-4613-22-11. The visibility splays shall be thereafter maintained at all times free from any obstruction exceeding 1.05 metres above the level of the adjacent highway carriageway.
- 8) Prior to the first occupation of the development the access, parking and turning area shall be laid out, demarcated, levelled and surfaced in accordance with the approved drawing TL-4613-22-11. The access, parking and turning area shall be retained thereafter for that specific use.
- 9) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with details to be agreed in writing with the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority.