



Appeal Decision

Site visit made on 11 July 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th August 2023

Appeal Ref: APP/F2605/W/22/3302165

Lower Farm, New Road, Whissonsett NR20 5TA

- 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 Lyman against the decision of Breckland Council.
 - The application Ref 3PL/2021/1465/F, dated 18 October 2021, was refused by notice dated 26 April 2022.
 - The development proposed is wellness retreat facility with the erection of 3no. lodge cabins and studio.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effects of the proposal on the River Wensum Special Area of Conservation (SAC), The Broads SAC, and European sites within the scope of the Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy 2021 (GIRAMS);
 - Whether the proposed development would be in a suitable location having regard to the local development strategy; and
 - The effects of the proposal on the character and appearance of the area.

Reasons

Integrity of European sites

3. The site is located within the catchment areas of the River Wensum SAC and The Broads SAC, which are European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). On 16 March 2022, the government's Chief Planner wrote to local planning authorities affected by nutrient pollution, including Breckland Council. This followed advice from Natural England about the adverse effect of nutrient pollution on European sites in an unfavourable conservation status, including the River Wensum SAC and The Broads SAC.
4. Natural England's advice on nutrient neutrality therefore applies to the proposal. The Habitats Regulations require that an Appropriate Assessment is carried out, and Natural England were consulted during the course of the appeal.

5. The conservation objectives for both the River Wensum SAC and The Broads SAC are to ensure that the integrity of the sites is maintained or restored as appropriate, and to ensure that the sites contribute to achieving the Favourable Conservation Status of its Qualifying Features.
6. The River Wensum's qualifying features include habitats of rivers with floating vegetation often dominated by water-crowfoot and species including Desmoulin's whorl snail, white-clawed crayfish, brook lamprey, and bullhead.
7. The Broads SAC's qualifying features include habitats such as calcium-rich nutrient-poor lakes, lochs and pools; naturally nutrient-rich lakes or lochs which are often dominated by pondweed; purple moor-grass meadows; very wet mires often identified by an unstable surface; calcium-rich fen dominated by great fen sedge; calcium-rich springwater-fed fens; alder woodland on floodplains; and species such as Desmoulin's whorl snail, otter, fen orchid, and little whorlpool ram's-horn snail.
8. The qualifying features within the SACs are vulnerable to the effects of development, including from harm to water quality through nutrient pollution, and recreational disturbance from visitors.
9. The proposal would result in a net increase in residential accommodation which would generate additional nutrient loads, such as nitrates and phosphates, within the catchment of the SACs. Since the proposal would lead to an uplift in the local population, it would increase recreational pressure on designated habitats sites in the area. The scheme would therefore have likely significant effects on the integrity of the SACs in isolation and in association with other similar development.
10. The Habitats Regulations require that permission be granted only after having ascertained that it will not affect the integrity of a European site. In light of Natural England advice on nutrient neutrality, the Chief Planner's letter requires confidence that the development either does not require nutrient neutrality to be acceptable under the regulations or that nutrient neutrality is secured as part of the proposal, before granting planning permission. I may consider measures to secure mitigation with a view to ensuring that the proposal would not adversely affect the integrity of the SACs.
11. The appellant asserts that due to the small-scale of the development the additional nutrient load would be low. Nonetheless, the proposal is likely to harm water quality in the SACs through increased nutrient pollution, which causes adverse effects on habitats through eutrophication and algal blooms. The appellant considers that additional nutrient load generated by the proposal can be mitigated on-site or through another suitable mechanism. However, no details of a scheme of mitigation to achieve nutrient neutrality in accordance with Natural England's methodology has been provided. Therefore, I cannot be certain that the proposal's adverse effects on water quality from increased nutrient load would be adequately mitigated so as to ensure no harm to the integrity of the SACs.
12. The appellant has submitted an agreement pursuant to Section 106 of the Town and Country Planning Act (as amended) and Section 111 of the Local Government Act 1972, to secure a payment towards measures to mitigate the impacts of the proposed development as set out in the GIRAMS. On this basis,

I am satisfied that the adverse impacts of the proposal in respect of recreational disturbance would be mitigated.

13. I must also consider whether there are any imperative reasons of overriding public interest. The provision of the wellness retreat facility, taking into account the merits of the case and the modest scale of the development, is not sufficient to amount to such overriding public interest.
14. Therefore, the proposed development would result in unjustified harm to the integrity of the River Wensum SAC and The Broads SAC through nutrient pollution arising from the development. Consequently, having regard to the Habitat Regulations, permission must not be granted.
15. For these reasons, the proposal conflicts with Policy ENV02 of the Breckland Local Plan 2019 (LP) which affords the highest level of protection to European sites and requires that any proposed mitigation is fit for purpose, as justified by appropriate evidence.

Suitability of location

16. The proposed development would be a 'wellness retreat' providing overnight accommodation comprised of three wooden cabins and a studio to deliver activities associated with physical and mental health and wellbeing.
17. The Council contends that the proposed development would be a leisure development and form a main town centre use, as it expects visitors would remain on the site for the duration of their stay. The National Planning Policy Framework (the Framework) provides examples of the types of main town centre uses. Whilst this includes some leisure facilities, these do not ordinarily provide overnight accommodation. Nor would the proposal be a 'hotel'. The proposal does not therefore wholly fall within the Framework's definition of main town centre uses.
18. The appellant indicates that the proposed development aims to provide holidays for individuals and families suffering from dementia. LP Policy EC07 supports proposals for tourism development where this would benefit the local economy; the environment and infrastructure can accommodate the visitor impact; and proposals would be of a suitable scale and type for their location.
19. As set out above, the scheme would have likely significant effects on the integrity of SACs, and therefore the environment cannot accommodate the visitor impact of the proposed development.
20. Furthermore, the site is accessed from a narrow rural road with no pedestrian footway and is set back from the highway by a narrow private driveway. No assessment of the traffic impacts of the proposal has been provided, and the predicted traffic movements have not been quantified. The Highways Authority has requested planning conditions imposing limitations on the use of the buildings and number of visitors on site. The appellant has not provided comments in respect of the suggested conditions and it is unclear whether such conditions would undermine the operations of the business, which also seeks to offer classes to the local community. Therefore, with regard to the effects of the proposed development on highway infrastructure, it is uncertain whether the development could be made acceptable in planning terms through the use of conditions.

21. Paragraph 85 of the Framework recognises that to meet local business needs in rural areas, sites may have to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport, provided it does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. Policy EC07 requires that where a site is not accessible by sustainable modes of transport, contributions are made to improve accessibility. The site is located outside the settlement boundary and would not be readily accessible to sustainable modes of transport. However, the proposal makes no contribution to the enhancement of accessibility by sustainable modes of transport.
22. The appellant indicates the development would utilise services of other local businesses and create employment. In addition, the proposal would involve extensive woodland planting and the appellant has secured grants from the Woodland Trust for tree planting, thus enhancing green infrastructure. The Preliminary Ecological Appraisal's (PEA) assessment and recommendations are predicated on the woodland planting and demonstrate that a net gain in biodiversity would be achieved. However, whilst such economic and environmental benefits weigh in favour of the proposal and support the requirements of Policy EC07, such benefits do not negate the harm I have identified in respect of the visitor impact on the environment and infrastructure and limited sustainable transport accessibility.
23. Consequently, having regard to the local development strategy, the proposed development would not be in a suitable location, and for the reasons set out above, would not comply with LP Policy EC07. On this basis, the proposal would not deliver sustainable rural tourism which respect the character of the countryside, as supported by paragraph 84 of the Framework.

Character and appearance

24. The appeal site is situated in the north-west corner of a field of grassland. To the south of the appeal site, a portion of the field is enclosed by a fence to provide a paddock with a stable building. A mature tree belt and hedgerow runs along the field's boundaries and generally obscures views of the wider landscape.
25. The site is set back from the public highway by a long driveway and would be concealed from view by buildings at Lower Farm and the tree belt along the site's western boundary. The proposed development would therefore be obscured from view from publicly accessible locations such as the public highway and would not appear dominant within the surrounding rural landscape.
26. The site is located beyond the built area of the village, and the proposed siting of the cabins, studio, and other built features such as the driveway, parking spaces and bin store, would have an urbanising effect upon the site. However, the proposed cabins and studio would be single storey and constructed from timber and would therefore be similar in appearance to, and visually compatible with the outbuildings, annexe and stable at Lower Farm.
27. The visual impacts of the proposed development would therefore be confined to the site's immediate context within the field at Lower Farm, and on this basis would not amount to harm to the character and appearance of the area.

28. The proposal would therefore comply with LP Policies GEN02, ENV05 and COM01 which together require development to recognise the intrinsic character and beauty of the countryside, be sensitive to the character of the surrounding area, maintain the rural landscape, and integrate to a high degree of compatibility with the surrounding area.

Other Matters

29. The proposed development seeks to improve the health and wellbeing of its visitors which would include people with dementia. The scheme would therefore provide moderate social benefits but these would not outweigh the harms I have identified above.

Conclusion

30. I have identified no harm in respect of the proposal's effects on the character and appearance of the area, and the proposal would provide moderate benefits in respect of enhancing health and wellbeing. However, the development would adversely affect the integrity of the River Wensum SAC and The Broads SAC. This harm carries significant weight. Due to this environmental constraint, and other infrastructure constraints identified above, the proposal would not provide a suitable location for the development. I attach substantial weight to the proposal's conflict with the development plan in this regard.
31. Having regard to the development plan taken as a whole, and all other relevant material considerations, I therefore conclude the appeal should be dismissed.

E Dade

INSPECTOR