
Appeal Decision

Site visit made on 25 July 2023

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st August 2023

Appeal Ref: APP/K2610/W/22/3309996

15 Highfield Avenue, Brundall, Norwich NR13 5NT

- 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 A Jones (Vello Ltd) against the decision of Broadland District Council.
 - The application Ref 20220108, dated 19 January 2022, was refused by notice dated 20 July 2022.
 - The development proposed is Erection of 6 no. single storey dwellings and the construction of a vehicular access (existing dwelling to be demolished).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposal has changed from the application form to the decision notice. This appears to be as the result of amendments made to the scheme during the application. The proposal is described on the decision notice and appeal form as 'Erection of 5 no. single storey dwellings and the construction of a vehicular access (existing dwelling to be demolished)'. I have considered the proposals on this basis.
3. The lack of a contribution towards the Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy (GIRAMS) was cited within the reasons for refusal. The Council indicate that this reason for refusal could be overcome subject to a signed agreement.
4. A signed and dated unilateral undertaking has been supplied in relation to resolving this matter. Refusal reason 2 therefore falls away. The evidence indicates that the submitted undertaking is necessary to make the development acceptable in planning terms to enable the proposal to accord with Policy 1 of the Joint Core Strategy (2014) (JCS) and Policy EN1 of the Development Management DPD (2015) (DMDPD).
5. It is directly related to the development and fairly and reasonably related in scale and kind to the development. The planning obligation therefore meets the tests within Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and at Paragraph 56 of the Framework¹.

¹ National Planning Policy Framework 2021.

Main Issues

6. The main issues therefore are the effect of the proposal on the character and appearance of the area and the effect of the proposal on the integrity of the Broads SAC/Ramsar with regard to nutrient neutrality.

Reasons

Character and appearance

7. The appeal site is enclosed from the countryside to the north west and is well related to the residential development within Brundall which falls to most other sides of the site.
8. This part of Brundall appears to be well established, hosting a range of residential buildings which are well set within their location. The evidence indicates varied plot density across this area of Brundall.
9. Properties to the north-east have extensive gardens, while plot sizes for example on Braydeston Crescent are limited. The dwellings adjacent to the site, the gardens of which back onto the site fronting Highfield Avenue do not have especially large plots. Plot sizes are therefore mixed.
10. Many buildings are developed within close proximity to one another and whilst some dwellings are so well spaced such that there is a large degree of circulation space around them, this is not always the case.
11. The dwellings themselves would be well sized, occupying more of the plots than may otherwise be the case by reason of their single storey design. However, the proposal would allow adequate space for an access from Highfield Avenue and would incorporate surrounding outdoor spaces which would be of an adequate, functional and usable size.
12. Subsequently, given the characteristics of the area and the design of the scheme, the proposal would not form an unacceptably cramped form of development and there would be no significant adverse impact on the character and appearance of the area.
13. There would therefore be no conflict with Policy 2 of the JCS or Policy GC4 of the DMDPD. Amongst other things these policies require proposals to create a strong sense of place and reinforce local distinctiveness through careful consideration of the treatment of space while having regard to the density of buildings within the locality.

Broads SAC/Ramsar

14. The Broads SAC/Ramsar, amongst other things, is designated on account of its varied habitats that support species including Bewicks Swan, Gadwall, Shoveler & Wigeon.
15. Natural England has recently updated the conservation status of the Broads SAC/Ramsar including with regards to the Yare Broads and Marshes SSI with regard to nutrient neutrality. Concern over water quality in terms of eutrophication is identified with regard to Nitrogen and Phosphorous. The appeal site falls within a relevant catchment and an impact pathway is therefore present.

16. Therefore, adopting the precautionary principle, and in the absence of any evidence to the contrary, I consider that as a result of the proposal, likely significant effects on the protected habitats sites cannot be ruled out. I am therefore required to carry out an Appropriate Assessment.
17. Unless development which includes additional residential units such as that before me would demonstrably achieve nutrient neutrality, it cannot be concluded that it would not have an adverse effect on the integrity of the SAC/Ramsar.
18. Although the evidence indicates that a nutrient neutrality mitigation strategy is being developed by the Norfolk Councils, this does not at present appear to be in place to be utilised and there does not appear to be any concrete indication as to when this may be available.
19. Given that this scheme is not currently available and in the absence of mitigation being provided with regard to nutrient neutrality, the proposal in this sense would therefore conflict with Policy 1 of the JCS and Policy EN1 of the DMDPD, which require that amongst other things the environmental assets of the area will be protected, maintained, restored and enhanced and that where harmful impacts may occur adequate mitigation should be incorporated.
20. I am invited to impose a negatively worded condition to secure a financial contribution towards offsetting the impact associated with nutrient neutrality. However, at this stage, there can be no certainty as to the nature and timing of any forthcoming schemes with respect to these matters.
21. It is possible to use a negatively worded condition to prohibit development authorised from taking place until a specified action has been taken (for example, the entering into of a planning obligation to secure a financial contribution towards offsetting the impact associated with nutrient neutrality). However, in line with guidance on the use of planning conditions² there are no exceptional circumstances before me to justify such a condition.

Other Matters

22. There is an indication that the Council cannot demonstrate a five-year housing land supply (5YHLS) and a suggestion that relevant policies within the local plan are out of date. I am referred to previous appeal decisions³ in this regard.
23. However, Paragraph 182 of the Framework states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
24. Therefore, regardless of the 5YHLS position, paragraph 11 (d) of the Framework is not engaged in terms of supporting the proposal.
25. I note that the dwellings would be located in a sustainable location with easy access to services and transport links within Brundall. The proposal would be well designed using appropriate materials and would contribute to housing

² Gov.uk – DLUHC & MCLG Guidance use of planning conditions Paragraph: 010 Reference ID: 21a-010-20190723.

³ APP/K2610/W/19/3239986, APP/L2630/W/22/3296988.

supply. The dwellings would have a wide appeal and be adaptable to future occupiers being in single storey design.

26. There would be economic benefits including but not limited to local spend and employment benefits which are normally always associated with developments of this kind. The proposal could provide self-build opportunity. Whilst these benefits are afforded weight, they are outweighed by the harm identified. I also acknowledge the identified Covid-19 impacts suggested by the appellant, although I afford these matters limited weight in support of the proposal.

Planning Balance and Conclusion

27. There is nothing, including the provisions of the Framework, to indicate that the decision should be made otherwise than in accordance with the development plan and I therefore conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR