



Appeal Decision

Site visit made on 10 November 2023

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd November 2023

Appeal Ref: APP/F2605/W/23/3314109

Land at Bow Street, Great Ellingham, Norfolk NR17 1SE

- 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 Peters Moorehurst Ltd against the decision of Breckland District Council.
 - The application Ref 3PL/2022/0373/F, dated 23 March 2022, was refused by notice dated 7 July 2022.
 - The development proposed is a new build sustainable home.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has advised that its Local Plan¹ has been partially updated and that the updated plan was adopted on 21 September 2023. The update concerns only Policy INF 03 which sets a date for review of the plan. The policies which are relevant to this appeal are unaffected by this update.
3. The council's third reason for refusal concerned a lack of information to demonstrate that the development would not contribute to nutrient pollution to the River Wensum Special Area of Conservation (SAC) and The Broads SAC. The appellant has subsequently demonstrated that the development would not contribute to such pollution. The Council has stated that it is satisfied with this information and does not wish to defend its third reason.

Main Issues

4. The main issues in the appeal are:
 - i) whether or not the proposal would be an acceptable form of development in the countryside; and
 - ii) the effect of the development on biodiversity.

Reasons

Whether an acceptable form of development

5. Bow Street is a narrow road which links Watton Road with Hingham Road to the north of Great Ellingham. The street is within the rural area and is fronted mainly by agricultural land although there are dwellings sited along the road.

¹ Breckland Local Plan (2019)

These are generally sporadic, consisting of rows of dwellings with significant open gaps between them. The site forms part of such a gap between a traditional house and a bungalow. Because the dwellings are spread out along Bow Street rather than in any recognisable group, they do not form a hamlet.

6. The proposed dwelling would be of two storeys, with its lower floor excavated into the ground. When seen from the street, the upper floor would be visible above a raised ground level and the garage would be visible at the lower level. The rear lower-level parts of the development would be more extensive and would face onto a paved and decked area with a water feature. The building would be of contemporary design, with a flat roof and extensive areas of glazing. Facing materials would be corten steel, timber cladding and rammed earth.
7. The dwelling is designed to achieve high levels of sustainability. Its subterranean lower floor would provide thermal efficiency, while maximising the proportion of the site that could be used for amenity space and biodiversity. The water feature would draw surface water away from the street, improving surface water drainage. Measures for renewable energy generation, including solar panels and wind turbines and for storm and rainwater recycling would be incorporated.
8. The village of Great Ellingham is identified in the settlement hierarchy in Policy GEN 03 of the Local Plan (LP) as a local service centre. The site is about 550 metres outside the settlement boundary for that village, as defined in the development plan.
9. Policies HOU 03 and GEN 05 of the LP resist development outside settlement boundaries. Policy HOU 03 allows for such development in circumstances where the LP does not identify sufficient sites to achieve the housing target. The Council has stated that the number of completions in the local area has exceeded the target in the LP. The policy also applies other criteria, including that the site is immediately adjacent to the settlement boundary. The proposal does not accord with those policies.
10. The appellant states that the Council's Five-Year Housing Land Supply statement of 2022 showed a supply of 5.6 years' worth of deliverable housing sites. The sites included in the supply have been critically assessed by the appellant who concludes that the supply stands at 4.6 years. This is on the basis that some of the sites included in the supply are not deliverable because of their impact on nutrient pollution of watercourses. Also, the appellant states that some of the planning permissions for sites included in the supply have lapsed.
11. The Council's 2023 Five-Year Housing Land Supply statement shows that the supply stands at 6.6 years' worth of deliverable sites. With regard to nutrient neutrality, the statement refers to a joint venture which has been established between district and city councils in Norfolk that are affected by nutrient pollution and Anglian Water. This initiative will enable developers to purchase environmental credits to cover the additional nutrient load from their sites. The income received is to be used to secure mitigation measures.
12. The Council is developing its own mitigation scheme on land that it owns, and Natural England is developing two mitigation schemes. These schemes show that there are mechanisms in place to secure mitigation against additional

- nutrient loading. Although the five-year housing land supply statement indicates that the scheme to purchase credits is not yet operational in Breckland, there is a clear intention to introduce this and an application for funding has been made to the Government.
13. There is of course an element of uncertainty as to whether adequate mitigation measures for nutrient neutrality can be secured to enable delivery of sites included in the five-year supply to be delivered. However, there is no evidence before me to demonstrate conclusively that any site should be excluded from the supply on this basis.
 14. There is also a difference of opinion between the parties as to whether permissions for sites included in the supply have lapsed. No detailed evidence has been provided to demonstrate that any permission has lapsed.
 15. For these reasons, the Council can demonstrate a five-year supply of deliverable housing sites and on this basis, its policies are not out-of-date.
 16. I turn now to the impact of the proposal on the character and appearance of the area. Bow Street is a narrow road of single vehicle width, and the surrounding open countryside provides the dominant aspect of the character. The part of the proposed development that would be visible from the street would be limited in scale. The siting and design of dwellings along Bow Street varies and, in this context, the contemporary design and the siting at an angle to the street would not be out of character. However, in the predominantly open context the dwelling would be intrusive. I find that there would be moderate harm to the character and appearance of the area.
 17. Access to the site from Great Ellingham is via the B1077 Watton Road which has no footpaths or street lighting. For these reasons this route would not be suitable for pedestrian access. Cycling may be possible between the site and the village. Opportunities for sustainable travel would be limited, but car journeys between the site and Great Ellingham would be short. The limited accessibility by sustainable means does not mean that the development would be unacceptable but this weighs against the sustainability credentials of the proposal.
 18. Paragraph 80 of the National Planning Policy Framework (the Framework) states that decisions should avoid the development of isolated homes in the countryside unless specific circumstances apply. The site is not isolated in that it is adjacent to dwellings on both sides and there is other housing development along the street.
 19. Paragraph 134 of the Framework states that significant weight should be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
 20. For the reasons given above, I find that the design would be innovative in terms of its sustainability measures and of good quality. It would fit in with its surroundings in terms of other development along the road but would be at odds with the rural character. I give significant weight in favour of the proposal because of its innovative and good quality design. However, this is not sufficient to outweigh the conflict with development plan policies, and the moderate harm to the character and appearance of the area. For these

reasons, the proposal would not be an acceptable form of development in the countryside.

21. I have had regard to the other decisions that have been referred to. The appeal decision at Newman's Green² was in the context of different development plan policies that were extant at the time, and the site-specific circumstances were different to those of the appeal proposal. The site-specific circumstances in the Hockering appeal³ also differ from those in this appeal. The dwelling which was approved in September 2019 further north on Bow Street was in the context of the application of the 'tilted balance' in paragraph 11(d) of the Framework. Those decisions do not alter my conclusions.

Biodiversity

22. The Council's second reason for refusal was based on the absence of an ecological assessment. The appellant has submitted such an assessment with the appeal.
23. This assessment shows that the site is likely to provide terrestrial habitat for great crested newts. The assessment explains that the on-site habitat is largely restricted to the periphery of the site, that it is entirely feasible for an adequate level of mitigation to be achieved and that a protected species licence would be applied for.
24. The assessment also considers the presence or otherwise of other protected species, and enhancement measures such as suitable planting, bird and bat boxes and provision for hedgehog access are suggested.
25. On the basis that adequate mitigation measures could be achieved to protect great crested newt, the development would accord with Policy ENV 02 of the LP which requires avoidance of harm as a first priority, followed by minimisation of harm.
26. The Council's Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy requires a tariff payment of £210.84 per dwelling for development within zones of influence of designated Natura 2000 sites. This payment is used for mitigation measures at those designated sites in Norfolk and is necessary because of recreational impact on those sites arising from new residential development.
27. A draft unilateral undertaking has been submitted. This document is unsigned and undated and until the document is completed it has no effect. Consequently, I cannot take it into account. I also note that the amount of the contribution given in the draft agreement differs from the figure required by the Council.
28. In the absence of this contribution, it has not been demonstrated that proposal would not adversely affect the integrity of Natura 2000 designated sites. On this basis the proposal may be harmful to biodiversity. It would not accord with Policy ENV 02 of the LP in this respect.
29. I have had regard to all other matters raised, including the economic and social benefits of the new dwelling, but these matters do not alter my conclusions.

² APP/D3505/W/18/3196882

³ APP/F2605/W/21/3287178

30. Policy GEN 01 of the LP requires sustainable development in Breckland. Although elements of the design are in accordance with that policy, the harms to the character and appearance of the area and biodiversity conflict with that policy. The development would not accord with the development plan as a whole.

Conclusion

31. For the reasons given, I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR