



Appeal Decision

Site visit made on 18 October 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th December 2023

Appeal Ref: APP/E9505/W/22/3308360

Morrisons, George Westwood Way, Beccles, NR34 9EJ

- 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 Trilogy (Leamington Spa) Ltd against the decision of the Broads Authority.
 - The application Ref BA/2021/0295/FUL, dated 29 June 2021, was refused by notice dated 8 April 2022.
 - The development proposed is coffee shop with drive thru facility.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the postcode from the appeal form as the appellant has confirmed that is the correct address.
3. The appellant has submitted a landscape planting plan (Figure 23) as part of the appeal. The 'Procedural Guide: Planning appeals – England' is clear that the appeal process should not be used to evolve a scheme. The landscaping scheme specifies detailed planting within the shelterbelt adjacent to the site. This has not been subject to consultation and I cannot be certain that accepting this plan would not lead to different comments from interested parties. I therefore have determined the appeal with regard to the plans considered by the Broads Authority.

Main Issue

4. The main issue is the effect of the proposed development on the landscape character of the area, including its effect on protected trees.

Reasons

5. The site lies within the Broads Authority Executive Area (the Broads). The Broads Authority sets out that it is a unique landscape and recreational area with very considerable pressures for development. The Broads has the same status as a National Park, and there is a statutory duty placed on me to conserve and enhance its natural beauty, wildlife and cultural heritage, promote opportunities for understanding and enjoyment of its special qualities by the public, and protect the interests of navigation. These duties are reflected in the policies of the National Planning Policy Framework (the Framework). Paragraph 176 confirms that great weight should be given to conserving and

enhancing landscape and scenic beauty of the Broads, and the scale and extent of development should be limited.

6. The appeal site occupies the corner of a supermarket car park. There is an undeveloped grassed area separating the site from the A146 and George Westwood Way. There is a shelterbelt of trees on this land. A Woodland Tree Preservation Order¹ (TPO) was made prior to the Council issuing its decision and confirmed on 21 September 2022.
7. The site lies within the Waveney – Barsham, Gillingham and Beccles Marshes landscape character area. The Broads Landscape Character Assessment (BLCA) identifies landscape types within this area and indicates the appeal site as industrial. The appellant seeks to rely on this, while the Council contend there is an overlap with the settlement fringe landscape type and rely on a previous appeal decision² in support of this.
8. The BLCA identifies the distinctive landscape characteristics of the different landscape types. The site does not readily display the characteristics identified for the industrial and post industrial landscape type, which focuses more on land in historic industrial use and/or that has been altered or reclaimed following such use. However, the site is nonetheless developed. As such, it is not entirely consistent with the settlement fringe landscape type which is associated with more natural/semi-natural land as identified in the BLCA.
9. Notwithstanding, the supporting text to Local Plan for the Broads 2015 to 2036 adopted 2019 (LP) Policy DM20, which concerns the protection and enhancement of settlement fringe landscape character, identifies settlement fringe as a landscape type where settlement and semi natural/natural environments converge. The site is on the outskirts of Beccles, beyond which the character of the surrounding landscape markedly changes to that of the upper river valley marshland. The built form in the wider supermarket site is situated on the boundary which sits closest to the built-up area of Beccles. The car park therefore provides a transition from the built environment of the settlement, to the undeveloped grassed area which in turn leads to the marshland to the north and west beyond the roads. This is important in safeguarding the visual amenity qualities of the landscape and as such I consider it most appropriate to assess the site as settlement fringe and against the criteria set out in LP Policy DM20.
10. The proposed building would be a distinct addition to the site, set away from the existing built form. It would be of a reasonable scale and mass which would be added to by the associated external works and fixtures associated with the drive through. It would have few similarities to the features in the car park such as trolley storage areas which are very limited in scale. The introduction of a building into this location would extend the built form closer to the countryside. It would undermine the distinctive characteristics of the site with respect to the transition between the urban environment and the surrounding rural landscape of the Broads.
11. The shelterbelt is a positive feature in the transitional landscape which serves to limit views of the site from the surrounding landscape. At my site visit, I observed some gaps in the tree cover through which glimpses of the site could

¹ BA/2022/0002/TPO

² APP/E9505/Z/21/3276574 dismissed 26 January 2022

- be seen. While these glimpses would be of short duration, the proposed development would nonetheless be perceptible and would extend the built form closer to the surrounding countryside.
12. The Landscape Report (LR) relies considerably on the screening effect of the shelterbelt. It does not explicitly acknowledge the extent of tree felling that has been identified as necessary in the Arboricultural Report and Arboricultural Impact Assessment (AIA), or how this would alter the extent of screening provided by the shelterbelt. It also relies on mitigation planting that, for the reasons I have set out above, is not being considered as part of this appeal. I therefore cannot be satisfied that the conclusions of the LR are sufficiently robust so as to ensure that there would not be an adverse effect visually or to the landscape character of the Broads.
 13. The AIA, supplemented by the Arboricultural Method Statement (AMS) identify T9 and T10 would need to be removed to facilitate the development. There is no substantive evidence before me which demonstrates the removal of these protected trees is necessary due to their condition or any defect. While these only represent two trees in the wider shelterbelt, the AIA and AMS identify further trees to be removed for other reasons. Taken together, these would reduce the value of the shelterbelt to the landscape.
 14. The AIA and AMS also identify that it would be necessary to carry out works in the root protection areas (RPA) of a number of protected trees. These works would be extensive, including provision of services along with removal and replacement of existing areas of kerb and hardstanding. Further works are yet to be specified, although it is indicated these could be accommodated outwith the root protection zone. Although mitigation measures have been proposed, I nonetheless note the advice in BS 5837:2012 'Trees in relation to design, demolition, and construction – Recommendations' (BS 5837) that the default position should be that structures, including carriageways and service runs, are located outside the RPAs of trees to be retained.
 15. Although BS 5837 recognises that technical solutions might be available that prevent damage to the trees, it advises there should be an overriding justification for construction within the RPA. The Design and Access Statement identifies that the site layout has been driven by a desire to rejuvenate under used areas of the car park and to minimise disruption to the operation of the car park and loss of spaces. While these are logical arguments, they do not provide an over-riding justification that would outweigh the potential for harm to the protected trees, given the expansive area occupied by the car park.
 16. These trees would also be in proximity to the drive through, and this may lead to future pressure for further works to avoid conflict with the proposed development. This is also noted in BS 5837, along with the issues that may arise from seasonal nuisance. These concerns would also weigh against the proposal, albeit to a limited degree given that the Council would retain control over works through the TPO. As a result of the TPO, the Council now would have the ability to secure replacement planting. This therefore would not be a benefit of allowing the proposed development.
 17. , Details of landscaping, and further works within the RPA are often secured by condition. However, given the importance of the appeal site and the shelterbelt as part of the transition from the built environment to the open countryside of the Broads, the national importance of the Broads and the advice in paragraph

176 of the Framework that the scale and extent of development should be limited, I cannot be certain that the harms I have identified would be capable of being fully addressed. Consequently, it would not be reasonable in all other respects for me to rely on conditions in such circumstances.

18. The proposed development would therefore have an adverse effect on the landscape character of the area and on protected trees. It would be contrary to Local Plan for the Broads 2015 to 2036 adopted 2019 (LP) Policy DM20 which requires development within the settlement fringe to be sensitive to the distinctive characteristics and special quality of the Broads landscape and LP Policy DM16 which requires development to safeguard the positive visual amenity qualities of the landscape.

Other Matters

19. There would be economic benefits from the proposed development during the construction and operation stages, including local finance considerations and flexible employment opportunities. I attach moderate weight to these benefits. There is no substantive evidence before me that there is a lack of safe and welcoming facilities within Beccles therefore I attach limited weight to this benefit. These factors would not outweigh the harm to the landscape of the Broads I have identified and to which I must give great weight.

Conclusion

20. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to suggest the decision should be taken otherwise. Therefore, the appeal should be dismissed.

J Downs

INSPECTOR