



---

# Appeal Decision

Site visit made on 12 December 2023

**by A Wright BSc (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> January 2024**

---

**Appeal Ref: APP/F2605/W/23/3318175**

**All Saints Barn, Ling Road, Garboldisham, Norfolk IP22 2NJ**

- 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 Ms Cecile Roberts against the decision of Breckland Council.
- The application Ref 3PL/2022/1004/F, dated 30 September 2022, was refused by notice dated 2 November 2022.
- The development proposed is described as '1) Retrospective permission for the conversion of a former goat shed into a warden's dwelling 2) The erection of 6 pods to house former homeless adults and support their journey to independence.'

---

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. There are references to the previous use of existing buildings on the site by a charity, Fincham's Farm Turnaround Stays, accommodating and supporting adults who had been formerly homeless and those suffering from addictions and to the plan to refurbish them. Further, I note that the former goat shed has already been converted. Regardless of whether the previous use was authorised or not, I must determine the appeal on its merits based on the submitted plans and information.
3. The Council carried out a partial update of the Breckland Local Plan 2019 and adopted the Breckland Local Plan 2023 in September 2023. The effect of the partial update is that all policies in the Local Plan are up to date and the policies affecting the appeal site remain unamended. The appellant was given the opportunity to comment on this. I have determined the appeal based on the current applicable policies in the Breckland Local Plan 2023 (LP).
4. The appellant considers this appeal should be determined under paragraph 11(d) of the National Planning Policy Framework (the Framework). However, relevant policies are in place and are not out of date (the Council has just adopted a new LP), so the presumption in favour of sustainable development does not apply in this case. I have determined the appeal on this basis.
5. The fifth reason for refusal relates to insufficient information having been provided for the mitigation of the recreational impact of the development on protected sites. The appellant has submitted a Unilateral Undertaking (UU) which is signed but not dated, and I return to this issue later.

6. The Framework was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

### **Main Issues**

7. The main issues are:

- whether the location would be suitable for the proposed development, having regard to the accessibility of services and facilities and the provisions of the development plan;
- the effect of the proposal on highway safety;
- the effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings, with particular regard to noise and disturbance, and privacy; and
- the effect of the proposal on ecology.

### **Reasons**

#### *Suitability of the location*

8. The site is in an isolated rural location, accessed from Ling Road, a country lane which has no streetlights or footways. It is sited between the villages of Garboldisham and North Lopham. Garboldisham, which is over 3km away by road, has a shop, village hall, public house, and public transport connections. Located over 2km by road from the site, North Lopham has a public house, village hall and limited bus services.
9. Policy HOU09 of the LP encourages housing solutions for older residents or anyone in need of care or health support by ensuring that new specialist housing is located within a higher order settlement, amongst other things. The policy does not only apply to older people. The pods would provide temporary accommodation, housing homeless and other vulnerable adults to support their journey to independence, and the appellant considers that the tranquil setting is essential for their recovery. It is indicated that the operation would be run by a charity which supports adults in recovery from trauma, addictions, and homelessness. A warden would be based permanently at the site to provide on-going care and support to residents. Whilst no formal care would be provided, as the development would be a specialist form of housing, providing supported accommodation with a warden, Policy HOU09 is applicable.
10. The site lies in the open countryside outside a defined settlement boundary, some distance from the local service centre of Garboldisham. Therefore, the proposal would not be located within a higher order settlement and would fail to comply with Policy HOU09.
11. Policy TR01 aims to reduce the need to travel by private car in towns and villages and increase the proportion of shorter journeys made on foot or cycle. In this respect, it requires development to seek to minimise the need to travel, promote opportunities for sustainable transport modes and improve accessibility to services, amongst other things.
12. The supporting information states that there would be only one shared car and the residents would not be car owners, but there is no certainty that the future

occupiers would not have cars. It is also outlined that the residents would be provided with cycles and there is a public footpath opposite the site connecting it with North Lopham which is within walking distance. Although walking and cycling would be an option for some trips by some residents, the unlit nature of the routes, and the distance and small number of facilities in the nearest villages, particularly at North Lopham, would limit the attractiveness of these transport options, particularly for those with a disability and at times of darkness and bad weather.

13. In addition, although a flexi-bus stops at the farm twice a week, there is limited access to other bus services. Given the poor access to facilities on foot, by bike and by public transport, the proposal would generate additional car-based trips from the shared car, from residents with cars and from visitors to the site, which would conflict with Policy TR01.
14. LP Policy GEN01 outlines several national and locally distinctive sustainable development principles that will be applied. This includes facilitating developable land that seeks to provide access to homes, employment, retail, leisure and other facilities, and co-ordinating development with transport provision ensuring good access to existing community facilities, services and open space, together with new facilities and services where necessary. The location of the site in an isolated rural area some distance from villages and with no public transport links nearby means that it would not have good access to facilities and services and therefore would conflict with Policy GEN01.
15. The Framework recognises that opportunities to maximise non-car transport modes will vary between urban and rural areas, a matter which has been reflected in recent appeal decisions. However, it requires housing in rural areas to be located where it will enhance or maintain the vitality of rural communities and the location of the proposed development means that this would not be achieved. I have also found that the proposal would conflict with the Council's approach to the location of development in its area set out in the LP.
16. Overall, I conclude that the location would not be suitable for the proposed development, having regard to the accessibility of services and facilities and the provisions of the development plan. This would be contrary to Policies HOU09, GEN01 and TR01 of the LP. It would also conflict with the Framework in relation to its requirements for rural housing.

#### *Highway safety*

17. The narrow site access is over a ditch from the single-track Ling Road. There is some limited parking provision within the site but inadequate space to turn a vehicle, requiring drivers to reverse over the small access into the site or onto the lane. There is also an area in front of the buildings where cars can park next to the road, but this is not within the site boundary. Although only a snapshot in time, at my site visit, there were two cars parked in the area alongside the lane.
18. The development would accommodate six residents and a support worker and would not include any provision for additional off-street parking. Although the appellant states that a shared people carrier for communal use would be the only vehicle and there is space to accommodate this within the site, there is little evidence that future residents would not have cars. Whilst there is reference to only two or three car visits per week from practitioners and

volunteers, the proposed units would also generate visits by car from friends and relatives, and potentially others providing support services.

19. There is no record of any road traffic accidents along the lightly trafficked Ling Road in the past 23 years and the highways authority, Norfolk County Council, does not object to the proposal. However, the development would generate needs for parking. Given the limited provision of existing off-street and on-street parking and the absence of any additional proposed off-street parking, the proposal would result in additional parked cars along the lane, potentially blocking the public highway.
20. The appellant considers that a condition could be imposed to resolve the parking issue. However, it is unclear how sufficient off-street parking, access and turning arrangements could be achieved.
21. The appellant is dissatisfied that the Council did not reconsult the highway authority. Whilst this is a matter between those parties and it cannot have any bearing on my determination of this appeal, I note that the highway authority responded on the appeal, and I have taken their comments into account.
22. Consequently, I conclude that the parking, access and turning arrangements would be inadequate and harmful to highway safety. This would conflict with Policy TR02 of the LP where it requires development to provide safe access including appropriate parking and not compromise highway safety. It would also conflict with the Framework which requires development to not have an unacceptable impact on highway safety.

#### *Living conditions*

23. The site is within a tranquil countryside location. It comprises built development alongside Ling Road with some outbuildings and a large area of garden and amenity land to the rear. There is a house and associated garden at Finchams Farm and open land to the south, agricultural land to the north and west, and a dwelling on the opposite side of the lane. The mutual boundary with Finchams Farm is partly a timber boarded fence and partly a low wooden post fence, with some mature boundary trees within the grounds of the neighbouring property.
24. The proposed electrically heated pods would be sited close to the southern boundary, with some of them adjacent to the neighbouring garden and near to the dwelling at Finchams Farm. The converted goat shed for the warden would be located on the opposite side of the garden.
25. Seven additional residents living as separate households would result in significantly more activity along this part of Ling Road and in the garden than at present. There would be noise from occupiers and visitors coming and going, doors opening and closing, and talking and interactions between the residents outdoors. Given the particular circumstances of the future occupiers, this may be exacerbated by movements from supporting practitioners and interactions during supervised activities.
26. Regardless of how the development would be operated and the absence of an objection from Norfolk Constabulary, the increased activity on the appeal site would cause significant disturbance to the occupiers of Finchams Farm, making their garden and rear rooms less pleasant places to be. As the dwelling on the opposite side of Ling Road is set back some distance from the lane, the

increased activity on the appeal site would not cause harmful disturbance to the occupants of that house.

27. The appellant considers that the proposed location would reduce the risk of harm to existing residents than if it were to be sited within a settlement where more neighbours would be affected. It is also stated that some neighbours and local farmers support the proposal. However, this would not justify the harm that would be caused to the neighbouring occupiers in terms of noise and disturbance.
28. There is also reference to ambient background noise from existing agricultural operations. However, this is very different from the interactions and activities of seven households taking place on land immediately adjacent to a domestic property in a quiet rural location which would be more intrusive.
29. There are some views into the neighbouring property at Finchams Farm from the site, though these are partially obscured by the boundary fence and trees. The proposed structures would be single storey and a condition requiring suitable boundary treatments would ensure that there would be no harmful overlooking of the adjacent house and garden from occupiers of the proposed pods and from those using other parts of the appeal site.
30. Whilst the proposed development would not harm the living conditions of the occupiers of neighbouring dwellings with particular regard to privacy, I conclude that it would harm the living conditions of the occupiers of Finchams Farm with particular regard to noise and disturbance. It would be contrary to Policy COM03 of the LP where it states that development will not be permitted which causes unacceptable effects on the residential amenity of neighbouring occupants. It would also conflict with the Framework where it requires decisions to provide a high standard of amenity for existing users.

### *Ecology*

31. The appeal site is not located close to any designated ecological sites but is within the countryside. It contains trees, particularly along parts of the boundaries, a pond, and a converted barn. I also observed several other old buildings in the vicinity.
32. The appellant indicates that the proposal would not result in the loss of any trees or hedgerow. There would also be additional native tree planting and a new orchard, though limited details have been provided. The pods would be placed on an existing grassed area and there would be no groundworks. However, the proposal would result in new development in a rural area containing trees and buildings where protected species may be present. Whilst the Council did not request an ecological survey, the absence of any baseline ecological information means that the impact of the proposed development on biodiversity cannot be determined.
33. The appellant suggests that a scheme requiring biodiversity net gain could be dealt with via a condition. In the absence of a baseline ecological survey, it is not known what biodiversity currently exists or whether net gain would be achieved in accordance with LP Policy ENV02. Further, such a condition would not address the potential impact of the development on existing species and would fail to accord with the advice in ODPM Circular 06/2005. This states that it is essential that the presence or otherwise of protected species, and the

extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The Circular further advises that the need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances.

34. Consequently, I conclude that it has not been demonstrated that the proposal would not have any adverse effects on ecology. Therefore, I find conflict with Policy ENV02 of the LP where it requires all development with the potential to affect biodiversity to demonstrate how such effects have been considered. It would also conflict with those parts of the Framework which seek to protect and minimise impacts on biodiversity.

### **Other Matters**

35. The proposal would be likely to have a significant effect, either alone or in combination, on the Brecks Special Protection Area due to its location within its Zone of Influence identified in the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy (GIRAMS). Without further information, likely significant effects on the River Wensum Special Area of Conservation and the Broads Special Area of Conservation and Ramsar sites as a result of impacts on water nutrients cannot be ruled out. The appellant has provided a signed but undated UU which proposes a contribution towards measures to mitigate the impacts of the development set out in the GIRAMS and were I to find the development acceptable in all other respects I could seek further clarity in respect of water nutrients. Nevertheless, there is no need for me to undertake an appropriate assessment because the scheme is unacceptable for other reasons.
36. Although not raised as an issue by the parties, I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010 as the proposal could provide accommodation for homeless and disabled people. Article 8 of the HRA requires that decisions ensure respect for private and family life and the home. Disability is a relevant protected characteristic to which the PSED applies. These are qualified rights, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Whilst I am mindful that the proposal could house homeless and persons with protected characteristics, it has not been demonstrated that their needs cannot be met in a more accessible location, where living conditions of neighbours would not be harmed and in a way that overcomes the other drawbacks I have identified. Given the circumstances overall, I find that dismissal of the appeal is both proportionate and necessary. The protection of the public interest cannot be achieved by means that are less interfering of their rights.
37. There would be some economic benefit during the construction phase when the development would employ local tradespeople. However, given the relatively small scale of the proposal, these benefits would be limited.

## **Conclusion**

38. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

*A Wright*

INSPECTOR