



Appeal Decision

Site visit made on 21 February 2024

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2024

Appeal Ref: APP/Y2620/W/23/3321477

Land South of New Road, Baconsthorpe, Norfolk NR25 6LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mrs Susan Andrews against North Norfolk District Council.
 - The application Ref is PF/22/2224.
 - The development proposed was originally described as 'Change of use of land to provide tourist accommodation consisting of 3 x converted railway carriages, 5 x shepherds huts, 1 x air stream and 1 x accessible timber cabin, parking areas including electric vehicle charging points, bin store and solar panels.'
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mrs Susan Andrews against North Norfolk District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal is against the Local Planning Authority's (LPA's) failure to determine the planning application within the relevant statutory period. The LPA has set out the reasons on which it would have refused the proposal had it determined the application. I have had regard to these reasons in defining the main issues.
4. I have considered the appeal on the basis of the amended proposal that was before the LPA which was reduced by 2 units and so comprised of 'Change of use of land to provide tourist accommodation consisting of 3 x converted railway carriages, 3 x shepherds huts, 1 x air stream and 1 x accessible timber cabin, parking areas including electric vehicle charging points, bin store and solar panels'.
5. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. Consequently, this update to national policy does not fundamentally alter the main parties' cases or prejudice their position at appeal, and it is not necessary to seek further comments.

Main Issues

6. The main issues are:
 - (i) the effect of the proposal on European designated habitats sites;

- (ii) whether the appeal site is a suitable location for the proposal having regard to the development plan and national policy;
- (iii) the effect of the proposal on the character and appearance of the area; including landscape character and
- (iv) whether the proposal would provide safe and suitable access.

Reasons

European designated habitats sites

7. Natural England (NE) updated its advice in relation to nutrient pollution in a number of river basin catchments¹. The evidence before me indicates that appeal site sits outside but close to the catchment for the Broads Special Area of Conservation (SAC) and the Broadland RAMSAR site which are in an unfavourable condition due to excessive nutrients. The site is also within the Zones of Influences (ZoIs) of one or more of a number of habitats sites² adversely affected by recreational disturbance.
8. The Conservation of Species and Habitats Regulations 2017 (the Habitats Regulations) require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of protected habitats sites, either alone or in combination with other plans and projects within the framework of an Appropriate Assessment (AA). This responsibility falls to me in the context of this appeal. An AA must contain complete, precise and definitive findings which are capable of removing all reasonable scientific doubt as to the absence of adverse effects on the integrity of a protected site.
9. New overnight tourist accommodation has the potential to lead to an increase in additional nutrients reaching the Broads Special Area of Conservation (SAC) and the Broadland RAMSAR site due to the implications of foul and surface water drainage systems.
10. I understand that as a result of the reduction in the scheme by 2 units during the application process, that all parts of the appeal site are located outside the catchment. Even so, given the very close proximity of the catchment on neighbouring land, there remains the possibility that the development could drain into the catchment. The appellant suggests that a septic tank would serve the development. However, no detailed drainage plans are before me to demonstrate that there would be no additional nutrients draining into the catchment as a result of foul and surface water drainage systems.
11. Consequently, there is a possibility that the proposal would have a significant adverse effect on the integrity of the SAC either alone or in combination with other plans and projects. A Grampian condition requiring detailed drainage plans which demonstrate that discharge would have no implications for the adjacent catchment would effectively defer the AA to the post-decision stage. This is in direct contravention with the requirements of the Habitats

¹ Natural England - Advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites – March 2022.

² Breckland Special Protection Area (SPA), the Breckland Special Area of Conservation SAC), The Wash SPA, The Wash and North Norfolk Coast SAC, The Wash RAMSAR, the North Norfolk Coast SAC, the North Norfolk Coast SPA, the North Norfolk Coast RAMSAR, the Norfolk Valley Fens SAC, the Winterton – Horsey Dunes SAC, the Great Yarmouth North Denes SPA, the Broadland SPA, the Broadland RAMSAR, the Breydon Water SPA and the Broads SAC

Regulations for me as the competent authority to undertake the AA before granting any planning permission.

12. I have also had regard to The Levelling Up and Regeneration Act 2023 (LURA) which contains provisions which mandate decision makers as to how to treat named catchment areas which are not currently in compliance in respect of nutrient pollution, but which will be 'deemed' to be in compliance by 2030. Water Authorities are now required to upgrade their wastewater treatment works (WwTW) by 1 April 2030. However, the relevant schedule in the LURA contains a provision for a review of the list by 1 April 2024, when wastewater treatment works exemptions will be confirmed, which may affect the levels of nutrient mitigation that development must secure for specific wastewater treatment works in such catchments. As such, at this time, the planned upgrade to the WwTW in the catchment by 2030 does not alter my conclusions on the matter.
13. In the circumstances, and taking a precautionary approach, I can only conclude that the proposal has the potential to adversely affect the integrity of the Broads Special Area of Conservation (SAC) and the Broadland RAMSAR sites as a result of nutrient pollution, either alone or in combination with other plans and projects.
14. Even if I were to reach an alternative conclusion in respect of nutrient neutrality, occupiers of the tourist accommodation would also have the potential to add to the adverse effects resulting from recreational disturbance to the habitats sites identified above.
15. The Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy (GIRAMS) (March 2021) sets out a Recreational Avoidance Mitigation (RAM) tariff which should allow a conclusion through an AA that a development will not have any adverse impact on the integrity of the habitats site as a result of increased recreation usage. The LPA has calculated that a RAMS tariff of £702.10 is required in line with the GIRAMS and this has not been disputed. The appropriate mechanism to secure payment of the tariff would be through a legal obligation. However, this has not been addressed by the appellant. Therefore, I can only conclude that the development has the potential to have significant adverse impacts on the integrity of designated habitats sites as a result of recreational disturbance.
16. I conclude, the proposal has the potential to adversely affect the integrity of European designated sites and I am not in a position to ensure this would be suitably mitigated. In the circumstances, there is the potential that the proposal would conflict with Policies SS 4 (Environment), EN 9 (Biodiversity and Geology) and EN 13 (Pollution and Hazard Prevention and Minimisation) of the North Norfolk Core Strategy (2008) (CS) which seek to ensure the protection and enhancement of natural environmental assets, to prevent pollution and which confirm that proposals which would cause direct or indirect adverse effects to designated areas will not be permitted. For the same reasons the proposal would also conflict with the nature conservation requirements of the Framework and the Habitats Regulations.

Location

17. Policy SS 1 (Spatial Strategy for North Norfolk) confirms that the majority of new development in North Norfolk will take place in the district's towns and

larger villages. It also confirms that a small amount of new development will be focused on a number of designated Service Villages and Coastal Service Villages to support rural sustainability. The rest of North Norfolk, including where the appeal site is located, is designated as countryside where development will be restricted to particular types of development to support the rural economy, meet affordable housing needs and provide renewable energy.

18. Policy SS 2 (Development in the Countryside) of the CS confirms that in areas designated as countryside, development will be limited to that which requires a rural location and is for one or more of specified development types. The development types listed include recreation and tourism.
19. Policy EC 7 (The Location of New Tourism Development) of the CS confirms that new tourist accommodation and attractions should be located in accordance with a sequential approach.
20. The first step in the sequential approach confirms that proposals for new build tourist accommodation and attractions should be located within the Principal and Secondary Settlements. The appellant's Sequential Test Assessment (March 2023) (STA) confirms that, without applying any specific criteria, only one alternative site was available within, or at the edge of Principal and Secondary settlements across North Norfolk. It then suggests that the site was discounted when applying the site selection criteria in the STA due to being 'Edge of roundabout commercial/residential area, noise, unsuitable for holiday use'.
21. However, the conclusions of the STA indicate that the main reasons that there are no suitable or available parcels of land in Primary or Secondary settlements is mainly a lack of available land with a sufficient site area to accommodate 12 holiday units. This is more than the quantum of units proposed and the inconsistencies in the STA casts doubt as to the reliability of the findings within it.
22. Even if I were to accept that there are no sites within Principal and Secondary Settlements, the STA does not indicate that any deeper search was undertaken. The supporting text to Policy EC 7 confirms that within the service villages and the countryside proposals should first look to re-use of existing buildings and extensions to existing businesses in order to protect the countryside from development that could erode the character of the area. No evidence is provided within the STA to suggest that employment areas, re-use of buildings in the countryside or extensions to existing businesses were considered and therefore this part of the sequential test has not been addressed.
23. In the absence of a more meaningful search of potential sites it has not been demonstrated that there are no sequentially preferable sites or that there are no suitable buildings for re-use and that a rural location is necessary. Therefore, the final criteria in the sequential approach under Policy EC 7 cannot be met. The failure to meet the locational requirements of the development plan is compounded by my conclusions under the fourth main issue that the site does not provide safe and suitable access including good links to the Principal and Secondary settlements.

24. I conclude, the appeal site is not an appropriate location for the proposal having regard to the strategic objectives of the development plan and the sustainable tourism requirements of the Framework.

Character and appearance, including landscape character

25. The appeal site is a field bound by mature trees and hedgerows. Its immediate surrounds are consistent with some of the defining characteristics of the 'Tributary Farmland' Landscape Character Type (LCT) in the North Norfolk Landscape Character Assessment (2021) (LCA). More particularly, it sits within a landscape of generally open and undulating rural farmland with minor settlements nearby. New Road is a single-track lane which is flanked by steep sided banks and hedgerow. Overall, these factors give the site and its immediate surroundings a distinctly rural character and appearance.
26. While there is no suggestion from the main parties that the proposed change of use of the land has commenced, some of the proposed units of accommodation had been placed on the appeal site at the time of my site visit. This included amongst other things the 'air stream' trailer, with its polished metal bodywork, and train carriages. I was able to see that even accounting for the established trees and hedgerows, both at the site and within the surrounding landscape, their presence within the appeal site is highly prominent. This is evident both in close up views along New Road as well as at greater distance including from close to the properties at Stonefield and from the junction of New Road and Marlpit Lane.
27. My observations on site indicate to me that if all the proposed units were in situ in their proposed positions, their position amongst surrounding open land together with their varying aesthetics would appear discordant with the prevailing rural and natural appearance of their surrounds. New planting is indicated on the proposed layout plan, and a detailed landscaping scheme could be conditioned. However, any new planting would be likely to take a significant period to fully establish and the initial effects following completion of the development would appear particularly stark. Even in the longer term, due to the undulating topography of the surroundings, it is unlikely that the planting would ensure that the proposals would acceptably harmonise with their surroundings.
28. Furthermore, a picnic/play area is proposed and the appellant has confirmed that this would include swings, slides, football posts, basketball rings, a baseball diamond and croque sets. Together with the close location of this area to the roadside, any such structures would appear incongruous with the rural setting and would add to the harmful visual impacts of the proposal.
29. The appellant contends that the units would have a limited degree of permanence given that that could be removed from the site if necessary. However, there is no indication that the proposed accommodation would be moved periodically. Therefore, the harm identified would be likely to be enduring.
30. I conclude, the proposal would have a harmful effect on the character and appearance of the area, including its landscape. In that regard it would conflict with the design, local context and landscape character requirements of Policies EN 2 (Protection and Enhancement of Landscape and Settlement Character) and EN 4 (Design) of the CS. For the same reasons, the proposal also conflicts

with Paragraph 88 c) of the Framework which confirms that rural tourism developments are required to respect the character of the countryside.

Whether the proposal would provide safe and suitable access

31. Paragraph 114 of the Framework confirms that in assessing specific applications for development, it should be ensured that safe and suitable access can be achieved to the site for all users.
32. The site is accessed from New Road which is a single-track lane. It is bordered by steep banks and hedgerows for substantial parts of its length. As observed by the Highway Authority (HA), other approach roads to the site from the A148 Holt Road, are also predominantly of single carriageway with limited unmade passing places along their length and in some cases visibility constraints. I saw for myself that due to the general absence of pedestrian facilities on these roads, anyone walking or cycling on these roads are required to share the carriageway with motor vehicles.
33. The evidence before me indicates that the nearest meaningful services and facilities are located at Holt and Sheringham and that there is not a regular bus service in close proximity to the site. Given the distances involved and the lack of pedestrian, wheelchair and cycle facilities, it is likely that the majority of trips would be undertaken by private motor vehicle. The HA suggests that the proposal would have the propensity to generate 30 daily vehicular movements and there is no detailed evidence before me to demonstrate otherwise.
34. The proposal's poor accessibility credentials and the limitations of the local road network identified, indicate that the likely increases in vehicular traffic associated with the proposal would have the potential to increase risk and inconvenience for road users in the area. This would be particularly the case on New Road and other roads between the A148 Holt Road and the appeal site. This also further indicates that the appeal site is not a suitable location for the development.
35. I conclude that safe and suitable access would not be provided. In that regard, the proposal would conflict with Policy CT 5 (The Transport Impact of New Development) of the CS which requires that proposals provide for safe and convenient access on foot, cycle, public and private transport addressing the needs of all, including those with a disability.

Other Matters

36. My attention has been drawn to other tourism accommodation development granted planning permission nearby at 'Soul of Norfolk'³ and Baconsthorpe Meadows Campsite⁴. Those particular proposals related to tipi and tent accommodation and so are unlikely to be comparable in visual terms. Furthermore, I have not been provided with the officer reports relating to those particular applications and so I am not aware of all the material considerations in those particular instances. However, the appellant suggests that at 'Soul of Norfolk' the limited scale, seasonal occupancy conditions and the economic benefits in that case outweighed any harm. Even so, I have assessed the appeal scheme on its own merits and do not find that there are material considerations in this instance which suggest a decision should be made other

³ LPA Ref PF/16/1658

⁴ LPA Ref PF/18/1921

than in accordance with the development plan which, for the reasons set out, the proposal would clearly conflict.

37. There is no detailed evidence before me to suggest that there is unmet demand for tourist accommodation at this particular rural location, including but not limited to during the Christmas period or due to interest in heritage railways in Norfolk. Furthermore, the support of the LPA's Business Development Officer in respect of there being potential economic benefits is generalised and does not on its own demonstrate why the development is necessary in this rural location.
38. The appellant suggests they have planted 200 trees and hedges across the site and that nest boxes for birds including owls and 'hedgehog highways' will be incorporated. However, no detailed plans in respect of supplementary landscaping and biodiversity features are before me. While I accept that a condition could secure this, any biodiversity benefits have not been quantified and are unlikely to be of a substantial magnitude. Any renewable energy benefits derived from the proposed solar panels, including any excess energy provided to the grid, have also not been quantified and in any case do not overcome my overall sustainability concerns.
39. The imposition of conditions to ensure the development would only be occupied as holiday accommodation would not overcome the harm identified under the main issues. Whether or not there would be a temporary need for a static caravan on the site and two storage containers has not been material to my conclusions on the development specifically applied for.
40. The LPA has brought it to my attention that it is currently updating Conservation Area Appraisals across the District. However, even if there is a proposal to extend the boundary of the Glaven Valley Conservation Area such that it would face the site, I am not aware that this has been formerly adopted by the LPA. In any case, given as I am dismissing the appeal for other reasons, it has not been necessary to consider this matter any further.

Conclusion

41. The proposal has the potential to adversely affect the integrity of European designated sites and I am not in a position to ensure this would be suitably mitigated. I have also found that the appeal site is not an appropriate location for the development having regard to the sustainable tourism objectives of development plan and the Framework. I have also found that the proposal would be harmful to the character and appearance of the area and that safe and suitable access would not be provided.
42. The other material considerations that have been advanced do not justify a decision other than in accordance with the development plan which, in terms of my conclusions under the main issues, the appeal scheme would clearly conflict. Therefore, for the reasons set out, I conclude that this appeal should be dismissed.

M Russell

INSPECTOR