



Appeal Decision

Site visit made on 15 January 2024

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 12th April 2024

Appeal Ref: APP/L2630/W/23/3324375

Fox Lodge, Mill Lane, Brooke, Norfolk NR15 1EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Gary Mitchell against the decision of South Norfolk District Council.
 - The application Ref 2022/2410, dated 21 December 2022, was refused by notice dated 6 April 2023.
 - The development proposed is the conversion and extension of two buildings to form 1 no. dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for the conversion and extension of two buildings to form 1 no. dwelling at Fox Lodge, Mill Lane, Brooke, Norfolk NR15 1EX in accordance with the terms of the application, Ref 2022/2410, dated 21 December 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework (the Framework) on 19 December 2023. Both main parties have had the opportunity to comment on the implications of this for the appeal and I have taken it into account in coming to my decision.
3. Although not included as a reason for refusal by the Council, I have included the effect of the proposal on the integrity of various European designated habitat sites as a main issue. The appellant has submitted a signed planning obligation which provides for a contribution towards ecological mitigation, and I have considered this, later in my decision.
4. My attention has been drawn to an extant planning permission at the appeal site¹ which has been put forward as a fallback position. The fallback and the appeal scheme would appear largely the same with the main difference being occupation. The fallback scheme would provide two holiday rentals while the appeal before me would have unrestricted residential use. I am satisfied that if the appeal proposal were dismissed, there is a reasonable prospect that such a fallback position would be implemented. As such I have considered it as part of my decision.

¹ Application Reference: 2023/2637

Main Issues

5. The main issues are:

- whether the appeal site would be a suitable location for the proposed development, having regard to local and national policy.
- the effect of the development on the integrity of European Designated Habitat Sites.

Reasons

Location

6. The area is rural, characterised by low-density scattered properties surrounded by agricultural fields. The appeal site comprises a group of outbuildings and a large area of land, associated with Fox Lodge.
7. Policy DM1.3 of the South Norfolk Local Plan Development Management Policies Document (October 2015) (DMPD) outlines the spatial strategy for development within the area; focusing development within the defined boundaries of settlements. However, support is provided for development within the countryside subject to certain criteria. Although the parties agree that the proposal would not meet the requirements of Policy DM1.3 c), Policy DM1.3 d) allows for development within the countryside where the proposal demonstrates overriding benefits in terms of social, environmental, and economic objectives.
8. Whilst I note the significant work that is taking place to alleviate the current impacts of nutrient neutrality on the housing land supply and that the Council asserts that the lack of supply will be short-lived, they are unable to demonstrate a sufficient housing land supply or to outline the extent of the shortfall. The proposal would re-use a redundant building to provide an additional dwelling that would contribute to the districts housing supply in the short term. This is a significant social benefit.
9. Although the Framework seeks to conserve and enhance the natural environment, due to the limited scale of the proposed enhancements there would be a negligible effect on wildlife in the area. Nonetheless, ecological enhancements such as bird and bat boxes would be installed and would be a limited benefit.
10. Short term employment would be provided during the construction and in the long term the future occupiers would benefit the local economy and community by helping to sustain the vitality and viability of the surrounding settlements as well as contributing to Council tax. These economic contributions would be a modest benefit.
11. Overall, particularly at the current time where a sufficient supply of housing land cannot be established, when combined together, the proposal demonstrates overriding benefits in terms of social, environmental, and economic objectives.
12. In addition, DMPD Policy 3.10 and Policies 1, 2 and 6 of the Joint Core Strategy for Broadland, Norwich, and South Norfolk (January 2014) (JCS) require development to be concentrated close to services, in order to minimise the need to travel and promote sustainable modes of transport. Although the

proposed dwelling would be located approximately 1 mile south of Brooke, it would not be isolated as defined within the Framework. Brooke is categorised as a Service Village and provides a wide range of services, including a primary school, a farm shop/butchers, a garage/petrol station, and a pub. Further, there are regular bus services from Brooke to Poringland and Norwich.

13. I acknowledge that, pedestrian and cycle access to the village are not ideal and that the future occupiers would likely have a higher dependency on private motor vehicles for their day-to-day activities. However, JCS Policy 6 clearly recognises the importance of private cars within rural areas. Given the proximity of Brooke and other larger towns with ample services and employment opportunities, these journeys would not contribute significantly to an increased reliance on private motor vehicles within the district. Moreover, evidence has been provided which indicates that the number of two-way trips generated by the appeal scheme would be equivalent to the number of trips generated by the fallback position.
14. Consequently, I conclude that the proposal would be a suitable location for the proposed development, having regard to local and national policy. The proposal would accord with Policies DM1.3 and DM3.10 of the DMPD and Policies 1, 2 and 6 as set out above. Similarly, the proposal would accord with DMPD Policy DM1.1 which supports development that improves the social, environmental, and economic objectives of South Norfolk, through the application of sustainable development principles. There would also be no conflict with the Framework which supports rural housing that would not be isolated and would support local services.

European designated sites

15. The appeal scheme proposes dwellings on a site that lies within the Broads, Valley Fens, and East Coast Zones of Influence (ZoI) as set out within The Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy 2021 (GIRAMS).
16. These ZoI encompass numerous SPAs, SACs and Ramsar Sites², with varied qualifying features which can be summarised as including a variety of designated land, aquatic, coastal and other habitats that host a rich array of flora and fauna, including protected and important flora, invertebrates, mammals and amphibians, and over-wintering, migratory, breeding rare or vulnerable birds and internationally important assemblages.
17. The conservation objectives can be summarised as to maintain or restore the integrity of the sites by maintaining or restoring the extent, distribution, structure, function and supporting processes of the qualifying natural habitats and the habitats of the qualifying features and species, the population of the qualifying features, and the distribution of the qualifying features and species within the sites.
18. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant

² the Norfolk Valley Fens Special Area of Conservation (SAC), the Winterton - Horsey Dunes SAC, the Great Yarmouth North Denes Special Protection Area (SPA), the Broadland SPA, the Broadland Ramsar, the Breydon Water SPA and the Broads SAC.

adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of these sites. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.

19. The GIRAMS states that an increase in recreational pressure on these sites is predicted to be linked with planned new residential development across multiple local authorities. Whilst the number of additional recreational visitors associated with each individual dwelling may be limited, in combination the planned level of residential development would have significant effects on the designated sites.
20. The appeal site is within ZoI where planned new residential development is likely to result in significant recreational pressure, which would have a likely significant effect on the interest features of the aforementioned sites. Therefore, I consider that the development would be likely to have an adverse effect on the integrity of the sites.
21. The GIRAMS sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication, and monitoring, and have been endorsed by Natural England, I am satisfied that the measures would adequately mitigate any adverse effects of the proposal on the identified sites.
22. The appellant has submitted a planning obligation for a contribution of £1303.46 towards green infrastructure and £185.93 towards recreational impact avoidance and mitigation. Given the evidence before me I am satisfied that the mitigation measures have been secured and would be used for their intended purpose.
23. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the aforementioned sites, and I have taken account of the obligation in my considerations.

Conditions

24. I have considered the conditions put forward by the Council against the Framework and where necessary I have amended the wording in the interests of effectiveness and precision.
25. Aside from the statutory condition required to set the necessary time limit for development [1], a condition is required to indicate the approved plans to provide certainty [2].
26. A condition is required to ensure the parking area is in place prior to occupation so as not to effect highway safety [3]. A condition is required to ensure compliance with best practice ecological recommendations made within the submitted report and ensure that adequate ecological enhancements are made in order to enhance biodiversity [4]. Similarly, a condition restricting external lighting is required to safeguard the sites ecology [5].

27. JCS Policy 3 requires higher water efficiency standards in residential development than the Building Regulations in response to the challenging local circumstances on water supply in the area, therefore a condition on water efficiency is necessary and reasonable [6]. To ensure the development is adequately drained and to prevent pollution, a condition requiring a Package treatment plant for foul water disposal is necessary [7]. In the interests of the health and safety of the future occupiers, a watching contamination condition is required [8].
28. While Planning Practice Guidance states that conditions restricting the future use of permitted development rights often do not pass the test of reasonableness or necessity, given the rural location, in this instance, I am satisfied that it is necessary to prevent future enlargements, improvements or alterations and means of enclosure, in order to safeguard the rural character of the area [9,10].

Conclusion

29. For the reasons given above, I conclude that the proposal would accord with the development plan as a whole and the Framework, and therefore the appeal is allowed.

K Allen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 1568/01 Rev B Survey Plans and Views
 - 1568/02 Rev A Survey Elevations
 - 1568/03 Rev A Proposed Plans and Views
 - 1568/04 Proposed Elevations
- 3) Prior to first occupation of the development hereby permitted, the parking and turning areas shown on drawing 1568/03 Rev A shall be laid out, levelled, surfaced, and drained and thereafter retained as such for that specific use.
- 4) Prior to first occupation of the development hereby permitted, details of the bird and bat box enhancement measures, in accordance with recommendations contained within the Preliminary Roost Assessment Report, prepared by Riverdale Ecology, dated December 2022, shall be submitted to, and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, and thereafter be retained.
- 5) No external lighting shall be erected until a scheme detailing the design, location, orientation, and level of illuminance has been submitted to and

approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, and thereafter be retained.

- 6) Prior to first occupation of the development hereby permitted, measures to ensure a water efficiency standard of 105 litres (or less) per person per day shall be incorporated and be available for immediate use. The measures shall thereafter be retained.
- 7) Prior to first occupation of the development hereby permitted, the foul water disposal system indicated on the application form shall be installed and be available for immediate use. The system shall thereafter be retained.
- 8) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or any amending Order, the enlargement, improvement, or other alteration of the dwellinghouse or buildings etc incidental to the enjoyment of the dwellinghouse as described in Schedule 2, Part 1, Classes A, B, C, D and E of the Order shall not be undertaken without the prior written permission of the local planning authority.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or any amending Order, no fences, gates, walls or other means of enclosure as described in Schedule 2, Part 1, Class A of the Order shall be erected without the prior written permission of the local planning authority.

*****End of Conditions*****