



Appeal Decision

Hearing held on 24 April 2024

Site visit made on 24 April 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2024

Appeal Ref: APP/F2605/W/23/3333556

Barn at Station Road, Great Fransham NR19 2JE

- 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 Sharpin of R J Sharpin against the decision of Breckland Council.
 - The application Ref is 3PL/2023/0320/F.
 - The development proposed is the erection of 1no. rural workers dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023 the Government published a revised National Planning Policy Framework (the Framework). Although some paragraph numbers have changed, the revisions do not relate to matters that are fundamental to the main issues in this appeal.

Background and Main Issues

3. The appeal site comprises a parcel of land containing two existing agricultural buildings, together with a partially completed building.
4. A planning application for the conversion of an agricultural barn to a single-storey four bedroom dwelling was permitted at the site previously under reference 3PL/2021/0078/F. This was varied under reference 3PL/2021/0860/VAR.
5. During the course of construction, part of the original building collapsed. A revised application was subsequently submitted seeking permission for a rural workers' dwelling. That scheme was refused on two grounds and is now the subject of this appeal.
6. Detailed trading and profit and loss accounts have been provided for the years ending 31 March 2022 and 31 March 2023. In addition, the 2021 figures are visible, in part, on the 2022 accounts. Although there was a concern relating to this in the officer's report, it was confirmed at the Hearing that the Council now does not dispute those records.

7. The main issues are:

- whether or not there is an essential functional need for a rural worker to live on the site; and
- the effect of the proposed development on the integrity of protected habitats including at the River Wensum Special Area of Conservation (SAC) and The Broads Special Area of Conservation (SAC).

Reasons

Essential need

8. The proposed dwelling is a single-storey four-bedroom unit. It would be positioned close to the two existing agricultural buildings on the site.
9. The appellant farms 725 acres of agricultural land in the area, all of which is owned by the appellant. This land is scattered across the surrounding area with parcels of land comprising approximately 48 and 16 acres positioned directly adjacent to the appeal site. The appellant estimated at the Hearing that approximately 60% of the total land holdings are located near to the appeal site, scattered across several local villages.
10. Most of the enterprise's operations are carried out 'in-house' and on a full-time basis by the appellant. The appellant's father works only on a part-time basis and is seeking retirement. Activities include spraying, harvesting, the maintenance of land and the care of livestock. The appellant predominantly grows oilseed rape, wheat, barley, beans, oats and sugar beet.
11. Based on the evidence before me, the main need for someone to be on site relates to a) the care of livestock; b) the security of the site; and c) succession planning for the farm business.
12. In respect of the livestock, 15 calves are kept on the holding. During my site visit, I noted that some of those calves were accommodated at the appeal site. Although I appreciate that the appellant has plans to grow the business, including in respect of livestock, the current 15 calves nevertheless comprise a relatively low number. I am also in no doubt that the calves would need daily attention, including feeding. However, it is not uncommon for cattle to be accommodated and grazed in locations which do not have a residential occupant close to them. Moreover, I have not been presented with any evidence that would demonstrate an essential need for someone to live permanently (overnight and year round) on site for welfare reasons.
13. The appellant argues that there is a need for someone to be on site at all times for security reasons. In particular, for the security of the machinery and equipment stored there. At present, only the enterprise's less valuable machinery is stored on the site. Other machinery is stored at the appellant's father's farm. The appellant confirmed at the Hearing that incidents are broadly avoided due to these precautions. Nevertheless, there is no evidence before me of any specific incidents that have occurred at the holding. The appellant also set out that although CCTV has been used at the site, this is not a deterrent. Be that as it may, the evidence before me does not demonstrate that all alternative security options have been fully explored.

14. In respect of succession planning, the appellant currently lives with his family some 20 miles away from the site, having formerly lived at his father's house, a few miles away from the site. The appellant's father remains at his home. Although the appellant argues that there are no other existing buildings across the area that could be used for accommodation in-lieu of the appeal site, limited details of the area of search and no details of the area of the appellants holdings have been provided, nor whether there are buildings across the appellants land that could be converted.
15. It has been put to me that the core of the farm has been set up at the appeal site, it is where the farm's borehole is located and that is where the farming operation would expand in the future. The appellant sets out that this has been demonstrated by the site's planning history, with permissions for farm-related buildings. It was explained that the appeal site forms the most central and most efficient part of the enterprise, in part minimising the need for agricultural vehicles to use nearby roads, and for chemical deliveries to be taken elsewhere on the holding and later transferred. However, these arguments seem to me to relate to convenience over essential need.
16. Overall, based on the evidence presented to me, it has not been adequately demonstrated that there is an essential need for a dwelling to accommodate a rural worker at the appeal site. Consequently, the proposed development would conflict with the relevant provisions of Policy HOU 13 of the Breckland Local Plan (LP, 2023). This policy sets out instances where permanent dwellings in the countryside for rural workers will be supported, including where it can be demonstrated that there is an essential functional need for a full-time worker to be resident on-site at most times and that there is no other accommodation within the site, holding or surrounding area which is currently suitable and available, or which could be made available for such accommodation. This is in a similar vein to the objectives of paragraph 84 of the Framework and the Planning Practice Guidance insofar as the development of isolated homes is concerned.

Protected habitats sites

17. The appeal site is located within the Nutrient Neutrality Impact Zone for the River Wensum SAC and The Broads SAC.
18. Regulation 63 of the Regulations prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of these protected sites. I am the competent authority for the purposes of this appeal.
19. Natural England has advised that new development within the catchment of these habitats comprising overnight accommodation has the potential to cause adverse impacts with regard to nutrient pollution. This includes new homes.
20. The Council has set out that, at present, there are no identified mitigation solutions available locally to resolve these impacts. Nevertheless, a nutrient budget calculation, and mitigation strategy in line with Natural England's guidance to Local Authorities dated 16th March 2022 should be provided. The appellant has not provided these. Although, at the Hearing, they did offer to subsequently provide such information, the appeal should be determined on the evidence already before me.

21. The appellant sets out that the site lies on the western extreme of the catchment area. Moreover, it is set out that foul sewage could connect to an out-of-catchment network or that a sewage treatment plant/septic tank could be installed. The appellant has proposed a condition to deal with this matter. The appellant also sets out that the previously approved conversion at the site was prior to the requirements for nutrient neutrality.
22. However, in order for an Appropriate Assessment (AA) to conclude that there are no likely significant effects on the protected sites, I must be entirely satisfied that the development could achieve nutrient neutrality. Based on the limited information before me, I cannot reasonably rule out that the proposed methods of sewage disposal would mean the development would not have any likely significant effect on the important features of the protected site, alone or in combination with other plans and projects.
23. I have considered whether a condition could be imposed to ensure that within a specific timeframe a site specific scheme or a planning obligation is entered into to ensure there is mitigation on site. However, as the appellant has not provided any detail on the levels of nutrients from the development, I am unable to determine what mitigation would be appropriate to achieve nutrient neutrality. Furthermore, as there is no mitigation scheme in place, or close to being finalised, there is insufficient assurance that measures could be secured to achieve nutrient neutrality within an appropriate time period.
24. Moreover, a condition would not be sufficient to enforce that wastewater from the treatment plant (off site) is discharged outside the catchment by a third party. Such a condition would not pass the test of being enforceable, as set out in the Framework.
25. Although I note the previously approved scheme, the site has not been occupied for residential purposes previously and there are currently no facilities on site to deal with wastewater. Accordingly, the site would undoubtedly give rise to a net increase in wastewater, which, uncontrolled, could enter the catchment area.
26. Having regard to the precautionary approach promoted by the Habitats Regulations, and based on the evidence provided, I must conclude that the development would have a likely significant effect on the conservation objectives of the SACs. No mitigation has been proposed, or can be secured, that would achieve nutrient neutrality. I am therefore unable to rule out the possibility that the development, either alone or in combination with other development, would have an adverse effect on the integrity of the protected sites and protected species. No alternative solution, overriding public interest, or compensatory measures have been put forward. Consequently, having regard to the Habitats Regulations, permission must not be granted.
27. The development also conflicts with LP Policy ENV02, which opposes development that would have an adverse effect on the integrity of protected sites. This is in a similar vein to the objectives of paragraph 186 of the Framework which seeks to avoid development proposals if significant harm to biodiversity cannot be avoided, mitigated, or as a last resort, compensated for then planning permission should be refused.

Other Matters

28. My attention is drawn to planning permissions for rural workers dwellings within the wider area. The appellant contends that these permissions were subject to a lower threshold for functional need than the appeal scheme. Whilst acknowledged, those cases are situated on different sites and relate to different types of development (including a fishery, a live-in warden and a stock of birds). The circumstances that applied to those other cases, and the planning balance there, are not directly comparable to those before me.
29. I acknowledge the submitted Unilateral Undertaking in respect of measures to mitigate the impacts of the development on the Norfolk Green Infrastructure and Recreational Impact Avoidance Mitigation Strategy (2021). However, as the appeal is dismissed, there is no requirement upon me to consider this planning obligation any further.

Conclusion

30. For the reasons above and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jonny Rankin – Agent

Duncan Sharpin – Appellant

Roger Sharpin – Appellant's father

FOR THE COUNCIL:

Rebecca Collins – Head of Development Management

Chris Fitzgerald – Technical Support Officer

DOCUMENTS SUBMITTED AT THE HEARING

Information pertaining to the total labour requirement for the enterprise (the equivalent of 1.7 full time workers).