



Appeal Decision

Site visit made on 14 May 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 June 2024

Appeal Ref: APP/F2605/W/23/3331722

Land south of Kenninghall Road, Banham, Attleborough NR16 2HB

- 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 James Bunn on behalf of J Bunn Homes (Blakeney) Limited against the decision of Breckland Council.
 - The application Ref is 3PL/2023/0673/F.
 - The development proposed is retention of soil stockpiles for a temporary period.
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Decision

1. The appeal is allowed and planning permission is granted for retention of soil stockpiles for a temporary period at land south of Kenninghall Road, Banham, Attleborough NR16 2HB in accordance with the terms of the application, Ref 3PL/2023/0673/F, and the plans submitted with it, numbered *Site Location Plan JBBA-CF-ZZ-XX-DR-A-0500 P1*; *Site Layout Plan 20.04.2023*; *Section Drawings 20.04.2023*; and subject to the following condition:
 - 1) The development is permitted for a temporary period expiring one year from the date of this permission, after which the soil heaps hereby approved shall be removed and the land reinstated to a level which is the same as the pre-existing site levels or otherwise in accordance with details that have first been submitted and approved in writing by the local planning authority.

Preliminary Matters

2. The proposal relates to six soil stockpiles created during archaeological investigation works required in connection with a planning application for major housing development. The stockpiles were in situ at the time of my site visit. The Council's reasons for refusal relate to soil stockpile no 4. Consequently, in my reasoning I have focussed principally on the effects of stockpile 4.
3. The Council has undertaken a single policy partial update of the Breckland Local Plan 2019. Whilst there has been no change to the policies relevant to the determination of this appeal, in my decision I have referred to the policies of the Breckland Local Plan 2023 (LP).

Main Issues

4. The main issues in this appeal are the effect of the proposed development on:
 - The character and appearance of the area;
 - The living conditions of the occupants of Maybrook Barn, with particular regard to outlook; and

- Whether other considerations exist which outweigh any conflict with the development plan.

Reasons

Character and appearance

5. The site is a relatively flat, open area of grassland, elevated above the public highway to the north and falling gently to the south and east. The side boundary of the site abuts the boundaries of dwellings along Wash Lane, and a row of dwellings is situated opposite the site's frontage at Kenninghall Road. The appeal site adjoins the built area of the village.
6. The site is bound by hedging and trees along its side and rear boundaries, and the vegetated bank along the site's frontage partly obscures views into the site from the public highway. The area therefore has a verdant, rural character with a generally flat topography.
7. Stockpile 4 is situated in the southeast corner of the site adjacent to the site's boundary with Wash Lane, a narrow track with an unmade surface which serves as an access to dwellings situated along its length, and therefore experiences low traffic volumes. Wash Lane is a public right of way providing access to the countryside, and therefore is likely to be used by pedestrians.
8. Travelling south along Wash Lane, stockpile 4 is screened from view by dense boundary vegetation. Looking north along Wash Lane, stockpile 4 is generally obscured from view by a dwelling, Maybrook Barn, but is visible through its open driveway access. Views of stockpile 4 are therefore highly localised.
9. Maybrook Barn is single storey height with a pitched roof. Due to its large height and mass, stockpile 4 appears imposing when viewed within the context of the modest height of Maybrook Barn.
10. The stockpiles are intended to be short-term in their siting and are not uncommon when archaeological digs are required. Stockpile 4 is unusual due to its height and the length of time it has existed on the site. Vegetation has established on the stockpile which helps the stockpile assimilate into the surrounding vegetated landscape. However, the steep-sided form and height of stockpile 4 appears out of context with the natural landform of the site.
11. As set out above, stockpile 4 is not visually prominent in the landscape since its visual impacts are confined to a small area and would be experienced by relatively low volumes of passing traffic and pedestrians. Vegetation helps the stockpile blend in with its surroundings. However, the stockpile appears out of keeping with the natural landform of the landscape and the scale of the adjacent dwelling. Whilst the stockpile is intended to be a temporary feature, the harm has nonetheless occurred. Through its height, scale, form, and siting, stockpile 4 therefore harms the character and appearance of the area.
12. The proposal conflicts with LP Policies COM01 and GEN02 which together require proposals achieve high landscape design quality, and respect and be sensitive to the character, integrating to a high degree of compatibility.

Living conditions

13. Maybrook Barn is separated from the stockpile by a modest area of side garden. At the side elevation of Maybrook Barn, windows and doors face the stockpile. The windows serve a guest bedroom, bathroom, and dressing room. As discussed above, the height and mass of stockpile 4 is out of keeping with the scale of the dwelling. Consequently, the stockpile appears overbearing from the side garden and rooms with clear-glazed windows at the side elevation.
14. As perceived from the dwelling, the visual impacts of stockpile 4 are limited to the side garden and side elevation rooms, and therefore the stockpile does not affect outlook from the main front and rear elevations. Whilst such adverse impacts are relatively modest, the stockpile nonetheless harms outlook and thus the living conditions of the occupants of Maybrook Barn.
15. The proposal therefore conflicts with LP Policy COM03 which prevents development which causes unacceptable effects on residential amenity of neighbouring occupants, including through overbearing impact and visual dominance.

Other considerations

16. The stockpiles were created during archaeological works in connection with a planning application for the erection of 43 dwellings¹. The stockpiles are temporary features pending the development of the site for housing.
17. Determination of the planning application for housing development was delayed resulting in the stockpiles remaining in situ longer than anticipated. However, during the appeal, the Council resolved to grant planning permission subject to the completion of a s106 legal agreement. The planning status of the site has materially changed since the Council issued its decision and there is now a realistic prospect planning permission will be granted and the site be developed in the short to medium term.
18. The location presently occupied by stockpile 4 is intended to provide an area of public open space as part of the housing development. The proposal seeks temporary planning permission since the future construction works would necessitate the re-use or removal of stockpiled soil.
19. If I were to dismiss the appeal, this would require the appellant to backfill the archaeological excavations or remove the soil stockpiles from the site. Increased handling of the soil risks harm to its structure, resulting in poorer stability and drainage capacity. In addition, if the stockpiles were removed, this would prevent the soil resources from being utilised within the development. This would be counter to the National Planning Policy Framework's (the Framework) environmental objective of sustainable development which supports the prudent use of natural resources.
20. Furthermore, if the archaeological trenches are backfilled, much of the material would need to be dug out again as part of the construction of foundations. This would result in increased workload for heavy machinery and HGVs. It is estimated that backfilling and compacting of soil would require an excavator and two dump trucks operating for two weeks, which would use large volumes

¹ LPA ref: 3PL/2022/0972/F

of diesel with associated emissions, disturbance to neighbouring dwellings, and increased traffic movements on local roads.

21. Paragraph 108 d) of the Framework advises that the environmental impacts of traffic should be identified, assessed, and taken into account, including appropriate opportunities for avoiding any adverse effect. Backfilling or removal of the soil stockpiles would therefore represent an inefficient use of resources at odds with the Framework.

Other Matters

22. Grade II listed building, Wash Farmhouse, is located south-east of the site. The building is an early 17th century, two-storey timber-framed farmhouse, which has been refaced in brick, with corrugated tiles and a chimney at the roof ridge with four octagonal shafts. The building's significance is therefore derived from its architectural and historic interest. Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('the LBCA Act') requires I pay special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. The building is screened from view from the appeal site by tall, dense boundary vegetation and adjacent buildings. Therefore, the siting of the stockpiles does not harm, and thus has a neutral effect on, the building's setting.

Planning Balance

23. Planning law requires proposals be determined in accordance with the development plan unless material considerations indicate otherwise. The proposal harms the character and appearance of the area and the living conditions of neighbouring occupants, and conflicts with the development plan taken as a whole. The harm associated with the proposal has already occurred.
24. The visual impacts on the character and appearance of the area are highly localised and tempered by the vegetation established on the stockpile. In addition, the harm to the outlook is limited to vantage points of the side garden and clear-glazed windows at the side elevation. Therefore, the magnitude of harm associated with the proposal is limited. Once the stockpiles are removed as part of the redevelopment of the site or after the temporary period, the harm would cease, thus further diminishing the scale of adverse impacts associated with the proposal.
25. Conversely, backfilling the excavations risks harm to ground stability and drainage capacity and would not represent a prudent use of natural resources. I have attributed moderate weight to these harms. The planning status of the site has changed following the Council's resolution to grant planning permission for housing development, and the construction phase would necessitate the re-use or removal of the stockpiles in any event. Therefore, I have given considerable weight to the resolution to grant planning permission on the site.
26. Such factors represent material considerations sufficient to outweigh the harms associated with the proposal and its conflict with the development plan.

Conditions

27. To ensure the soil stockpiles are retained onsite for a temporary period, I have imposed a condition requiring the stockpiles be removed and land levels reinstated after one year from the date of this decision.

Conclusion

28. The proposed development would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal should be allowed.

E Dade

INSPECTOR