

Appeal Decision

Site visit made on 10 September 2024

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th October 2024

Appeal Ref: APP/K2610/W/23/3331883

**Mansom Plantation, Shortthorn Road, Stratton Strawless, Norwich
NR10 5NU**

- 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 John Farley of Induct EA Limited against the decision of Broadland District Council.
 - The application reference is 20212125.
 - The development proposed was originally described as *"An existing temporary permission is due to expiry on 9th January 2022, this application is to apply for a new temporary use to be granted to use the land as a construction/plant training area. As a consequence of Covid, we lost the use of the land for 18 months of the original planning consent, this request for the lost time to be granted and a further period granted in addition."*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development from the application form is set out in the banner above. However, the Council's officer report indicates that during the course of the application it was amended to a permanent change of use of the land. I have therefore determined the appeal on the basis of the description in the Council's decision notice that a permanent change of use of the land to construction/plant training area is sought.
3. The Greater Norwich Local Plan (GNLP) was adopted by the Council in March 2024. This supersedes the Joint Core Strategy for Broadland, Norwich and South Norfolk 2014 (JCS). The relevant policies in the GNLP are 1 – 3 and 6 which replace Policies, 1, 2, 5, 6 and 17 of the JCS. The main parties have been given the opportunity to comment on the policy changes in relation to the appeal and I am satisfied that no party has been unfairly prejudiced as a result.
4. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. Subsequently, a consultation draft for a revised Framework has been published, whilst this may be a material consideration in the determination of the appeal it does not change the planning policy context in respect of the main issues, and I have determined the appeal accordingly. For the avoidance of doubt, I shall refer to section and

paragraph numbers in the December 2023 version of the Framework where necessary.

Main Issues

5. The main issues are:

- Whether the appeal site is a suitable location for the proposed development having regard to local development plan policies; and
- The effect of the development on biodiversity.

Reasons

Locational Suitability

6. The appeal site is located in open countryside in an area of woodland off Shortthorn Road a short distance from its junction with Cromer Road (A140) to the south of the village of Hevingham. It consists of a parking area, two temporary buildings and a series of small clearings within the woodland area which are used for practical training. At the time of my site visit the site was not operational. There were indications that the site had been accessed relatively recently with some areas of woodland roped off and a range of plant and equipment on the site, which the appellant states are used for training purposes.
7. GNLP Policies 1-3 and 6 together with Policy GC2 of the Council's Development Management DPD (DPD) set out the Council's spatial approach to development, including those for employment opportunities. DPD policy GC2 states that new development will be accommodated within defined settlement limits. Outside of these areas development is expected to accord with specific allocations or policies within the development plan.
8. The supporting text to DPD Policy GC2 refers to the JCS. Nevertheless, GNLP Policy 6 has similar aims and seeks to ensure that employment and commercial development is in accessible locations which are well placed to serve the needs of residents nearby, an approach which is consistent with the aims of the Framework to deliver sustainable development in rural areas. Furthermore, GNLP Policy 7.4 states that small scale employment is supported within village development boundaries through the re-use of buildings or through the expansion of existing small and medium sized employment sites, subject to meeting [the requirements of] other policies in the development plan. Whilst the appeal site is close to other built development, I have not been provided with any evidence that it is within a defined settlement or a village development boundary.
9. The appellant states that the activities carried out at the site could not be accommodated within an existing industrial estate. However, I have not been provided with any substantive evidence that the operations carried out at the site could not be accommodated in one of the many allocations for employment development listed within GNLP Policies 7.1 – 7.4.
10. Consequently, for the reasons set out above, I conclude that the proposal would not be in an appropriate location having regard to local planning policies. Accordingly, I find conflict with DPD policy GC2 and GNLP Policies 6

and 7.4. Collectively these policies support new employment development within defined settlement boundaries and village development boundaries within the rural area through the re-use of buildings and the expansion of existing employment sites.

Biodiversity

11. The appeal site is located within an area of established woodland. Although the appeal is supported by a Tree Survey and Arboricultural Impact Assessment/Method Statement/Tree Protection Report, no other ecology survey has been provided. Therefore, it has not been established what other habitats may be present on the site, including potentially those of protected species which may be affected by the proposal.
12. The presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. 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 any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
13. DPD Policy EN1 is clear that development proposals are expected to protect and enhance biodiversity and must demonstrate that they could not be located elsewhere, that adequate mitigation is proposed and that the benefits outweigh any impacts. I appreciate that the Council did not raise any objections subject to conditions and measures have been put forward to ensure that trees are not damaged during the operation of the site. I also note that the red line boundary of the appeal site was amended to avoid areas more suitable for invertebrates. Parts of the site may have been previously cleared to facilitate the use, however, applying the precautionary principle, I cannot be certain that species, including those which are protected by law would not be adversely affected by the proposal. To this end, insufficient evidence has been put forward to demonstrate that the proposal would protect existing biodiversity. Moreover, there is little evidence, other than a suggested condition to install bat boxes to advocate that the proposal would enhance the biodiversity of the area.
14. I therefore conclude on this issue that in the absence of surveys or a Preliminary Ecological Appraisal, there cannot be any certainty as to whether the proposal would have any adverse effect on the biodiversity of the site, including whether there would be impacts on protected species and on what basis that might be. Consequently, it is not possible to ensure that any suggested mitigation measures would specifically address any potential harm. Furthermore, it would not be reasonable to condition further surveys in this instance. The proposal would therefore conflict with DPD Policy EN1 which seeks to ensure that development protect and enhance biodiversity. It would also conflict with the aims of the Framework to protect the natural environment.

Other Matters

15. The appellant states that two members of staff out of a total workforce of seven full time staff and one part time employee, are normally based at the appeal site daily and that the site supports job creation through training

provision which may lead to some candidates gaining employment in higher value jobs, however I have no evidence before me to support this claim. The appellant suggests that a maximum of four candidates are trained on site at any one time, typically over a two-day period and is therefore a small-scale operation. The benefits of the proposal to employment in the district as a whole are consequently limited. I therefore attribute limited weight to this benefit.

16. In coming to my decision, I have taken account of an extant planning permission for holiday lodges on a wider site which includes the appeal site. I do not have the details of the permission before me, which was granted under a previous development plan regime. From the information before me I am not persuaded that this permission would lead me to find the appeal proposal acceptable. I have also considered the parties' suggestion that a planning obligation, to ensure that if the holiday lodges permission were to be fully implemented that the appeal proposal would cease, is necessary. However, I have no obligation before me to consider in any event. As I have dismissed the appeal for other reasons, I have not pursued this matter further.
17. The appeal site is within the catchment area of, and therefore is functionally related to both the River Wensum and the Broads SACs, European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended) (The Habitat Regulations). The conservation objectives for the SACs are to ensure that the integrity of the sites is maintained or restored as appropriate, and to ensure that they contribute to achieving the Favourable Conservation Status of their Qualifying Features which are vulnerable to the effects of development, including through harm to water quality through nutrient pollution, and recreational disturbance.
18. As the proposal would not create overnight accommodation it would not lead to additional recreational impact. Furthermore, the Council consider that the proposal would not be a high user of water. Nevertheless, I have no information before me to confirm that this would be the case. However, as I have found the proposal to be unacceptable for other reasons, there is no need for me to address this matter further.

Conclusion

19. For the reasons set out above, having considered the development plan as a whole and having taken all other matters raised in account, I conclude that the appeal should be dismissed.

KL Robbie

INSPECTOR