

Appeal Decision

Site visit made on 11 September 2024

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2024

Appeal Ref: APP/K2610/W/23/3331331

Eastholme, 7 The Green, Freethorpe, Norwich, Norfolk NR13 3NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr S Hall of NR2 Properties Limited against the decision of Broadland District Council.
 - The application reference is 2023/2168.
 - The development proposed is demolish existing bungalow / replace with two dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is submitted in outline form with all matters reserved for subsequent consideration. An indicative site layout is submitted. I have considered this indicative plan solely on the basis of determining whether, in principle, it is possible to erect two dwellings on the site as set out in the description of development.
3. 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 for 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.
4. 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 as part of the newly adopted GNLP are Policies 1, 2, 3, 5 and 7.4. Through final comments the appellant was given the opportunity to comment on the policy changes in relation to the appeal. I am therefore satisfied that no party has been prejudiced in the determination of the appeal in this respect.

Main Issues

5. The main issues are the effect of the development on:

- The effect of the proposed development on the integrity of European protected sites with particular regard to The Broads Special Area of Conservation (SAC) and within the scope of the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy 2021 (GIRAMS); and
- The character and appearance of the appeal site and the surrounding area.

Reasons

Integrity of European Sites

6. The appeal site is within the Zone of Influence for the Broads SAC, a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). The conservation objective for the SAC is 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 from recreational disturbance.
7. GNLP Policy 3 confirms that all residential development will address the potential visitor pressure caused by residents of the development that would detrimentally impact on sites protected under the Habitats Regulations, including through the payment of a contribution towards the cost of mitigation measures at the protected sites. The Council has a Green Infrastructure Recreational Avoidance Mitigation Strategy (GIRAMS) which sets out a Recreational Avoidance Mitigation (RAM) tariff which should allow a conclusion through an Appropriate Assessment under The Conservation of Species and Habitats Regulations 2017 (the Habitats Regulations) that a development will not have any adverse impact on the integrity of the habitats sites as a result of increased recreational usage.
8. The requirement for a tariff payment under the Council's Green Infrastructure Recreational Avoidance Mitigation Strategy (GIRAMS) is set out in the Council's Officer Report. However, I have no mechanism before to secure the required contribution. Whilst I appreciate that efforts were made to address the matter with the Council, *The Procedural Guide – Planning appeals – England* sets out the expectations for appellants for the submission of planning obligations during the appeal process and this is conveyed to appellants in correspondence at the start of an appeal. Therefore, taking a precautionary approach, without a mechanism to secure the required contributions I can only conclude that the proposal also has the potential to adversely affect the integrity of the Broads SAC as a result of nutrient pollution, either alone or in combination with other plans and projects.
9. Taking the above into account I cannot be certain that the proposal would not have significant adverse effects on the integrity of European designated habitats sites. In the event that it would, I am not in a position to ensure that the effects could be suitably mitigated. Consequently, the proposal

would conflict with Policy 3 (Environmental Protection and Enhancement) of the GNLP and Policy EN1 (Biodiversity and Habitats) of the Broadland District Council Development Management DPD (2015) (DMDPD) which seek to protect and enhance the biodiversity of the district and confirm that if it cannot be ascertained that there would be no adverse effects on a European site that planning permission will be refused. It would also conflict with the nature conservation requirements of the Framework and the Habitats Regulations.

Character and Appearance

10. The appeal site is located within the built-up area of Freethorpe village. A detached bungalow, set back from the road currently occupies the site. Development within the village generally follows a linear pattern with dwellings orientated to front the highway. Buildings in this part of the village vary in style, appearance and scale but are typically set back from the highway with front gardens and driveways.
11. The proposal is made in outline with all matters reserved. An indicative plan has been submitted to demonstrate how two dwellings may be accommodated within the site. It shows the proposed dwellings to have slightly smaller footprints on narrower plots than the houses immediately either side of the appeal site. Nevertheless, the village contains a mix of dwelling types, sizes, and appearances. As a result, the proposal would not appear out of place, nor would it erode the established form and character of the village. Consequently, the proposal would not harm the character and appearance of the appeal site or the surrounding area.
12. Furthermore, matters such as boundary treatments and materials which would ensure that the dwellings had a satisfactory appearance could be controlled by way of suitably worded planning conditions had I been minded to allow the appeal.
13. For these reasons, the proposal would not harm the character and appearance of the area. The proposal would therefore maintain the area's existing locally distinctive character in accordance with the Council's Development Management DPD (2015) Policy GC4 which expects development to be of a high standard reinforcing local distinctiveness. There would also be no conflict with Policy 2 of the GNLP which seeks to create beautiful, well-designed places which respect the character of the local area. Neither would the proposal conflict with the aims of the Framework in this respect.

Other Matters

14. The existing bungalow is in a poor state of repair and the proposal would increase the supply of houses in the area. However, the contribution to housing supply would be limited. Whilst these are positive factors, they are not determinative in the planning balance and do not outweigh or alter my overall conclusion on the main issues.

Conclusion

15. The proposal would not harm the character and appearance of the area. In this regard there would be no conflict with the development plan or the Framework. However, the proposal would adversely affect the integrity of The Broads SAC and the Habitats Regulations provide a clear reason for refusing the development. Whilst the tariff based GIRAMS scheme provides satisfactory mitigation to adequately address the site-specific effects of the development on the designated sites, there is nonetheless no controlling mechanism before me to secure the necessary mitigation. I conclude that this is a matter of overriding concern and provides a clear reason for refusing the development proposed. Therefore, taking this and all other matters raised into account, the appeal is dismissed.

K L Robbie

INSPECTOR