



Appeal Decision

Site visit made on 2 October 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2024

Appeal Ref: APP/F2605/W/24/3336369

Summer Lane Kennels, Summer Lane, Carbrooke, Norfolk IP25 6TR

- 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 Mrs Beverley Lee against the decision of Breckland Council.
 - The application Ref is 3PL/2023/0139/F.
 - The development proposed is described as the “change of use to outside storage. The winter storage of touring caravans, small containers and small boats. In addition, the short term storage of mobile homes (not occupied) for sale or use on a residential site elsewhere”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended.
3. In addition, on 30 July 2024 the Government published a consultation on proposed reforms to the Framework and a written ministerial statement titled “Building the homes we need.” Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party’s interests would be prejudiced by my taking this approach.
4. A partial update of the Breckland Local Plan 2019 has been undertaken. While the policies relevant to the determination of this appeal remain relevant and unchanged, I have referred to the policies of the Breckland Local Plan 2023 (LP) in the decision.
5. The appellant submitted drawing no. 03/BL/26/2023 to the Council prior to a decision being made. However, as this drawing is not listed on the Council’s decision notice, I cannot be certain that it was considered and consulted on. Therefore, having regard to the Holborn Studios judgement¹, the appeal has been determined based on the plans and documents submitted with the

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

original application to the Council and upon which the views of interested parties were sought.

6. There is another appeal² being considered at the same site. That appeal is the subject of a separate decision.

Main Issues

7. The main issues are:

- whether the appeal site is in a suitable location for the proposed development, having regard to the development plan,
- the effect of the proposed development on the character and appearance of the area, and
- the effect of the proposed development on highway safety.

Reasons

Whether a suitable location

8. The supporting text to LP Policy EC04 states, among other things, that the majority of employment development will be provided for in the strategic employment allocations, outlined in LP Policy EC01, and on established employment areas, as outlined in LP Policy EC03.
9. The appeal site lies outside of any settlement, in the countryside, and comprises an area of unoccupied land associated with the kennels, which will continue to trade. As such, the appeal site is not within an identified employment allocation or area.
10. LP Policy EC04 permits proposals for employment uses outside of the identified General Employment Areas (GEAs) and allocated sites subject to stipulated criteria being met. While the appellant asserts this policy is restrictive, the LP, nevertheless, allows, in principle, employment development within rural areas.
11. The appellant asserts that in the absence of a proactive policy encouraging appropriate development in the countryside, it would be more appropriate to rely on the Framework. However, section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions.
12. LP Policy EC04 broadly aligns with the aims of the Framework, insofar as it seeks to enable the sustainable growth and expansion of all types of business in rural areas.
13. Criteria a) of LP Policy EC04 requires proposals to demonstrate that there are no other suitable sites available on identified or allocated employment sites. The appellant states that there is a significant demand in the area for such a facility, with the type of storage proposed chosen to most benefit the community and would include an on-site day and night manager. However, limited substantive evidence demonstrating this has been submitted. As such, the proposal does not satisfy criteria a).

² Planning appeal reference: APP/F2605/W/23/3331574

14. In addition, criteria b) of LP Policy EC04 supports development outside GEAs and allocated sites when justified by specific reasons. These include proposals to enable the expansion of an existing business, to support agriculture, forestry, or other industries where there are advantages to being located close to the market they serve, or where the proposal would be detrimental to a local amenity if located in settlements.
15. There is no evidence that demonstrates the appeal scheme is required in connection with the existing kennels. Moreover, in the absence of substantive evidence to the contrary, I am not persuaded that the proposed use would raise concerns in respect of local amenity, including through unsightly development, if located within a settlement.
16. While the appellant has highlighted that there are particular reasons for the development, including sustainability advantages to being located in close proximity to the market they serve, and that it would provide a low cost service to ordinary people and groups, no substantive evidence has been submitted which robustly demonstrates this. Therefore, the proposal does not comply with criteria b).
17. Paragraph 89 of the Framework recognises that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and encourages the use of previously developed (brownfield) land.
18. It has been highlighted that the Council's pre-application response recognised that the site had brownfield or previously developed land status and that it lies within the curtilage of a permanent structure. While the appeal site is next to commercial dog kennels, bordered by a neighbouring static caravan and near a busy sand quarry, it is largely devoid of built development.
19. While Annex 2 of the Framework defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land, it also states that it should not be assumed that the whole of the curtilage should be developed. As such, while it may be unlikely that the site would be returned to agricultural use, this matter carries limited weight.
20. Therefore, the appeal site is not in a suitable location for the proposed development, having regard to the development plan. This is contrary to LP Policy EC04, as set out above.

Character and appearance

21. The appeal site lies within the countryside. The existing built form within the wider site is relatively modest and largely clustered together. The appeal site is largely devoid of built development and, apart from trees, hedgerows and vegetation, is relatively open. While noting the nearby quarry, the surrounding landscape primarily comprises of relatively flat, open fields and narrow highways, bounded by hedgerows and vegetation. This thereby creates a rural, open and verdant character. The appeal site contributes to the character and appearance of the area, as a result of its topography, relatively open landscape and existing trees and vegetation.
22. The appeal site is largely screened from wider views due to screening from trees and vegetation. While the appellant intends to improve the site for flora and fauna, buy new, green coloured containers and has no intention to

increase the hard standing above that which is necessary, the development proposed would, nevertheless, be partially visible from the access to Summer Lane.

23. While noting the proximity of the quarry and the quiet location of the appeal site, the proposed development seeks to utilise a large area of land for storage purposes. The information submitted indicates that this would include the storage of various types of caravans, leisure craft and shipping containers.
24. Having regard to the extent of the land to be utilised, combined with the significant scale of the proposed storage requirements, the appeal scheme would result in an incongruous form of development that would erode and urbanise the open, rural and verdant site. Consequently, this would be at odds with, and detrimental to, the character of the area.
25. For these reasons, the appeal proposal would result in unacceptable harm on the character and appearance of the area, contrary to LP Policies COM01, ENV05 and GEN02. Collectively, these seek, among other things, to ensure development proposals integrate to a high degree of compatibility with the surrounding area, contribute and where possible enhance the local environment by recognising the intrinsic character and beauty of the countryside and respect and is sensitive to the character of the surrounding area. It is also contrary to the Framework which seeks to ensure development proposals are sympathetic to local character.

Highway safety

26. Summer Lane is a narrow, single track carriageway, subject to the national speed limit, with some formal passing provision along it. The road is bounded by low banks and hedges which, along with the carriageway width, restricts a two way flow of vehicular traffic. The vegetated verges and the alignment of the highway also restrict forward visibility for drivers. The evidence indicates that it is a well-used link between the village of Carbrooke and the B1108 Norwich Road, with many heavy lorries entering and leaving the nearby busy quarry daily.
27. The appellant contends that the increase in traffic would be quite low and estimates an increase of around two to four vehicles per hour during daylight hours. However, the Design and Access Statement lists a wide range of storage uses that the containers could be used for. When combined with the amount of storage proposed, the appeal scheme has the potential to generate vehicle movements above those which have been indicated. The appeal scheme would, nevertheless, increase vehicles movements along Summer Lane.
28. A submitted police report demonstrates a low accident rate along Summer Lane, with two minor events in the last 8-10 years. Moreover, the appellant contends that drivers negotiate this highway carefully and, although subject to national speed limit, generally traffic travels at around 20mph, and no faster than 30mph. No substantive evidence, in the form of a speed survey, has been submitted to substantiate this assertion.
29. Having regard to these matters, any increase in vehicle movements would, nevertheless, increase the chances of vehicles meeting along this highway. While improvement works to the quarry entrance have recently been

undertaken, should two vehicles meet at a point where there is no passing provision, this would require one or both vehicles to reverse to find space to pass.

30. The spacing between some of the passing provisions, combined with the alignment of the highway and flanking vegetation, could result in vehicles being reversed for some distance, with restricted visibility, in order to find sufficient space to allow the two vehicles to pass. Moreover, this could also lead to reversing vehicles travelling into the path of an on-coming vehicle at a point where visibility is restricted due to the aforementioned reasons. Consequently, the appeal scheme is likely to result in conflict between vehicles along Summer Lane, to the detriment of highway safety.
31. Access from the appeal site onto Summer Lane is impeded by vegetation in both directions. While the land to the south is controlled by the appellant, the submitted plans do not demonstrate that the required visibility to the north could be achieved, given that the land falls outside the appellant's ownership and control.
32. The proposal has the potential to attract a wide range of vehicles, including commercial vehicles, HGVs and towing vehicles. In the absence of substantive evidence, in the form of track runs, it is not possible to assess whether the appeal site access could safely accommodate such vehicles, without them overrunning the carriageway edge and opposite verge. Should overrunning occur, it would cause damage and erosion of the verges, thereby creating a skid hazard when mud is deposited on the carriageway, to the detriment of highway safety.
33. Although the appellant asserts that improvements could be made to Summer Lane and secured by condition, no further details have been submitted for consideration. Such matters therefore carry limited weight.
34. The appellant has indicated they are agreeable to a number of conditions recommended by the Parish Council. While I have concerns that some of these may not meet the tests outlined in the Planning Practice Guidance and the Framework, they would not, in any case, be sufficient to outweigh the harm identified in respect of the other main issues.
35. Even if I were to accept the additional plan referred to in the preliminary matters, it would not alter my findings in respect of the other main issues.
36. Consequently, I conclude that the proposal would result in unacceptable harm to highway safety, contrary to LP Policies TR01, TR02, EC04 and COM01. Collectively, these seek, among other things, that development proposals provide safe, suitable and convenient access, do not adversely affect the type and volume of traffic generated and do not comprise highway safety. It also conflicts with the requirements of the Framework, which states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

37. The appellant has sought to work with the Council to tidy the site up, with this application and other enquiries, including a pre-application enquiry, arising out of a pending enforcement notice. In addition, the appellant asserts that it is clear the Council wish to see this site brought back into positive and

economically viable use, to secure its overall visual improvement. The weight afforded to improving the site's appearance is limited by the absence of substantive evidence to demonstrate that the appeal scheme is the only solution to secure such an outcome.

38. The pre-application enquiry related to industrial units, which is a different form of development to that sought as part of the appeal scheme. Notwithstanding this, such enquiries are not binding on any future decision the Local Planning Authority may make once a proposal has been subject to the formal planning process. Therefore, this does not lead me to a different conclusion on the main issues.
39. The appellant seeks to improve biodiversity, which is a benefit of the scheme. An absence of harm with regard to wildlife is a neutral matter, which weighs neither for, nor against, the appeal scheme.

Conclusion

40. For the reasons given, I conclude that the appeal scheme conflicts with the development plan as a whole. The material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Consequently, I conclude the appeal should be dismissed.

S Pearce

INSPECTOR