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# Appeal Decision

Site visit made on 22 October 2024

**by A Caines BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12<sup>th</sup> November 2024**

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**Appeal Ref: APP/L2630/W/24/3336998**

**Land east of Darnell House, Church Lane, Hethel, Norfolk NR14 8HF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Mark Buckle against the decision of South Norfolk District Council.
  - The application Ref is 2022/2072/RVC.
  - The application sought planning permission for erection of new dwelling without complying with a condition attached to planning permission Ref 2014/0427/F, dated 14 March 2014.
  - The condition in dispute is No 2 which states that: *The development hereby permitted shall be carried out in accordance with the application form, plans and drawings and other documents and details submitted or provided by the applicant as amended by letter/drawing ref: D5, D6, D7 and 04 RevB submitted on 30 April 2014.*
  - The reason for the condition is: *For the avoidance of doubt and to ensure the satisfactory development of the site in accordance with the specified approved plans, as required by the Spatial Vision and Spatial Planning Objectives of the Joint Core Strategy.*
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## Decision

1. The appeal is dismissed.

## Background and Preliminary Matters

2. The Greater Norwich Local Plan was adopted in March 2024, thereby superseding the policies of the Joint Core Strategy for Broadland, Norwich and South Norfolk cited in the decision notice.
3. Planning permission was granted in 2014 for a new dwelling under reference 2014/0427/F. It is common ground between the parties that works to implement this permission have taken place on site, although the approved building is not actively under construction. The application resulting in this appeal seeks to vary condition No 2, to substitute the approved plans so as to allow changes to the detailed design and construction of the dwelling. The supporting Addendum states that:
  - Upon further consideration the original plan to hang prefabricated pods from a prefabricated Oak frame has proven undeliverable. The applicant has been unable to identify any specialist manufacturers willing to undertake the original/approved construction method – hanging living accommodation pods from the roof.

- All parties the applicant has discussed the project with wish to undertake construction in a more conventional manner – building from the ground up – contrary to the original designers’ assertions.
  - In addition to which, the applicant is of the opinion procuring an Oak frame does not align with the goal of minimising the project’s ecological footprint. (instead, an Oak Glulam frame will be used)
  - In accordance with a more conventional build, the structural load is now proposed to be carried by a foundation and external load bearing walls.
  - Whilst the external exposed frame is proposed to be retained in the spirit of the approval to carry out the louvres, first floor balcony and walkways – the scale of exposed frame is proposed to be reduced.
  - External walls are proposed to be constructed from SIP Panels.
  - As with the walls, the roof is also proposed to be constructed from SIP panels.
  - The project is also proposing to include provision for non-reflective building-integrated photovoltaic panels.
4. Further to the above, the drawings also indicate an increase in the height of the “cross wing” element on the western elevation; the use of composite slate instead of natural slate on the roof; the introduction of white through-coloured render to some walls; and aluminium instead of timber framed windows.

### **Main Issue**

5. I consider that the main issue in this appeal is whether Condition 2 remains relevant and necessary in its present form to make the development acceptable with regards to policies which restrict housing within the open countryside.

### **Reasons**

6. The appeal site lies outside any defined settlement boundary and is therefore located in the countryside for planning purposes. There are no policies in the development plan which expressly support the principle of the proposal in this location and a number of the Council’s refusal reasons follow from this.
7. However, the original application was made and approved under the provisions of Paragraph 55 of the 2012 version of the National Planning Policy Framework (the Framework), which is now restated in broadly the same terms in Paragraph 84 of the current Framework.
8. Paragraph 84 of the Framework confirms that isolated homes in the countryside should be avoided unless in specific circumstances, one of which being e) where the design is of exceptional quality. In such instances, development is required to be truly outstanding, reflecting the highest standards in architecture, and would need to help raise standards of design more generally in rural areas. Furthermore, such development would need to significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.
9. I have first considered whether the site should still be regarded as “isolated” for the purposes of applying Paragraph 84. The Framework does not define

“isolated”, however case law<sup>1</sup> has established that “isolated dwellings in the countryside” should be construed as meaning physically separate or remote from a settlement, not just remote from other dwellings.

10. Properties and buildings within the vicinity of the appeal site are in general scattered spatially along narrow rural lanes without footways and lighting. There are two properties immediately to the west of the site, but to the north, east, and south are open fields. A small cluster of properties lies approximately 80m further to the east, but is itself separated from the main part of the village of Brackon Ash by a number of fields. As a result, the site is visually and spatially detached from any settlement and has a sense of remoteness. For this reason, Paragraph 84 of the Framework is relevant.
11. The 2014 scheme was described as a modern contemporary take on the vernacular architecture of South Norfolk with a design inspired by traditional agricultural barns or grain drying stores. Some of the key design features included a traditional building form with a hierarchy of structure between the two wings; predominantly timber framed; traditional materials including slate tiles; and suspended modular living spaces of predominantly glass.
12. The appellant claims that the proposal would be no different in appearance to what was approved in 2014 and I note that there was no objection from the Council’s Heritage and Design officer.
13. However, the increase in the height of the “cross wing” would add bulk and mass to this part of the building, and in turn, remove the clear hierarchy of structure in the building to the detriment of its overall form and character.
14. The use of composite slates, aluminium windows, render, and a Glulam frame is at odds with the proposal’s intention of utilising locally sourced natural materials, and together with the introduction of an expansive array of photovoltaic panels on the highly prominent eastern roofslope, would diminish the overall rural aesthetic of the building. There is little in the evidence to demonstrate how these changes would raise the standard of design and be sensitive to the characteristics of the local area.
15. Furthermore, the proposal represents a fundamental change from the original design concept of a lightweight suspended internal structure, and is, by the appellant’s own admission, conventional in its proposed construction. The previous reference to “*or innovative nature*” in Paragraph 55 of the 2012 Framework was an alternative to truly outstanding, and so, this change in the policy wording does not lower the bar to attain planning permission under Paragraph 84 e).
16. The addition of photovoltaic arrays into the scheme is positive from an environmental perspective, but well established, and I have not seen anything in the evidence which demonstrates that the application of such technologies brings anything new or exceptional here to elevate the proposal to the level of truly outstanding in design and sustainability terms. Nor am I convinced that the use of a Glulam frame, composite slates, render, and aluminium windows would improve the environmental credentials of the building in terms of embodied energy.

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<sup>1</sup> Braintree District Council v Secretary of State for Communities and Local Government & Others [2017] EWHC 2743 (Admin) of 15 November 2017, and subsequently in the Court of Appeal judgment of 28 March 2018 and Bramshill v SSHCLG [2021] EWCA Civ 320

17. In summary, I find that the proposed changes would result in a more conventional dwelling with a greater bulk and mass, and an overall poorer design aesthetic when compared to the 2014 permission. It is difficult to see how this approach would reflect the highest standards in architecture, significantly enhance its immediate setting, and help to raise standards of design more widely. As such, the proposal could not be described as truly outstanding.
18. I therefore conclude that the proposal would not constitute a design of exceptional quality, and so, would be contrary to Paragraph 84 of the Framework in this regard. It is also contrary to Paragraph 140 of the Framework, which states that local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion as a result of changes being made to the permitted scheme.

### **Other Matters**

19. The appellant has a clear fallback position through the extant permission. However, I do not consider the proposal to be a betterment in planning terms, and so, it is not a factor which leads me to a different overall conclusion.
20. On 16 March 2022, the government's Chief Planner wrote to local planning authorities affected by nutrient pollution, including South Norfolk District Council. This followed advice from Natural England about the adverse effect of nutrient pollution on European sites in an unfavourable conservation status, including The Broads Special Area of Conservation (SAC) and Ramsar Site.
21. Whilst there is an extant planning permission for a new dwelling at the site, the dwelling is not currently in place. If I were to allow this appeal, it would create a new planning permission which could then be implemented, and this could generate additional nutrient loads, such as nitrates and phosphates, within the catchment of the Broads SAC. This matter would have required the preparation of a habitats regulations assessment and an appropriate assessment before planning permission could be granted. However, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this matter any further.

### **Conclusion**

22. For the reasons given, the appeal should be dismissed and condition No 2 retained in its present form, as it remains relevant and necessary to make the development acceptable in this location.

*A Caines*

INSPECTOR