



Appeal Decision

Site visit made on 20 November 2024

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2024

Appeal Ref: APP/F2605/W/24/3343626

North Farm, Broadmoor Road, Carbrooke IP25 6SZ

- 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 and Mrs W Cater against the decision of Breckland District Council.
 - The application Ref is 3PL/2024/0046/O.
 - The development proposed is the erection of two detached self-build dwellings.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal application was in outline form with all matters except for access were reserved for subsequent approval.

Main Issues

3. It is considered that the main issues are (a) whether the appeal scheme would be a sustainable form of development by reason of location and the effect of the proposed development on (b) protected species; (c) future occupiers due to the risk of flooding and (d) the recreational impact on European Sites.

Reasons

Sustainable Development

4. The appeal site comprises part of the garden of North Farm within which 2 self-build dwellings are proposed to be erected with access via the existing drive from Broadmoor Road. Only the access and the northern part of the garden are within the settlement boundary for Carbrooke defined pursuant to Policy HOU 04 of the Breckland Local Plan (LP). The indicative layout indicates that to accommodate the 2 proposed dwellings it would be necessary to encroach onto land outside the settlement boundary.
5. LP Policy HOU 04 allows for appropriate development immediately adjacent to a settlement boundary, subject to being supported by other policies within the development plan and satisfying other criteria. One criterion is that the proposal would not lead to the number of dwellings in a settlement increasing by significantly more than 5% from the date of adoption of the LP. The use of the term significant indicates that the 5% is not a cap. However, the council claim a significant level of development above the 5% figure would result in

growth not being directed to sustainable locations and additional pressure on local facilities and services.

6. The council claim that there has been an 11% growth in the number of dwellings granted planning permission at Carbrook. This is based upon the latest housing monitoring figures (March 2023) showing 12 dwellings having been delivered and 9 other dwellings being committed. What is a significant growth beyond 5% is not defined in the policy but doubling the number of dwellings above this figure is noteworthy, particularly where there is a 5-year supply of housing land across the District which is not disputed by the appellants.
7. Although the housing growth at Carbrook exceeds the 5% level, the appellants' claim that the proposed development could deliver 2 self-build dwellings in a District where the demand for this type of scheme exceed the current supply. However, the appellants have not provided any form or agreement or other mechanism which would secure the appeal scheme delivering self-build dwellings. Therefore, if this appeal succeeds, there is no certainty that the proposed dwellings would be delivered as self-build. Accordingly, this matter carries only limited weight and, as such, it does not outweigh the unacceptable harm associated with further growth at Carbrook, in particular development not occurring in a sustainable location and the additional pressure which would be placed upon local facilities and services.
8. For the reasons given, because of its location the appeal scheme would not be a sustainable form of development and, as such, it would conflict with LP Policy HOU4.

Protected Species

9. The concerns of the council are primarily directed at the potential impact of the proposed development on the roosting of bats and the habitat of Great Crested Newts. The scheme is in outline form with all matters except for access reserved for subsequent approval. Although it is indicative, the layout drawing demonstrates the siting of the proposed dwellings could be accommodated on the site without the need to fell or lop the large tree on the eastern boundary. It is this tree which might have potential for bat roosting. Other trees within and adjacent to the site are not of the same size.
10. The council refer to there being a pond within 250 metres of the site which might have the potential for Great Crested Newts. This pond is identified on the Location Plan. However, as was evident from the site visit, this pond no longer exists and the Location Plan does not indicate any other water bodies in similar proximity to the site.
11. On this issue there is sufficient information to conclude that the proposed development would not cause unacceptable harm to protected species within or adjacent to the appeal site and, as such, it would not conflict with LP Policy ENV 02. Amongst other matters, this policy identifies that an ecological assessment will be required to be submitted with the planning application to assess effects on flora and fauna, commensurate with the scale of the impact and the importance of the species.

Effect on Flooding

12. The garden and the host property are situated within Flood Zone 1 but the drive which would provide access to the proposed dwellings is within Flood Zone 2.
13. The National Planning Policy Framework (the Framework) identifies that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk by applying the sequential test and then, if necessary, the exception test. The Framework clarifies that the sequential test should take account of all sources of flood risk when permitting development. The Planning Practice Guidance on Flood Risk and Coastal Change reflects this position whereby even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied. The sequential test should be applied when any part of a site is at risk of flooding.
14. As identified, the access is within Flood Zone 2 but no sequential test has been undertaken to demonstrate that there is no alternative land at a lower risk of flooding available to erect the proposed development. Reference is made by the appellants to an alternative pedestrian and cycle access being available via Muriel Way. However, this type of technical measure is usually part of any exception test, which must follow only after the sequential test has been complied with. Further, there is no indication that the proposed alternative access can be delivered because it is not included in the appeal site.
15. Accordingly and for the reasons given, the proposed development would represent an unacceptable flood risk to future occupiers and, as such, it would be contrary to national policy and guidance and LP Policy ENV 09 which seeks to minimise the risk of flooding.

European Sites

16. The site is located within the overall Zone of Influence for the Breckland Special Protection Area and Breckland Special Area of Conservation as identified in the *Norfolk Green Infrastructure and Recreational Impact Avoidance Mitigation Strategy*, (GIRAMS). Given that the proposal is for additional housing, there is a reasonable likelihood that the European Sites within the area would be accessed for recreational purposes by future occupiers of the proposed development. Therefore, in combination with other developments, likely significant effects cannot be ruled out.
17. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no effects from the proposed development, either alone or in combination with other projects, which would adversely affect the integrity of the European Sites. The likely significant effects arising from the proposal need to be considered in combination with other development in the area and adopting the precautionary principle.
18. The relevant European Sites are covered by GIRAMS which ensures that the cumulative impacts of additional visitors, arising from new developments of housing, such as the appeal scheme, to European sites, will not result in any likely significant effects which cannot be mitigated. It details mitigation

measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England, the measures should adequately overcome any adverse effects of the proposal on the European Sites. A tariff to fund the mitigation, which is payable for all additional new dwellings is required.

19. Whilst the appellants have indicated that they would be willing to provide the necessary contribution should the appeal be allowed, no Unilateral Undertaking to secure the required contribution has been received. Whilst the GIRAMS document makes provision for any reserved matters application which did not have a HRA applied at outline stage, Regulation 70(3) states that where the assessment provisions apply, outline planning permission must not be granted unless the competent authority is satisfied that no development likely to adversely affect the integrity of a European site could be carried out under this permission, whether before or after objecting to approval of any reserved matters. Therefore, such a matter cannot be dealt with at reserved matters stage or by condition.
20. Due to the lack of a mechanism to secure the contribution to mitigate the impacts of recreational pressure, it cannot be satisfactorily assessed that the proposed development would not result in an adverse effect on the integrity of the European Sites. Therefore, whilst the effect of 2 dwellings would be small, in combination with other developments, based on a precautionary approach, the appeal scheme would be likely to have a significant adverse effect on the integrity of the European Sites due to the potential of increased disturbance through recreational activity.
21. Accordingly, it is concluded that the proposed development has not demonstrated that it will adequately mitigate the recreational impacts of the proposal on the European Sites. It is further concluded that the appeal scheme would fail to comply with the requirements of LP Policy ENV 02, the Regulations and the Framework which states that if significant harm to biodiversity resulting from a development cannot be adequately mitigated, then planning permission should be refused.

Conclusion

22. Although the proposed development would not cause unacceptable harm to protected species, this matter is demonstrably outweighed by the significant harm which would be associated with the appeal scheme not being a sustainable form of development and the unacceptable harm caused to both flooding and recreational impacts of the proposal on the European Sites. Accordingly, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR