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## Appeal Decision

Site visit made on 7 January 2025

by **I A Dyer BSc (Eng) FCIHT**

an Inspector appointed by the Secretary of State

Decision date: 30 January 2025

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**Appeal Ref: APP/F2605/W/24/3344783**

**1 Sandfield Cottages Sandfield Lane, Eccles, Quidenham, Norwich NR16 2PB**

- 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 Stella Jane Adams against the decision of Breckland Council.
  - The application reference is 3PL/2024/0160/F.
  - The development proposed is erection of one three-bedroom detached dwelling with linked garage, driveway and gardens.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Following the Council's determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published in December 2024. The parties have had the opportunity to make comments on the revisions to the Framework as part of the appeal process and I have taken their comments into account in my decision.
3. The road accessing the site from its junction with Station Road is also known as Heath Road. For clarity, within this decision I have referred to it as Sandfield Lane, as this reflects the address provided on the application form and marked on the application drawings.

### Main Issue

4. The main issue in this appeal is whether the site is a suitable location for a dwelling, with particular regard to accessibility to everyday local facilities and services by a range of modes of transport.

### Reasons

5. The appeal site is a roughly triangular open, grassed area lying between Sandfield Lane and the railway track. It lies next to an existing pair of semi-detached dwellings and opposite a detached dwelling. The Council accepts that the land forms part of the plot of 1 Sandfield Lane. Sandfield Lane is a narrow single track road, leading from the village of Eccles Road. It is, at this point, unlit and subject to a 60 MPH speed limit.
6. The closest settlement boundary, as identified in policy GEN03 of the Breckland Local Plan - adopted 2019 and partially reviewed in 2023 - (the Local Plan) is that of Eccles Road (Quidenham). However, the site lies well outside of this. It is, therefore, defined as countryside by policy GEN05 of the Local Plan and is in the

countryside for planning purposes where development is restricted, in recognition of the intrinsic character and beauty of the countryside, except in certain circumstances.

7. Policies GEN1 and GEN03 of the Local Plan set out the Council's Spatial Strategy and are broadly consistent with the aims of the Framework of promoting development in sustainable locations with good transport access to existing community facilities, services and open space, together with new facilities where necessary.
8. My attention has been brought by the appellant to the Braintree Judgement and the appellant asserts that The Braintree Judgement establishes case law that the sustainable transport policies within the Framework only apply to significant development and not to a single dwelling.
9. However, whilst the Framework, in paragraph 110, identifies that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes, it also, in paragraph 115 makes a more general statement, without reference limiting it to significant development, that in specific applications for development, it should be ensured that sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location.
10. Further, paragraph 117 of the Framework advises that applications for development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas, second – so far as possible – to facilitating access to high quality public transport and create places that are safe, which minimise the scope for conflicts between pedestrians, cyclists and vehicles.
11. There is nothing within the Framework to say that the principle of seeking sustainable transport does not apply to minor development. There is, however, the further advice provided in paragraph 110 that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. Thus, whilst not excluding consideration of sustainable transport for minor development, the Framework seeks to take a more balanced view over transport sustainability.
12. Paragraph 83 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. The Local Plan, within Policy HOU04 seeks to allow limited growth, up to 5% of the number of dwellings within a parish containing a village with a settlement boundary or immediately adjacent to that boundary, from the date of adoption of the Local Plan. The overall number of dwellings to be provided in parishes containing villages with settlement boundaries is identified within policy HOU02 of the Local Plan.
13. Whilst this target figure has already been met within the boundary of Eccles Road, when measured from the adoption date of the Local Plan in 2019, there is dispute between the parties of the starting date from which the 5% is measured. However, as the site is neither within, nor adjacent to, the settlement boundary, the proposal is in tension with HOU04 of the Local Plan.

14. The main consideration in this appeal are whether the proposed development would be suitably located. There is a train station in Eccles Road. However, the settlement otherwise contains a very limited range of services. The site is located a significant distance from the nearest centre that would provide a range of services for the day-to-day needs of residents.
15. Sandfield Lane lacks footways. However, Station Road has a footway on one side. Station Road is subject to a 30 MPH speed limit, but remains unlit.
16. Sandfield Lane is a cul-de-sac and serves few properties. It is unlikely that motor traffic would experience opposing traffic flow, and this, of itself, may encourage higher speeds.
17. Snetterton Heath Industrial Estate lies to the west of the site, across the railway line. Pedestrians and cyclists can cross the line at a level crossing, but there is no through route for cars. The intervening roads, with their lack of a continuous footway route and vehicular speeds would be likely to deter pedestrians and cyclists, particularly after dark, with children or during inclement weather and so residents of the site would almost certainly rely very heavily on the private car to meet their day-to-day needs.
18. I am conscious of the appeal decisions that the appellant has drawn my attention to<sup>1</sup>. Neither of the sites referred to lie within the immediate context of the appeal site. The transport sustainability, or otherwise, of a site is dependent to a great degree on its spatial context and so I do not consider that either site is directly comparable to the site that is the subject of this appeal. I have, in any case, determined this appeal on its own merits.
19. There is no meaningful alternative to using the private car to satisfy the day-to-day needs of future occupiers. With, for such a limited scale of development, no real scope to improve connexions for walking, cycling or public transport, dependency upon private motor vehicles would be almost total. Thus, the proposal would undermine the Council's Spatial Strategy. Given the emphasis that the Government places, in paragraph 15 of the Framework, on a genuinely plan-led system and in chapter 9 on promoting sustainable transport, this harm carries significant weight.
20. I thus conclude that the appeal site would not be a suitable location for a dwelling, with particular regard to accessibility to everyday local facilities and services by a range of modes of transport. The development is therefore contrary to the provisions of policies GEN01, GEN03, GEN05, HOU02 and HOU04 of the Local Plan.
21. For similar reasons the proposal would also be in conflict with the Framework, which seeks to promote sustainable transport.

### **Other Considerations**

22. Against the harm which I have identified, the development would provide benefits in terms of delivering an additional home to boost housing supply. This would support the Governments' aim of significantly boosting the supply of homes. Paragraph 73 of the Framework identifies that small developments are generally

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<sup>1</sup> PINS Refs: .APP/Y2620/W/21/3268526 and APP/H1840/W/20/3245690

built-out relatively quickly, and this adds weight in favour of the proposal. However, the supply of a single additional home would, in this context attract minor weight.

23. Paragraph 73 of the Framework identifies that small developments are generally built-out relatively quickly. Whilst there is dispute over whether the proposal would exceed the 5% growth in homes supported by the Council, given the emphasis placed by the government in the delivery of housing and the recent uplift in housing targets, I do not consider the exceedance of such a quota, of itself, should count against the proposal.
24. Future occupiers would be likely to participate in local events and societies and so contribute to the vitality of the local community. There would be minor benefits to the local economy in terms of short term employment in the construction industry and longer term support to shops and businesses. The long term support to shops and businesses would be mainly felt in the local town, rather than supporting rural villages. Given the scale of the proposal these benefits attract limited weight.

### **Planning Balance**

25. The appeal proposal would, due to its location, undermine the Council's Spatial Strategy by virtue of the lack of access to services and facilities by means of more sustainable modes of transport. I have determined the magnitude of this harm as significant.
26. The Local Plan predates the Framework, but the weight to be attached does not hinge on its age. Paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. As will be seen above, I find that the policies most relevant to this appeal, GEN01, GEN03, GEN05, HOU02, and HOU04 of the Local Plan accord closely with the aims of the Framework and thus the conflict with these policies carries significant weight in this appeal.
27. As there are no policies in the Local Plan which positively favour development of this kind in this location and as the proposal would be contrary to the policies referred to above, there would be conflict with the development plan as a whole.
28. The appellant has identified that the site, as part of the garden of 1 Sandfield Lane, constitutes brownfield land. The Framework, at paragraph 125 c) states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved. The site, as identified above, lies outside of any defined development boundary. It does, however, lie within a grouping of buildings focussed around the pedestrian level crossing. However, I have identified that the proposal would rely almost totally on the private car for transport. Thus, the site is not suitable, as it would, through the generation of greenhouse gasses, have an adverse effect on the natural environment.
29. The appellant has argued that, as there are no specific policies in the Local Plan to guide development on previously developed land, paragraph 11 d) is engaged. However, the wording of the Framework is quite clear in this regard: it is not the absence of any policies relating to a specific aspect of development that engages paragraph 11 d), but the absence of any policies relevant to the proposal.

30. However, following revision of the Framework there is no dispute between the parties that the Council is unable to demonstrate an effective five year housing land supply. Prior to the changes in the Framework, the Council calculated its supply of housing land at around 5.3 years. Given the significant uplift resulting from the use in the revised standard method, the housing land provision may have fallen significantly.
31. In these circumstances footnote 8 of the National Planning Policy Framework establishes that the policies which are most important for determining the application are deemed out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
32. As described above the benefits associated with the provision of an additional dwelling would be relatively minor, even taking into consideration the aim of significantly boosting the supply of housing set out in the Framework and the Council's housing supply position.
33. The Framework does not impose a blanket restriction on development outside defined settlements, nor does it explicitly prevent the use of such boundaries. The appeal site is located in close proximity to existing dwellings and is not isolated and so the countryside location does not conflict with paragraph 84 of the Framework.
34. Paragraph 78 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.
35. The Framework recognises that sustainable transport solutions will vary between urban and rural areas and that rural housing development in smaller settlements can enhance or maintain the vitality of rural communities. As I have identified above, the appeal site lies in a location where local settlements do not contain all of the services needed by people on a day-to-day basis, requiring, in all likelihood, a trip into the local town to satisfy these. Thus, it could not be said that the development would contribute meaningfully to the vitality of villages outside the town.
36. Given the location of the site and the lack of access to safe walking and cycling routes or public transport to provide for day-to-day needs it is likely that future occupants of the development would be heavily reliant on private motor vehicles to access local shops and services. In allocating weight to this matter I am mindful of the revisions to paragraph 11 d) of the Framework that I must have particular regard to key policies for directing development to sustainable locations, including paragraphs 110 and 115 of the Framework and so this is a significant factor weighing against the scheme.
37. The site is located within the zone of influence of one or more European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
38. The Court of Justice of the European Union has ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must

consider mitigation within the Framework of an Appropriate Assessment (AA). This responsibility now falls to me within this appeal.

39. Had I been minded to allow the appeal, it would have been necessary for me to seek additional information from the parties and consult Natural England in order to undertake an AA. The AA is required on a case-by-case basis to determine whether or not the project would adversely affect the integrity of the European Site. It would also have required a consideration of whether or not any proposed mitigation would be adequate, effective, could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it would not change the outcome of this appeal and, whilst the issue of the effect of the development on European Sites remains unresolved the outcome could only be, at best, neutral in my considerations.
40. Consequently, the harm to the Council's strategy for locating new residential development where it would have access to services and facilities by more sustainable modes of transport would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole. As a result the presumption in favour of sustainable development does not apply.

### **Conclusion**

41. In conclusion the proposal would conflict with the development plan as a whole and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given this appeal should be dismissed.

*I A Dyer*

INSPECTOR