



Appeal Decision

Site visit made on 25 February 2025

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th March 2025

Appeal Ref: APP/V2635/W/24/3351110

The Fuchsias, 6 Silt Road, Nordelph, Norfolk PE38 0BW

- 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 Mr L Bishop against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 24/00464/F.
 - The development proposed is the construction of one dwelling and associated drainage works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In December 2024, the Government published a revised National Planning Policy Framework (the Framework). Although some paragraph numbers have changed, the revisions do not relate to anything that is fundamental to the main issues in this appeal. Consequently, the main parties would not be prejudiced by reference to the revised Framework.

Main Issues

3. The main issues in relation to this appeal are i) the effect on the significance of a non-designated heritage asset (NDHA) including whether the proposal would preserve or enhance the character or appearance of the Nordelph Conservation Area (CA), and ii) the effect of the proposal on protected species.

Reasons

Heritage Assets

4. I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA as required by the duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
5. The Nordelph CA is focused around Nordelph Bridge where a number of watercourses and roads converge. Buildings are characterised by traditional modest cottages and detached dwellings in larger plots sited in a linear arrangement facing the roads. The settlement is in a countryside setting with a distinctly rural feel, strongly connected to the adjacent waterways which are framed by grass banks and mature trees. The significance of the CA derives from the character and range of traditional buildings, together with the relationship of buildings to the waterways. The appeal site as a residential garden formerly associated with The Fuchsias backing onto Well Creek, contributes to the pleasant, rural character of the CA.
6. Within the appeal site is a type 28A WWII pillbox. The CA map for Nordelph identifies the pillbox as an important unlisted building. The parties do not dispute

that the building should be considered as a NDHA and I have no reason to take a different view. Paragraph 216 of the Framework is clear that the effect of a proposal on the significance of a NDHA should be taken into account in determining the application. In weighing applications that directly or indirectly affect a NDHA, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

7. The significance of the pillbox derives from its age, form, position and purpose as a fortified structure erected to defend against possible German invasion during WWII. It appears to have been deliberately as a detached structure, sited in a low-lying position to guard the river and drainage systems around Nordelph. The Council suggests that it formed a line of defence with other pillboxes in the area.
8. The original brickwork shuttering that conceals the concrete structure inside remains, albeit some of it particularly that to the north-eastern corner, is in a poor condition from the proximity of overhanging tree branches. Although altered with windows and a door, and located within a residential setting, the building retains much of its functional character, illustrative of defensive architecture from WWII.
9. Despite the presence of reeds along Well Creek and 2 mature trees to the front of the pillbox, it is visible particularly in winter from the A1122 and at closer quarters from the navigable waterway. The garden and waterside location are the surroundings within which the NDHA is experienced and appreciated in. As a distinct building type, it contributes positively to the character and appearance of the wider CA providing a physical reminder of the area's history. Any development within the plot therefore has the potential to impact on the contribution that the setting makes to the significance of the pillbox and requires careful consideration regardless of any in principle support for housing in this location.
10. The appeal site has been formed through the separation of the pillbox and surrounding garden from the adjacent dwelling of The Fuchsias. It therefore occupies a somewhat backland position leading down to Well Creek. The proposal seeks the erection of a large detached 2-storey dwelling with a small link to the existing pillbox which would be retained as a domestic store.
11. The proposed dwelling would be of an average domestic appearance which whilst not out of character with other nearby development, it would have an unusually higher wall to window ratio than is typical. In design terms it would have a clearly differentiated appearance to that of the pillbox. Sited to the rear, the relationship of the pillbox to the adjacent waterways and approach roads to the north would remain readable and understood.
12. However, the proposed link between the pillbox and the dwelling would be insubstantial such that the limited separation between the two would be almost imperceptible in views from the north. The large scale and proximity of the proposed dwelling would therefore crowd out and overwhelm the pillbox. Even if I could accept that the land would be retained in a spacious setting, the pillbox would no longer be perceptible as a detached structure. In doing so, the setting and significance of the NDHA would be eroded to a moderate degree, whilst undermining the contribution it makes to the CA. This is a view I note is shared by a number of interested parties.
13. For these reasons I find that the proposal would fail to preserve the character and appearance of the CA. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of a designated

heritage asset, great weight should be given to the asset's conservation.

Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of those assets and any such harm should have a clear and convincing justification.

14. In the language of the Framework, I find the harm to the CA to be less than substantial in this instance. This commands considerable importance and weight and is not to be treated as a less than substantial objection to the proposal. I am required to weigh this harm against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Heritage Balance

15. The appellant suggests that the proposed dwelling would allow the pillbox to be retained and brought into practical re-use enabling the structure to be preserved and protected. Although I recognise that the building fabric requires some renewal, only vague reference is made to repairs to the outer brickwork. I have no specific details of the repairs that would be undertaken or evidence that the appeal proposal is essential to achieve them. Neither is there any clear indication that the use of the pillbox as part of a larger dwellinghouse is the optimal viable use.
16. It seems to me that the appeal site has served as a garden building ancillary to the residential use of The Fuchsias for a number of years before it was separated off. Whilst it may be surplus to current requirements, there is inadequate evidence before me to demonstrate that the use of the pillbox is dependent on the proposal, or that it could not revert to its former ancillary use. For these reasons I cannot attach any more than limited weight to the re-use of the building. Support for the proposal does not indicate a lack of harm. Other uses or design solutions may be possible that would not have the same degree of harm as the proposal.
17. The appellant has not advanced any specific public benefits but the proposal would add to the local housing stock resulting in economic and social benefits arising from its construction and occupation. However, due to the scale of the proposed development any subsequent benefits in this regard would be limited.
18. In light of the limited public benefits arising from the proposal, they would be insufficient to outweigh the great weight to be given to the harm to the CA. Without clear and convincing justification, the proposal would fail to comply with paragraph 213 of the Framework. Furthermore, I have found that the significance of the non-designated heritage asset would be materially harmed.
19. Consequently, the proposal would harm the significance of the NDHA and fail to preserve or enhance the character and appearance of the CA. The proposal would fail to comply with Policies CS12 of the Kings Lynn & West Norfolk Borough Council Local Development Framework – Core Strategy (CS) 2011 and Policy DM15 of the Site Allocations and Development Management Policies Plan (SADMPP) 2016, in so far as they seek to protect and enhance the historic environment, objectives shared with the Framework.

Protected Species

20. Bats are protected by law¹ and their presence is a material consideration when a development proposal is being considered that would be likely to result in harm to the species or its habitat. Whether or not the appeal site is located within a priority

¹ Conservation of Habitats and Species Regulations (2017) & Wildlife and Countryside Act (1981).

habitat or conservation designation, there is a statutory duty on me to have regard to the conservation of biodiversity.²

21. The presence of nearby farmland, mature trees and a watercourse would provide suitable foraging habitat for bats which interested parties have observed in or around the appeal site. Bat licenses issued within 1km of the appeal site further corroborate the findings that bats are known to be found within the area.
22. The appellant suggests that the building is sealed and has none of the age and weather-related crevices or cracks found in older traditional buildings. However, I observed a number of small crevices in the deteriorating external brickwork of the pillbox, particularly on the western elevation. The condition of the roof is unknown but internally there were signs of cracking. Putting all of this together, I am satisfied that it is reasonable to require further information regarding the likely presence of bats within the pillbox.
23. The appellant suggests that if planning permission is granted, bats and associated roosts would be protected by law. Be that as it may, ODPM Circular 06/2005 (the circular) states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established *before* the planning permission is granted [my emphasis]. Otherwise, all relevant material considerations may not have been addressed in making the decision. The onus is therefore on the appellant to prove that protected species would not be harmed.
24. Without either a scoping or emergence survey I cannot be certain of the presence of protected species and if so, what mitigation if appropriate, may be required. The circular advises that ecological surveys should only be left to a planning condition in exceptional circumstances. No such circumstances have been advanced here. Moreover, paragraph 193 of the Framework states that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
25. For the above reasons, I cannot be certain that the proposal would not adversely affect protected species. The proposal would therefore conflict with Policy CS12 of the CS which requires development to avoid, mitigate or compensate for any adverse impacts on biodiversity, further to the provision of a proportionate assessment. It would also be contrary to paragraph 187(d) of the Framework which amongst other things, seeks to minimise impacts on biodiversity.

Conclusion

26. The proposal would result in harm to the setting and significance of a NDHA and would fail to preserve or enhance the Nordelph CA. It has not been demonstrated that the proposal would not be harmful to protected species. The proposal would conflict with the development plan and the approach within the Framework, which would not be outweighed by other considerations. Accordingly, the appeal is dismissed.

M Clowes

INSPECTOR

² Section 40 of the Natural Environment and Rural Communities Act 2000, as amended.