



Appeal Decision

Site visit made on 18 March 2025

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 7 April 2025

Appeal Ref: APP/F2605/W/24/3350141

Land to the south of Holly Cottage, High Common Road, North Lopham, IP22 2HS

- 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 Ms Ann Button against the decision of Breckland Council.
 - The application Ref is 3PL/2024/0210/F.
 - The development proposed is retrospective stationing of a log cabin and use of site for recreational purposes
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Decision

1. The appeal is dismissed insofar as it relates to the stationing of a log cabin. The appeal is allowed insofar as it relates to the use of the land and planning permission is granted for the use of the site for recreational purposes on land to the south of Holly Cottage, High Common Road, North Lopham, IP22 2HS in accordance with the terms of the application, Ref 3PL/2024/0210/F, subject to the conditions set out in the schedule at the end of this decision.

Preliminary matter

2. There is a third reason for refusal on the council's decision notice that reads: "*3. In the absence of an up to date Arboricultural Impact Assessment, it has not been demonstrated that the proposal would not have a detrimental impact upon the trees within the site. As such, the proposal is contrary to Policy ENV06 of the Breckland Local Plan (adopted 2023)*". However, in the council's appeal representations it is noted that the appellant has submitted an updated Arboricultural Impact Assessment dated August 2024. The Council is therefore satisfied that this reason for refusal can fall away, subject to the suggested conditions in the event that the appeal is allowed. This refusal reason is therefore no longer an issue.

Main issues

3. The main issues in this case are: i) the effect of the proposals on the character and appearance of the rural scene and landscape; and ii) the effect of the use of the site for amenity land on the living conditions of the occupants of the existing dwellings adjoining the site.

Reasons

4. The site is former garden land of Holly Cottage and it is situated outside the defined settlement boundary of North Lopham. The site is within the vicinity of 10 residential dwellings including four that are adjacent to the site. The site is accessed from High Common Road. The existing housing is positioned directly to

the north and south of the application site, with agricultural fields to the east and west.

5. Within the north-western area of the site is a log cabin, which was stationed there in October 2020, and a compost toilet has also recently been introduced. In addition, two additional outbuildings are positioned within the southern section of the site. In the north-eastern section of the site lies what is described as a traditional orchard within the accompanying Preliminary Ecological Appraisal (PEA), and a pond is also situated at a central location. A wildflower meadow has been planted within and around the orchard, and the remainder of the site comprises mown grassland, hedges, trees and planting.

The effect of the proposals on the character and appearance of the rural scene and landscape

6. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In this case the Development Plan is the Breckland Local Plan 2019 (Local Plan).
7. Policy GEN 03 sets out that most new development need will be met through the proposed sustainable settlement hierarchy and identifies which settlements these include. Policy GEN 05 states that that outside the defined settlement boundaries, development is restricted to recognise the intrinsic character and beauty of the countryside. Development outside the defined settlement boundaries will only be acceptable where it is compliant with all relevant policies set out in the development plan.
8. The Government's National Planning Policy Framework (NPPF) is a material consideration. Paragraph 187 of the NPPF, in section 15 'Conserving and enhancing the natural environment' includes the statement that "*Planning policies and decisions should contribute to and enhance the natural and local environment by: b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*".
9. This proposal is unusual in that it concerns land that in many respects has the appearance of domestic garden land, and indeed it was at some point in the past separated from Holly Cottage which is situated at the northern end of the site. There is no specific policy of the Local Plan that applies to the appeal proposal. Of course, the fact that it is an unusual proposal does not stand as a matter against it.
10. The site is within a loose grouping of dwellings, some distance away from the main built up area of the village of North Lopham. In planning policy terms, and in fact, it is situated in the countryside. In terms of applying planning policy, the policy that I consider is most relevant to this appeal is GEN 05 referred to above. It is restrictive of new development in the countryside, unless such development is covered by another policy or has a clear and convincing reason for allowing it.
11. Dealing first with the existing 'log cabin', this has external dimensions of 10.65m x 5.44m, and apart from a veranda, has 4 rooms providing sufficient accommodation for over-night accommodation for short term stays. Indeed, the history of applications shows that it has previously been proposed for holiday lets. At my site

visit I saw that it can be clearly seen from the surrounding fields and highway, especially from High Common Road where it runs from the south towards White House and Corner Cottage. Its retention is clearly contrary to the intentions of the Local Plan policies for protecting the countryside.

12. The justification for the log cabin, put forward in the application planning statement, is that it would only be used for activities such as sheltering at times of inclement weather, and no overnight stays would take place. This does not amount to a justification for retention of a structure the size and impact of which is out of proportion to the limited use of the land as put forward. This is expressed as “The appellant would specifically use the site to meet up with other family members a couple of times a month, in order to socialise and maintain the land for recreational use”.
13. There is also a compost toilet that has been installed, mentioned in paragraph 5 above. However, this is a minor structure that does not appear as intrusive as the log cabin, and serves a purpose reasonably related to the recreational use. There is no compelling reason to require its removal.
14. The use of the land in this manner is another matter. As explained, it would be similar to the use of a garden attached to a dwelling, except less frequent. This use would not be harmful to the countryside in the circumstance that the site is located between existing residential curtilages. Indeed, there would be material benefits in that the land would be maintained such that it would protect the appearance of the area and almost certainly would be beneficial to wildlife.

The effect of the use of the site for amenity land on the living conditions of the occupants of the existing dwellings adjoining the site

15. As I have already noted, the use of the land for occasional family recreational purposes would amount to no more than the use of a garden attached to a dwelling. I have taken account of the comments made by interested persons and North Lopham Parish Council, all of which concentrate on objections to the retention of the log cabin. Subject to the conditions that the council has suggested in the event of planning permission being given, I consider that permission should not be withheld for the use of the land for family recreational purposes.
16. In reaching this view I also have in mind that, in any event, permitted development rights would allow a temporary use of the land for this purpose for a length of time that would probably meet the intended use by the appellant.

Conclusions

17. For the reasons that I have set out in paragraphs 6 to 12 above, the log cabin is a substantial building placed on a site within the countryside. It is visible from the highway and from across fields, is harmful to the the character and appearance of the countryside landscape, and is contrary to Local Plan Policy GEN 05. The need for its presence on the site does not amount to a public benefit, and in any event the desire to have shelter in inclement weather does not justify something that is akin to a small dwelling in terms of the accommodation provided. For these reasons the appeal in relation to the cabin will be dismissed.
18. In reaching this conclusion I have noted the decision of the Inspector in a previous appeal (reference APP/F2605/W/23/3319658) for a ‘small-scale camping site on

the land, to include 3 camping pitches and the stationing of a log cabin on a concrete base, for holiday lets'. In that decision the Inspector noted, in respect of the log cabin, that he/she had not been presented with any substantive evidence that the proposal would unduly harm the landscape in this location, whilst expressing the opinion that it would not be well related to existing rural buildings. This is not entirely on 'all fours' with my conclusion, but that Inspector was considering a proposal with considerably more structures (including 'glamping' style tents) which might have affected the judgement about the cabin, and in any event I have had the benefit of evidential opinion and have used my own judgement in relation to the proposal and what I saw at my site visit.

19. In respect of the use of the land by the appellant for recreational purposes, this does not have the harmful effects on the countryside that warrant refusal. In addition I have found that a use that reflects the domestic garden land that it once was should not be detrimental to the living conditions of the occupants of the existing dwellings adjoining the site. In reaching this conclusion I have taken account of the conditions suggested by the council that I can impose. For this reason I will split the decision, so that the appeal in respect of the log cabin will be dismissed, and that on the use of the site for recreational purposes will be allowed.

Conditions

20. Since this is a proposal for retrospective permission, the statutory condition that provides a time limit on the start of development is not appropriate. In order to deal with the possibility of the appeal being upheld, the council has suggested a number of conditions. I have considered these in the light of Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the text. In particular, the conditions were generally drafted in terms that the development had not yet commenced, so that it has been necessary to set timescales rather than use the phrase 'prior to first occupation/use'. The council's condition 10 deals with the log cabin; since that is not being permitted, the condition is otiose. Using the numbers in the schedule, rather than the council's numbering, I consider that the conditions should be imposed for the following reasons.
21. Condition 1 is required for certainty and avoidance of doubt as to the development permitted; conditions 2 and 3 are to ensure that the local planning authority can retain control over the use of the site and that development is compatible with the form and character of the surrounding area and the amenities of the neighbouring properties; condition 4 is in the interests of the living conditions of adjoining residents; condition 5 is in the interests of the amenities of the area and local residents and to minimise light pollution.
22. Condition 6 is to enhance protected and Priority species & habitats and allow the Local Planning Authority to discharge its duties under the NPPF and s40 of the NERC Act 2006 (as amended) and to ensure a net gain in biodiversity in accordance with Policy ENV02 of the Breckland Local Plan and condition 7 is to safeguard the protection of trees for the sake of biodiversity and the appearance of the countryside.
23. Condition 8 is to ensure construction of a satisfactory access and to avoid carriage of extraneous material or surface water onto the highway in the interests of highway safety; condition 9 is in the interests of highway safety; condition 10 is to

ensure the permanent availability of the parking/manoeuvring areas, in the interests of satisfactory development and highway safety.

24. In addition, I have given consideration to a condition that would require the removal of the log cabin and its concrete pad within a period of, say, 6 months. This would be because it is development that harms the character and appearance of the countryside and is against Local Plan policy. However, it appears to me that such a condition would not reasonably relate to the development that is the subject of the planning permission. I will therefore leave the matter for the Local Planning Authority to consider against powers available to it.

Terrence Kemmann-Lane

INSPECTOR

Schedule of Conditions

- 1) Save for any references to the log cabin, the use of the land for recreational purposes shall be carried out in strict accordance with the application form, and approved documents and drawings submitted with the application.
- 2) The site shall be used for personal recreational enjoyment by the applicant, Mrs Ann Button, and her immediate family only. The land shall not be let or sub-let for any purpose unless agreed in writing by the Local Planning Authority. Upon the use ceasing, the compost toilet shall be removed from the site within 3 months of the last use of the site.
- 3) No overnight accommodation shall be provided on the site.
- 4) No loudspeaker, amplifier, relay or other audio equipment shall be installed or used within the site.
- 5) No external lighting shall be erected unless full details have first been submitted to and approved in writing by the Local Planning Authority. The details shall include a lighting plan indicating luminance levels both on the site and beyond, and a schedule of equipment including mounting heights. Such lighting shall be kept to the minimum necessary for the purposes of security and site safety and shall prevent upward and outward light radiation. The lighting shall be installed, maintained and operated in accordance with the approved details unless otherwise first agreed in writing by the Local Planning Authority.
- 6) Within 3 months of the date of this decision, a Biodiversity Enhancement Strategy (BES) for biodiversity enhancements, prepared by a suitably qualified ecologist in line with the recommendations of the (Preliminary Ecological Appraisal (Greenlight, May 2024), shall be submitted to and approved in writing by the Local Planning Authority. The content of the BES shall include the following: a) Purpose and conservation objectives for the proposed enhancement measures; b) detailed designs or product descriptions to achieve stated objectives; c) locations of proposed enhancement measures by appropriate maps and plans (where relevant); d) persons responsible for implementing the enhancement measures; e) details of initial aftercare and long-term maintenance (where relevant) and f) the timescale for the implementation of the BES. The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.
- 7) Within 2 months of the date of this decision an arboricultural method statement to BS 5837:2012 for the installation of the Grasscrete, referred to within Section 3 of the Arboricultural Impact Assessment (AIA) -OAS 22-160-AR01 Rev A & dated: August 2024, for the installation of Grasscrete, shall be submitted to and approved in writing by the Local Planning Authority. The installation of the Grasscrete as approved shall be completed within 1 month of that approval.
- 8) Within 3 months of the date of this decision, the vehicular access over the verge shall be constructed in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority in accordance with the highways specification (TRAD 4/5) and thereafter

retained at the position shown on the approved plan. The detailed scheme shall include arrangements for surface water drainage to be intercepted and disposal of separately so that it does not discharge onto the highway.

- 9) Within 3 months of the date of this decision, visibility splays measuring 2 metres x 45 metres shall be provided to each side of the access where it meets the near edge of the adjacent highway carriageway. The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 1.05 metres above the level of the adjacent highway carriageway.
- 10) Within 3 months of the date of this decision, the proposed access and car parking area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.

End of Schedule