



Appeal Decision

Hearing held on 8 April 2025

Site visit made on 8 April 2025

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 April 2025

Appeal Ref: APP/V2635/W/24/3355580

Ruins at Formerly Known As Homeland, Bedford Bank, Welney, Norfolk

- 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 Benjamin Livesley against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 24/01011/F.
 - The development proposed is 'rebuilding of the present building and extension to build a new house'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address and the description of development in the banner heading above are taken from the Statement of Common Ground as agreed between the main parties.
3. Subsequent to the appeal being submitted, the Council adopted the King's Lynn and West Norfolk Local Plan 2021-2040 (adopted 2025) ('the LP') which supersedes the Core Strategy 2011 and the Site Allocations and Development Management Policies Plan 2016 ('the SADMP') referred to in the reasons for refusal. The main parties have had the opportunity to address the implications of relevant policies and parts of the LP during the course of the appeal and I have considered the proposal against the LP.
4. Also since the appeal was submitted, the Government published a revised version of the National Planning Policy Framework ('the Framework') as well as the Housing Delivery Test 2023 measurement ('the HDT'). I have considered the appeal in light of the Framework and the comments made by the main parties. In respect of the HDT, the initial publication gave the Council's result as 60%. At the Hearing however, the Council provided a letter from the Government setting out that the result had been recalculated and now stands at 87%. I have considered the appeal on that basis.

Main Issues

5. I set out my preliminary view of the main issues in this appeal in a Pre Hearing Note and at the start of the Hearing. I have reordered and slightly refined these in my decision, including to consider the effects on European designated sites and protected species separately, and I consider the main issues to be:
 - i) whether or not cessation of residential use on the site is temporary or amounts to abandonment;

- ii) whether or not the proposal would comply with planning policy which seeks to steer development away from areas at highest risk of flooding;
- iii) the effect of the proposal on the character and appearance of the area;
- iv) whether or not the development would be in a suitable location having regard to its location in the countryside and access to services and facilities;
- v) the effect of the proposal on the integrity of European designated sites; and
- vi) the effect of the proposal on protected species.

Reasons

Cessation of Use

6. The appeal relates to an elongated parcel of land that sits between a raised bank of the Counter Drain/Old Bedford River and a drainage ditch which runs along the edge of a large agricultural field. Towards the south west of the parcel is a structure which I understand was formerly occupied as a dwelling.
7. Whether or not the residential use of this structure has been abandoned is disputed between the main parties. In considering this matter, both parties have drawn my attention to four principal factors which the courts have confirmed should be taken into account. These are: the physical condition of the land or building; the period of non-use; whether there has been any other use; and the owner's intentions.
8. In respect of physical condition, the building was described in the appellant's planning statement as a 'derelict, redundant shell of a building with a collapsed roof, wall and missing fenestration'. The appellant referred at the Hearing to a recent further collapse of part of a wall, and I saw cracking to sections of the remaining standing walls at my visit. Notwithstanding the building's current condition, the appellant asserts that residential use is still capable of being re-commenced. However, no structural survey has been provided to demonstrate that the structure remains sound such that its restoration would realistically be possible. In the absence of such information and based on my observations of the condition, I have significant doubts that this would be feasible and I am not satisfied from the information before me that the physical condition of the building would be able to support residential use.
9. In my view, the question of whether the physical condition of the building would realistically allow resumption of residential use is an important element of determining if the use has been abandoned. Furthermore, this determination is relevant to my assessment of main issues in respect of the location of the site, flood risk and effects on European designated sites. Because this matter therefore goes to the heart of whether or not permission should be granted, it would not be appropriate to defer the provision of a structural survey to a planning condition.
10. In considering the period of non-use, the appellant advises that electricity was disconnected in 2021. Be that as it may, they have provided no substantive information to call into doubt the Council's evidence indicating that the building had been recorded as unoccupied and uninhabitable on Council Tax records dating back at least as far as April 1995, before it was deleted from the Council Tax list in 2000. On that basis, the period of non-use appears to be around at least 30 years which is a considerable stretch. During that period, there is no clear evidence that the building has been put to any other use.

11. The final factor concerns the owners' intentions. The appellant indicates that they intend to live at the site as their family home. However, they purchased the site in 2022. Their interest therefore covers only a very limited part of the total period of non-use and I have been provided with no firm evidence to substantiate an assertion that the previous owner intended to rebuild, nor to explain why the structure appears to have been left to fall into an essentially derelict condition if that were the case. The previous owner may not have given up ownership of the property, but ownership is not anomalous to use in planning terms and the sale of the site to the appellant is not therefore clear evidence that the residential use of the building has not been abandoned.
12. Drawing these matters together, the building is in a very poor state of repair and appears to have been uninhabitable since at least 1995. There is no compelling evidence to suggest any intention to resume residential use across the majority of this period, and it is further unclear from the submitted evidence that resuming the use would even be possible given the physical condition of the structure. Having regard to these factors and as a matter of fact and degree, I conclude on the basis of the evidence before me that the residential use of the appeal building has been abandoned. As a consequence, the proposal would result in a new dwelling on the site.

Flood Risk

13. The Framework sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, it should be made safe for its lifetime without increasing flood risk elsewhere.
14. The raised bank adjacent to the appeal site provides protection from the Counter Drain/Old Bedford River while a higher bank opposite provides protection from the River Delph and Ouse Washes Flood Storage Reservoir. Nevertheless, the Council and the Environment Agency ('The EA') note potential for bank overtopping. Referencing the EA's Fenland modelling and the Strategic Flood Risk Assessment 2018 ('the SFRA'), they indicate that the appeal site includes areas of flood zone 3b (functional floodplain), including within the footprint of the proposed dwelling, and I have been provided with flood mapping extracts showing this.
15. The appellant disputes that the development would be in flood zone 3b. However, while their Flood Risk Assessment ('FRA') suggests that the site is placed by the EA in Flood Zone 3a (high probability) and SFRA Category 3a, the basis for this is not clearly shown given the small scale and poor resolution of the appended flood mapping which makes the identified risk at the site difficult to discern. Moreover, I note that section 5.2 of the FRA states that the dwelling may be subject to fluvial flood risk by overtopping during events including 'the 5% fluvial event'. Having regard to the national Planning Practice Guidance ('the PPG') which indicates that flood zone 3b will normally comprise land having a 3.3% or greater annual probability of flooding, this would seem to affirm the position of the Council and EA that flood zone 3b would be relevant.
16. I note the appellant's view that flood water would not remain on the site. However, no topographic information or modelling has been provided to substantiate this assertion. Furthermore, water would still pass over the site and whether or not

there are historic records of flooding is not compelling evidence that the site would not be at risk in future.

17. Overall, I find that insufficient cogent evidence has been provided for me to disregard the flood mapping evidence provided by the Council. On that basis, I consider that the development would fall at least partly within flood zone 3b.
18. The proposed dwelling would comprise more vulnerable development which the PPG indicates should not be permitted within flood zone 3b.
19. Even if I were to accept that the site is flood zone 3a as the appellant argues, the Framework outlines requirements for application of the sequential test, and, in some cases, the exception test which would apply here.
20. The sequential test provides that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The appellant accepted at the Hearing that there is no firm evidence to demonstrate that this would be the case and accordingly, I am unable to determine that the sequential test would be passed.
21. The first part of the exception test requires that the development would provide wider sustainability benefits to the community that outweigh flood risk. I consider the benefits of the proposal in more detail under the planning balance below, but in my judgement, sustainability benefits to the wider community would be limited and would not outweigh flood risk. On that basis alone, I am unable to find that the exception test would be passed.
22. In addition, the second part of the exception test requires that development would be safe for its lifetime taking account of the vulnerability of its users without increasing flood risk elsewhere and that it would, where possible, reduce flood risk overall. In this respect, the appellant proposes that the ground floor level of the dwelling would be raised 1.3m above the adjacent ground levels and the inclusion of additional flood resistance and resilience measures.
23. However, the PPG highlights the breach of raised flood defences as examples of residual flood risk which should be addressed as part of development. The FRA refers to EA hazard mapping data showing a low risk of flooding from a breach scenario, but the EA advise that there are no modelled breach locations close to the site and so that mapping does not accurately represent the risk here. In the event of a localised breach of the Counter Drain defences, the dwelling would experience high flood velocities and in the absence of modelling, the EA suggest potential flood depths at the site of up to 2.5m as a conservative estimate. The appellant has questioned the likelihood of such depths given surrounding land levels, but there is no specific modelling before me to demonstrate that an alternative flood depth would be more reasonable.
24. Where flood depths of over 2m are predicted, the Design Guidance for New Dwellings at Risk of Flooding within the LP indicates that there should be no ground floor habitable accommodation. Bedrooms would be on the first-floor level, but the inclusion of a living room and kitchen/dining to the ground floor of the dwelling mean that the proposal would conflict with this guidance.
25. The likelihood of a breach of defences may be low, but the PPG highlights that areas behind defences are at particular risk from rapid onset of fast-flowing and

deep-water flooding with little or no warning if defences are breached. From the information before me, a breach of defences in the vicinity of the site would pose an extreme hazard and I am not satisfied that the proposal includes adequate measures to mitigate the risk. Accordingly, the development would not be safe for its lifetime, and the second element of the exception test would not be passed.

26. Drawing these matters together, the proposal would result in more vulnerable development within flood zone 3b contrary to the PPG. Even if I were to accept that the site is flood zone 3a rather than 3b, it has not been satisfactorily demonstrated that the sequential and exception tests would be passed, and I am unable to find that the development would be safe for its lifetime.
27. As a consequence, I conclude that the proposal would be at unacceptable risk of flooding. It would be contrary to planning policy which seeks to steer development away from areas at highest risk of flooding, conflicting with the Framework as well as with Policies LP06, LP18 and LP25 of the LP. Amongst other things, these policies set out that the findings of the SFRA will be used to guide development away from areas of high flood risk and require, broadly, development that is designed and adapted to incorporate climate change and flood risk resilience and that is safe for its lifetime.

Character and Appearance

28. According to the Landscape Character Assessment 2007, the appeal site is part of the 'Fens – Open Inland Marshes' landscape character type which is described as a large-scale landscape with extensive vistas and wide-open skies evoking a strong sense of openness, exposure and isolation.
29. The appeal site itself is set some way outside of Welney, and is surrounded by large agricultural fields, a parcel of woodland and the Counter Drain/Old Bedford River with wetland habitat beyond. Apart from some small agricultural structures and a pumping station, other development in the vicinity of the site is limited and the resulting sense of openness and isolation reflects characteristics of the wider landscape. The dilapidated structure and scattered materials on the site are somewhat untidy. However, the limited scale and screening provided by trees in close proximity means that it is fairly unobtrusive in its surroundings and it does not detract significantly from the remote and tranquil quality or distinctly rural character and appearance of the area.
30. Despite the appellant's suggestion that there was no intention to increase the height of the building, the only plans that I have before me indicate that the development would be markedly higher than the former dwelling. Furthermore, it would have a much larger second floor level than the former structure and a pitched roof with higher gable projections to the north and south that would add significant bulk and mass. Even if the height was not increased, there would accordingly be a considerable increase in the overall scale and physical presence of development on the site.
31. The design also includes significant areas of glazing, including large expanses extending up to the eaves of gables to three sides of the building. The appellant suggested that a planning condition could secure revisions to reduce the extent, but there would still be a requirement for some glazing to serve the second-floor accommodation. This glazing would sit at greater height than was present to the

former structure and reflections or artificial light emanating from it would draw attention to the dwelling's presence in the landscape.

32. Opportunities for public views of the development from points to the north west of the site would be likely to be very limited at considerable distance such that there would be negligible if any appreciation of the dwelling. The significant height of the Middle Level Barrier Bank would also be likely to restrict longer range views from points to the south east. However, there would be clear views at very close proximity from the public right of way which runs along the adjacent raised bank of the Counter Drain/Old Bedford River. In these views, the greater overall scale of the proposed dwelling combined with its design would result in a much more conspicuous and urbanising feature in this part of the landscape than the existing site, diminishing the remote and tranquil quality and the rural character and appearance of the area.
33. In addition, there is no substantive evidence considering the effect of the proposal on trees. The appellant advised during the Hearing that at least one tree would need to be removed, but the full extent of any tree removals or other works that might be necessary to accommodate the proposal, and the potential for indirect effects on trees, is accordingly uncertain. Furthermore, new tree planting may well be possible within the wider site, but the presence of windows and the relatively limited depth of the site means that I consider the scope for replacement planting around the dwelling itself to be uncertain at best. The existing trees are not protected, but they contribute to the verdant quality of the area and provide for screening. Their loss would exacerbate the visibility of the development and the erosion of the rural character and appearance of the area and I am not satisfied that this could be fully mitigated by replacement planting or management of retained trees.
34. For these reasons, I conclude that the development would be detrimental to the intrinsic character and beauty of the countryside and there would be unacceptable harm to the character and appearance of the area. Accordingly, the proposal would conflict with Policies LP02 and LP21 of the LP which include requirements broadly seeking development that respects and enhances local character and that responds sympathetically to its setting including in respect of its scale and height.

Location

35. The LP seeks generally to steer new development towards the most sustainable locations while recognising that some growth of rural settlements can help to maintain rural vitality in accordance with a defined settlement hierarchy. The closest settlement to the appeal site is Welney which Policy LP01 of the LP identifies as a 'Tier 5 Rural Village'. However, the site is located some way outside of the defined development boundary and is within the countryside in planning policy terms.
36. Policy LP02 of the LP indicates that residential development outside of the development boundary of a Tier 5 settlement will not normally be supported unless allocated, or the settlement has an identified housing requirement for which there are no opportunities within development boundaries and the relevant Neighbourhood Plan does not address through allocations. The appellant has not argued that such circumstances would apply here. Consequently, the provision of a dwelling in this location would be contrary to LP Policy LP02.

37. In addition, the travel distance and the nature of the routes which would involve either an unsurfaced right of way or a track with uneven surfacing and unmade sections means that future occupiers are unlikely to consider walking or cycling an attractive or realistic option to reach the limited services and facilities available in Welney. Given also the greater distances to reach a wider range of day-to-day services, occupiers of the site would be likely to rely heavily on travel by private vehicle. This would further be at odds with Policy LP02 of the LP insofar as it generally seeks development that maximises opportunities to reduce the need to travel and that encourages sustainable and active travel modes.
38. Moreover, the appellant does not dispute that the proposal would result in an isolated home in the countryside which paragraph 84 of the Framework indicates should be avoided unless one of five specified circumstances apply. Of these circumstances, the appellant considers that b) and c) are relevant.
39. The provision at b) is that the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets. The proposal does not concern any designated heritage asset but the appellant states that a structure is shown on the site on historic maps dating to the 1880s and tithe maps dating to the 1830s. They further suggest that the building could have been a residence from the 17th century. However, there is no heritage assessment before me which might corroborate the date of the structure that is actually on the site currently. Nor has any detailed description of its significance as a heritage asset in accordance with paragraph 207 of the Framework been provided. With regard to its current condition and in the absence of firm information to the contrary, it is far from clear to me that the structure retains meaningful historic or architectural interest. I am not therefore persuaded that it holds sufficient significance that it would warrant assessment as a non-designated heritage asset ('NDHA').
40. Even if I were to consider the building a NDHA and to take the appellant's plans at face value, the proposal would retain very little of the existing fabric in situ. The dwelling may occupy the original footprint and the appellant suggests that materials could be reused, but it would be of wholly different form and appearance such that I consider any remaining architectural interest and heritage significance of the former dwelling would be seriously undermined, if not completely lost.
41. The proposal would reinstate residential use on the site but in the context of my findings above, I cannot see how the proposal could reasonably be described as the use of a heritage asset or as securing the future of the asset. The proposal would not therefore satisfy paragraph 84 b).
42. The provision at paragraph 84 c) is that the development would re-use redundant or disused buildings and enhance its immediate setting. In the absence of substantive structural evidence to demonstrate that the existing building is capable of being retained, it is at best uncertain that the development would comprise re-use of a redundant or disused building. Notwithstanding the condition of the site currently, I have further found above that there would be harm to the character and appearance of the area and while the appellant refers to potential for significant new planting, no details have been provided. I am consequently unable to determine that there would overall be enhancement to the immediate setting of the building and the proposal would not therefore satisfy this provision.

43. Given the above, this is not a situation where paragraph 84 of the Framework indicates that an isolated dwelling in the countryside may be acceptable.
44. For these reasons, I conclude that the development would not be in a suitable location having regard to its location in the countryside and access to services and facilities and it would conflict with LP Policy LP02, as well as with the Framework.

European Sites

45. In circumstances where a proposal is likely to have a significant effect on a European Site designated under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations'), there is a duty on the competent authority to consider implications for the conservation objectives of the Site within the framework of an Appropriate Assessment. In accordance with the Framework, Ramsar sites should be given the same protection.

Ouse Washes

46. The appeal site is immediately adjacent to the Ouse Washes Special Area of Conservation ('SAC'), Special Protection Area ('SPA'), Ramsar site and Site of Special Scientific Interest.
47. The Ouse Washes comprises an extensive washland habitat which supports a variety of aquatic plants and fauna and assemblages of wetland bird species. The SAC is designated for the presence of spined loach, while the SPA is designated for waterbird and breeding bird assemblages including populations of nationally or internationally important species, both breeding and non-breeding. The conservation objectives for the SAC and SPA seek broadly to ensure that the integrity of the site is maintained or restored and that the site contributes to achieving the favourable conservation status of its qualifying features. The Ramsar site is listed as one of the most extensive areas of seasonally-flooding washland of its type in Britain, supporting several nationally scarce plants, relict fenland fauna, a diverse assemblage of nationally rare breeding waterfowl and waterfowl species and an assemblage of international importance.
48. Natural England and the Council have raised concerns of potential detriment to the Ouse Washes sites through effects on water quality that could result from construction activity, leeching of materials or foul water discharge. In addition, they highlight that the appeal site and neighbouring agricultural land could comprise 'functionally linked land' for the Ouse Washes SPA and Ramsar site given possible use by bird species, and that these species could be adversely affected by light, noise or activity on the site associated with the proposal.
49. There is no assessment considering potential effects on the Ouse Washes sites before me. The appellant suggested that further information could be provided through a planning condition. However, a precautionary approach must be taken in considering effects on the designated sites and from the evidence before me, I am unable to determine beyond reasonable scientific doubt that the proposal would not have a likely significant effect on the designated sites, either alone or in combination with other plans and projects. It is further unclear whether or not any likely significant effects that may arise could be effectively and adequately mitigated. Accordingly, I cannot be certain that the proposal would not cause detriment to the qualifying features of the SAC, SPA and Ramsar sites and it would not be appropriate to defer this matter to a planning condition.

50. Taking a precautionary approach, I therefore find that there is insufficient information to conclude that the proposal would not have an adverse effect on the integrity of the Ouse Washes SAC, SPA and Ramsar site.

The Wash and Brecks

51. The appeal site is additionally within the Zone of Influence of European Sites and Ramsar sites scoped into the Norfolk Green Infrastructure and Recreational Disturbance Avoidance and Mitigation Strategy 2021 ('GIRAMS') which are vulnerable to the effects of recreation, specifically The Wash and Brecks sites.
52. Insofar as the proposal would result in a new dwelling within this Zone of Influence, it could contribute additional visitors to the GIRAMS sites. The effect of the appeal development alone would be limited, but could increase recreational activity which, in combination with other plans and projects, would have a likely significant effect on the designated sites.
53. In order to mitigate potential recreational effects of development, the GIRAMS seeks financial contributions towards strategic measures according to a tariff. During the Hearing, the appellant indicated a willingness to make such a contribution. However, no payment has been made and in the absence of any mechanism to appropriately secure the relevant contribution, I can only conclude that the recreation effects of the development would not be mitigated and the proposal would result in significant adverse effects on the relevant SPA, SAC and Ramsar sites included within the GIRAMS.

Conclusion on Main Issue

54. Given the above, I conclude that adverse effects on the integrity of the Ouse Washes and the Wash and Brecks European designated sites and Ramsar sites cannot be ruled out. I have no firm reason to find that there are no alternative sites that could accommodate the development with lesser effects on the integrity of the designated sites, nor that there are imperative reasons of overriding public interest that would outweigh the adverse effects. In these circumstances, the operation of the Habitats Regulations would preclude the proposal from proceeding. There would also be conflict with Policy LP27 of the LP insofar as it sets out that development must not adversely affect the integrity of European sites unless tests set out under the Habitats Regulations are met.

Protected Species

55. The appeal site is close to areas of woodland and linear watercourses and having regard to its condition as predominantly vegetated with a number of mature trees along with the partially collapsed structure and scattered materials, I agree with the Council that it could offer suitable habitat for species including bats, birds and newts. On that basis, there would appear to be a reasonable likelihood that protected species of principle importance listed under s41 of the Natural Environment and Rural Communities Act 2006 (as amended) or protected species under the Wildlife and Countryside Act 1981 (as amended) could be present and affected by the development. No detailed ecological surveys or assessment have been provided to demonstrate otherwise.

56. Circular 06/2005¹ sets out that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by proposed development is established before planning permission is granted. I would also need to be confident that any necessary mitigation or compensation measures to address effects of the proposal could be properly secured and would be effective. Given the significant uncertainty in relation to these matters, assessment could not appropriately be deferred to a planning condition.
57. For these reasons, I conclude that there is insufficient evidence to determine that protected species would not be present or harmed by the development and the proposal would be contrary to Policy LP19 of the LP which includes a requirement that development should seek to avoid, and where this is not possible, with justification, mitigate or compensate for any adverse impacts on biodiversity.

Other Matters

58. The appellant has referred me to examples of planning permissions which have been granted for development including within areas of flood risk. However, the Council indicates that the Former Three Tunns Public House was an allocated site within the SADMP. In addition, Bank Farm relates to an extension to an existing dwelling while the Old Welney Hotel had a Certificate of Lawfulness confirming that residential use had not been abandoned; and both of these sites were further within flood zone 3a rather than 3b. The Old Welney Hotel application was also accompanied by ecological surveys. The circumstances of these developments are not therefore directly comparable to the appeal scheme and they do not alter my conclusions on the specific merits of the proposal that is before me.
59. Given my findings that it is unclear that the existing building holds sufficient significance to warrant assessment as an NDHA, and because it would not in any event be determinative, I have not considered the effect of the proposal on the significance of the building further in my decision.

Planning Balance

60. Having found that residential use on the appeal site has been abandoned, I have concluded that the development would not be in a suitable location. It would also be at unacceptable risk of flooding and contrary to planning policy which seeks to steer development away from areas at highest risk of flooding. Furthermore, it would detract from the character and appearance of the area, and it has not been demonstrated that there would not be unacceptable harm to the integrity of European designated sites or to protected species. There would be conflict with policies LP02, LP06, LP18, LP19, LP21, LP25 and LP27 of the LP and I find that the proposal would conflict with the development plan when it is read as a whole.
61. On the other hand, the proposed dwelling would add to the supply of housing. The appellant has not disputed the Council's evidence that it is able to demonstrate a five year supply of deliverable housing sites, but that is not a ceiling on development and I recognise that the Framework seeks to significantly boost the supply of housing. In addition, the development is proposed as a 'self-build' dwelling. During the Hearing, the Council advised that it has not met the duty under the Self-Build and Custom Housebuilding Act 2015 (as amended) to grant sufficient permissions to meet demand for self-build and custom housebuilding ('SBCH').

¹ Biodiversity and geological conservation – statutory obligations and their impact within the planning system

Given the suggested shortfall of around 200 dwellings which is considerable, I give significant weight to the contribution that the proposal would make to the supply of SBCH.

62. Nevertheless, the contribution that a single dwelling would make to the supply of housing and to widening housing choice, and so the extent of these benefits, would be very limited.
63. I have noted references to the inclusion of renewable energy sources and a desire to provide solar panels in future, but this is not specified as part of the development before me. Nor are there substantive details to demonstrate other energy or resource efficiency measures that would be incorporated. In this context, I can give only very limited weight to the suggested environmental sustainability measures.
64. The appellant has also referred to shooting taking place in the vicinity which would be prohibited should the site be occupied as a dwelling. However, even if that were the case, I am not persuaded that this would outweigh the potential harm to European designated sites and protected species so as to offer an overall benefit to biodiversity.
65. The Council's appeal statement noted that the presumption in favour of sustainable development outlined at paragraph 11d) of the Framework would be engaged. However, this is no longer the case given the amended HDT result. Moreover, policies in the Framework relating to flood risk and habitats sites would provide a strong reason for refusing the development proposed such that the presumption would not therefore apply in any event.
66. I acknowledge support for the proposal from Welney Parish Council but in my assessment, the limited benefits of the development would not come close to outweighing the cumulative adverse impacts and the resulting conflict with the development plan.

Conclusion

67. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Benjamin Livesley
Kimberley Hancock

FOR THE LOCAL PLANNING AUTHORITY:

Clare Harpham	Planning Officer, Borough Council of King's Lynn and West Norfolk
Claire Wiggs	Ecologist, Borough Council of King's Lynn and West Norfolk

DOCUMENTS SUBMITTED AND ACCEPTED AT THE HEARING

BY THE COUNCIL

- LPA1 Copy of 'Letter from MHCLG² regarding recalculation of your 2023 Housing Delivery Test score' dated 26 March 2025.
- LPA2 King's Lynn and West Norfolk Local Plan 2021-2040 Appendix B 'Flood Risk Design'.
- LPA3 Text of additional suggested condition in respect of Biodiversity Net Gain Self Build Exemption.

² Ministry of Housing, Communities and Local Government