



Appeal Decision

Site visit made on 6 May 2025

by John Felgate BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2025

Appeal Ref: APP/V2635/W/24/3354818

Land at Elm High Road, Emneth, Norfolk

- 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 Clarke against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 23/02178/O.
 - The development proposed is residential development with matters committed in respect of access only.
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Appeal Ref: APP/D0515/W/24/3354821

Land at Low Road, Elm, Cambridgeshire

- 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 Clarke against the decision of Fenland District Council.
 - The application Ref is F/YR24/0064/O.
 - The development proposed is residential development for up to 2 x dwellings with matters committed in respect of access only.
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Decision

1. The appeals are dismissed.

Application for costs

2. An application for costs has been made by Fenland District Council, against the appellants. That application is the subject of a separate decision.

Preliminary matters

3. The two appeals relate to a single site, which straddles the administrative boundary between the parishes of Elm, in the Fenland District of Cambridgeshire (FDC), and Emneth, in the Borough of Kings Lynn and West Norfolk (KLWN). Separate, identical applications were made to each of these two authorities.
4. The site, as defined by the red line boundary in each case, comprises a fenced area of grassland fronting onto both Elm High Road and Low Road, together with the existing access and parking area attached to Clarkes' Mowers. The mower business's sales building, workshop and external compound are excluded.
5. As set out above, the permission sought in both cases is outline planning permission with all matters reserved except for access. Originally, access was proposed to be via the existing access point on Elm High Road, but this was amended prior to the two Councils' decisions. Both applications are now

accompanied by a layout plan showing two detached dwellings on the northern part of the site, facing the High Road, with parking and turning to the side and rear, served by a proposed new access from Low Road. Apart from the access, these details are agreed to be illustrative only.

6. The refusal notices issued by FDC and KLWN each contain three identical reasons for refusal (RRs). RR3 in each case relates to highway safety. KLWN has since withdrawn its objection on this ground. However, FDC's highway objection remains before me.
7. In December 2024 a revised version of the National Planning Policy Framework was published, and in March 2025, KLWN adopted a new district-wide Local Plan, superseding the earlier Core Strategy and Site Allocations plans. The parties have been given the opportunity to comment on the relevance of the policies contained in these new documents, and I have taken account of the responses received.

Main issues

8. In the light of the various submissions before me, I find that the main issues in the appeal are:
 - the effect of the proposed development on the area's character and appearance;
 - the quality of the residential environment and living conditions for the development's future occupiers;
 - and the effects on highway safety.

Reasons for decision

Character and appearance

9. In the Borough of KLWN, Policy LP02 of the new Local Plan (the KLWNLP), adopted in March 2025, supports development which, amongst other things, respects and enhances local character, contributes to place making and reinforces local distinctiveness, and which can be readily assimilated into the settlement. In addition, Policy LP18 also seeks high quality design which will enrich the Borough's attraction, enhance the quality of the environment, and optimise site potential. In Fenland District, the Fenland Local Plan (the FLP), adopted in May 2014, Policy LP16 seeks to deliver high quality environments by, amongst other things, ensuring that new developments contribute positively to local distinctiveness, respond to and improve the local built environment, and reinforce local identity.
10. In the National Planning Policy Framework (the NPPF), paragraph 135 states that developments should function well, and add to the overall quality of the area; should be visually attractive, through their layout as well as their design; and establish a strong sense of place; and optimise the site's potential to accommodate an appropriate amount and mix of development. Paragraph 139 makes clear that schemes that are not well designed should be refused.
11. In the present case, the appeal site occupies a prominent corner position on Elm High Road, which is part of the A1101. The eastern frontage comprises a mix of individual houses in varying styles and sizes, giving that side of the road a reasonably pleasant character, despite the presence of the road itself and

attendant traffic. The west side, where the appeal site is located, is quite different. To the north of the site are a row of unsightly rear garden fences. To the south is a motor workshop with a large, utilitarian building and car park, and beyond this a pub car park. Between these is Clarke's Mowers and the appeal site itself. The appearance of this western side is therefore unattractive and uninviting.

12. In this context, I see no reason to doubt that in principle some form of high-quality development on the appeal site would provide the opportunity to improve the area's overall character and quality, in accordance with the aims of the local and national policies identified above. However, the present appeal proposal seems to me to fall well short of that aim. If carried out as shown on the submitted layout plan, the proposed scheme would involve two relatively small domestic buildings, positioned towards one end of the site frontage. A substantial part of the site would be taken up by the proposed parking and turning area, which would wrap closely around two sides of the new dwellings. The extensive and unsightly, hardcore-surfaced area that provides the access and parking for the mower business, and access to various adjoining garages, would all remain. So too would the single-storey timber shed that serves as the business's sales building. A development carried out in this way would result in the new dwellings appearing cramped and dominated by their surroundings, whilst also leaving the majority of the site unimproved in any way. Consequently, whilst the introduction of two new buildings would have the potential to contribute positively, that contribution would be limited, and would be outweighed by the development's adverse effects in facilitating the retention of some of the most unsatisfactory elements of the local environment.
13. I fully appreciate that, given the illustrative status of the submitted plan, the Council would not be bound to approve a detailed scheme along precisely these lines at the reserved matters stage. But nevertheless, the purpose of an illustrative plan is to demonstrate that a potentially acceptable scheme could result. The present plan does not do that. Based on the information before me, the proposed development would fail to contribute positively to local distinctiveness, or to reinforce local identity, or to establish any kind of sense of place. It would also be poorly integrated with its surroundings. As such, it would fail to optimise the site's potential, and would not produce a high quality, visually attractive result.
14. In addition, on its northern boundary, the appeal site has a row of semi-mature, multi-stemmed willow trees. Although the trees are not of high quality individually, when seen together they form a significant landscape feature, especially in the context of the surroundings. The submitted layout plan makes it clear that the largest of these would need to be lost, to form the proposed new access from Low Road. The plan also suggests that the parking and turning area for the new dwellings would have to extend almost up to the trunks of all the others in the row, covering a large part of their rooting area; and it would appear that a good deal of their foliage would need to be removed to make these spaces usable. Consequently, in the absence of any detailed assessment, there is no evidence as to whether any of these trees could be successfully retained. Replacement planting could be provided, but nevertheless, the loss of the site's only existing landscape feature of any note would add to the harm to the area's character and appearance.
15. There is no dispute that the whole of the appeal site is within the built-up area of the combined settlements of Elm and Emneth, where small scale developments

are acceptable in principle. I therefore agree with the appellants that in this location, neither the loss of the site's openness, nor the density of the proposed scheme, are matters for objection. However, that does not mean that poor quality development should be accepted.

16. In this case, for the reasons that I have explained, it has not been demonstrated that the proposed development could take place without causing harm to the area's character and appearance. In this regard the scheme would fail to accord with the relevant provisions of KLWNLP Policies LP02 and LP18, FLP Policy LP16, and NPPF paragraphs 135 and 139.

Residential environment and living conditions

17. In the KLWNLP, Policy LP21 requires that developments take account of the amenity of future occupiers, in terms of a range of factors, including noise, air quality and visual impact. In Fenland, as already noted, FLP Policy LP16 seeks to deliver high quality environments.
18. At national level, NPPF paragraph 135 (f) states that developments should help to promote health and well-being, by offering a high standard of amenity for their users. Paragraph 200 requires that where noise could have a significant adverse effects, mitigation should be provided. The National Noise Policy Statement seeks to ensure that adverse impacts on health and quality of life are where possible avoided, or if necessary mitigated and minimised.
19. In the present case, the proposed new dwellings would be subject to traffic noise from the High Road, and particularly during those times when congestion occurs at the nearby Elm Hall roundabout, resulting in slow-moving traffic, with additional stopping, starting and gear-changing. There is also some noise, albeit to a lesser extent, from the Clarkes Mowers' workshop, where the existing business is said to include repairing, servicing and testing mowers and other garden tools.
20. Internally within the proposed new dwellings, on the appellants' calculations, it appears that the World Health Organisation's recommended noise levels could be achieved, both in the daytime and at night, by the use of high-specification sealed glazing units and mechanical ventilation. Even with the windows closed, occasional sudden peaks above the ambient level are likely to be experienced, but the evidence does not suggest these are likely to be unduly frequent or sustained. With the windows open, there is no doubt that the recommended levels would be significantly exceeded, but the same would apply to many other locations in built-up areas. The occupiers would have a degree of choice, between fully effective sound insulation and improved natural ventilation, and would be able to prioritise the former if they wish. Whilst this might not be ideal, it seems likely that living conditions at the site would be found acceptable by a reasonable proportion of potential occupiers. On balance, the shortcomings of the noise levels within the new dwellings are not so severe as to justify refusal of permission.
21. Externally however, acceptable noise levels in the rear gardens of the new properties could only be achieved by installing acoustic barrier fencing, to heights exceeding those that are normally expected in residential areas. On the rear and two outer side boundaries, the appellants suggest that this could be 2.5m high, but even at this height, the noise level in the affected areas would still exceed the level at which conversation could take place comfortably. There is no evidence as to how much further the height would need to be increased to bring the noise level

down to the recommended level of 55 dB(A). Nor is there any evidence relating to the effect of the peak traffic hours, which are not covered by the appellants' surveys. But in any event, in the context of a small development of this kind, with relatively small gardens, fencing to a height of 2.5m would to my mind be excessively dominant and oppressive, resulting in an excessive sense of enclosure, and consequent unacceptable living conditions.

22. Noise from the mower business is taken into account in the appellants' measurements. I see no reason to doubt that this noise source is adequately represented in the survey data.
23. In addition to measurable noise, the proposed dwellings would be subject to a degree of additional disturbance, due to the comings and goings of vehicles and people close to their boundaries, in connection with the surrounding properties and land uses. But this seems to me likely to be fairly typical of the level of activity that would be expected in many built-up areas. In this particular case, I see no evidence that the level of disturbance would be such as to add anything to the noise impact that I have already identified.
24. Given the site's location in close proximity to a major road, it is reasonable to anticipate that air quality may be affected. In the absence of any evidence to the contrary, this reinforces my findings above, regarding living conditions at the site.
25. I note the appellants' evidence regarding other sites in the vicinity where development has been approved by the Council, and I appreciate that environmental conditions at the appeal site are unlikely to be very different from those at other residential properties nearby which have been established for many years. But nevertheless, I must consider the appeal proposal on its own merits, in the light of the policies and other circumstances applying now.
26. I conclude that the quality of the residential environment and living conditions for the future occupiers of the proposed development would be unacceptably compromised due to the combined effects of the noise that would be experienced, and due to the mitigation that would be necessary in the form of acoustic fencing, plus the potential effects of traffic on air quality in the area. In these respects, the scheme would conflict with the aims of KLWNLP Policy LP21 and FLP Policy LP16, and those of NPPF paragraphs 135 and 200, as set out above.

Highway safety

27. In addition to the matters discussed above, KLWNLP Policy LP21 requires developments to provide safe access and adequate parking facilities. In the FLP, Policy LP15 seeks well-designed, safe and convenient access for all, together with well-designed car and cycle parking. In the NPPF, paragraph 109 states that patterns of movement, parking and other transport considerations should be integral to the design of schemes. Paragraph 115 requires safe and suitable access for all users.
28. In the present appeal proposals, as already noted, a new vehicular access would be created onto Low Road. This would lead immediately into a private turning head with two pairs of parking spaces for the two new dwellings. The existing vehicular access from Elm High Road would be retained, to serve the mower business, and this would also continue to provide access to the existing garages at the rear of various properties in Low Road.

29. Responsibility for the two access points is split between two highway authorities. The new access would lie within the area of Cambridgeshire County Council (CCC), and the existing one is within Norfolk County Council (NCC).
30. The proposed new access would be within about 20m of Low Road's junction with the High Road, and intervisibility would therefore be limited. This could potentially result in conflicts between vehicles emerging from the appeal site and those turning into Low Road from the High Road, and especially those turning from the northbound direction, who would have little time to react. The appellants' speed survey has shown that vehicle speeds on Low Road are relatively low, with the 85th percentile over the survey period being less than 15 mph. On this basis, CCC's highways development manager has stated that he now has no objection, and as a consequence KLWN has formally withdrawn its objection. However, as already noted, FDC's objection remains before me.
31. The view of CCC's highways officer carries weight. But nevertheless, I must form my own view, based on the evidence. On my visit, I saw that visibility at the proposed access point is restricted to the right by the willow trees on the appeal site, and to the left by the wall of the neighbouring property 'At Last'. In the absence of any further information, it is not clear what length of visibility splays have been assumed by the highways officer, and whether these would be available in practice. Nor is it clear how these would relate to any recognised standards. Notwithstanding the relatively low speeds observed, these matters all seem to me to be essential components of any judgement as to whether the available visibility would be adequate.
32. I also note the comment of FDC's planning officer in his report, regarding the risk that the proposed turning area could become blocked by tandem parking, either by the occupants of the new dwellings or by visitors, leading to a situation where vehicles would be likely to reverse into the highway. This seems to me a reasonable concern, especially given the potential for delivery vehicles or tradesmen's vans, which would typically seek to park as close as possible to the premises, even if only for a short period. In a small, tight-knit scheme of this kind, it seems to me that the potential for reversing vehicles could well be significant, and would add considerably to the potential danger. In the submissions before me, there is no evidence that this risk has been considered. Overall, I find significant doubt as to whether the proposed new access onto Low Road would provide adequate levels of highway safety.
33. In addition, as discussed previously, an access from Low Road would have adverse effects in other ways, particularly in terms of the loss of at least one of the willow trees on the street frontage, and also the effect of making the development appear cramped and poorly integrated.
34. On the face of it, some or all of the above disadvantages could potentially be avoided if it were possible instead to share the existing access from Elm High Road. I am aware that NCC has previously objected to that option, but it is not clear whether all the potential design solutions and mitigation measures have been fully explored, and weighed against the other relevant planning considerations. To my mind, if it were possible to design a reasonably safe access from the High Road, then on balance, that would be a preferable solution. In these circumstances, it seems to me that approving the access now proposed, with its

several evident shortcomings, would be premature. This reinforces my view as to the merits of the present appeal scheme.

35. For these reasons, I conclude that it has not been demonstrated that the proposed development would be acceptable in terms of highway safety. In this regard, the scheme conflicts with KLNWLP Policy LP21 and FLP Policy LP15, and with the aims of NPPF, paragraphs 109 and 115.

Other matters

36. KLWN Council has confirmed that, following a review by the Ministry of Housing Communities and Local Government, the Borough's most recent Housing Delivery Test score has now been revised to 87%. Although this is above the threshold of 75% at which the NPPF's presumption in favour of sustainable development would be engaged, it does nonetheless indicate that housing delivery in KLWN has fallen short of the Borough's targets over a 3-year period. I have no corresponding information regarding housing delivery or land supply in Fenland. But in any event, the opportunity for the provision of two additional dwellings carries some weight.
37. The appeal site is within the zone of influence relating to The Wash, a designated site of international importance for its natural habitat value. The appellant has entered into an undertaking for a contribution to KLWN's GIRAMS scheme, to provide for suitable off-site mitigation. FDC also has a similar scheme and states that a contribution would be required. From the information before me, it is not clear whether the contribution that has been agreed with KLWN would suffice for both purposes, but in view of the conclusions that I have come to elsewhere in my decision, it is not necessary for me to seek further clarification.
38. I note that the appeal proposal is supported by Emneth Parish Council and the FDC ward councillor for Elm and Christchurch, and that Elm Parish Council does not object. However, I must decide the appeal on its planning merits.

Conclusion

39. For the reasons set out above, I have found that the appeal proposals would result in harm to the area's character and appearance, and to the living conditions of future occupiers, and to highway safety. In these respects, the scheme would conflict with Policies LP02, LP18 and LP21 of the KLNWLP, and with Policies LP15 and LP16 of the FLP, as well as with relevant advice in the NPPF. No policies have been identified which give positive support to the appeal. The scheme therefore fails to accord with the development plan as a whole.
40. The development would provide two dwellings which would help to boost housing provision. This carries moderate weight in favour, but does not outweigh the combined harm that I have found. The conflict with the development plan is therefore not outweighed by any other material considerations.
41. I have taken account of all the other matters raised, including the various other approved developments referred to by the appellants, but I find nothing in these to alter my conclusions as set out above. The appeals are therefore dismissed.

J Felgate

INSPECTOR