



Appeal Decision

Site visit made on 19 March 2025

by **T Burnham BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 May 2025

Appeal Ref: APP/V2635/W/24/3350866

Land off Hunstanton Road, Heacham PE31 7JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Ashley (Sapphire Developments) against the decision of King's Lynn & West Norfolk Borough Council.
 - The application is referenced 23/02273/O.
 - The development proposed is erection of 2 no self-build and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 no. self-build dwellings and associated works at Land off Hunstanton Road, Heacham PE31 7JU in accordance with the terms of the application, Ref 23/02273/O subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of the proposal refers to 2no. self-build. For clarity the proposal relates to an outline application with all matters reserved for 2no. dwellings which would be developed on a self-build basis. That is the basis on which my decision has been made.
3. The King's Lynn and West Norfolk Local Plan 2021 – 2040 (LP) was adopted on 27th March 2025. I am advised that this replaces the Core Strategy (2011) and the Site Allocations and Development Management Policies Plan (2016). The policies the Council consider relevant in the new local plan have been supplied to me. I must make my decision based on the policies contained within the most up to date local plan and I have determined the appeal on that basis.
4. Following the Council's original decision on the application, the appellant supplied further information relating to the status of the adjoining woodland as well as a further ecological survey. This information sought to directly address two of the Council's original reasons for refusal. The Council were afforded the opportunity to comment on this information and I have taken the subsequent responses into account. Further comments were also sought regarding the revised Framework¹ from December 2024.

¹ National Planning Policy Framework 2024.

Main Issue

5. The main issue is the suitability of the location for the development proposed with regard to the character and appearance of the area and access to services and facilities.

Reasons

6. The appeal site sits adjacent to Hunstanton Road. That road links both the northern and southern parts of the settlement of Heacham and the evidence indicates that the main body of both of those parts of the settlement are encased within a settlement boundary. The appeal site is only a short distance from, but not directly adjacent to the northern settlement boundary.
7. The site immediately to the east has been developed to provide 9no. residential dwellings. There is TPO woodland to the other side of the site and a residential dwelling opposite on the other side of Hunstanton Road. The site is therefore bounded by existing housing on two sides and therefore the character and appearance of the area is part suburban. Within this context, the addition of two properties at this site would have no adverse impact on the character or appearance of the area.
8. The LP at policy LP01 adopts a settlement hierarchy, the aims of which in part are to direct development within the district to the most sustainable locations. Heacham, although within tier 4 is a key rural service centre, which are identified as the most sustainable settlements within the rural areas of the district. The southern part of Heacham in particular offers a range of services and facilities.
9. It has been noted by the Council in relation to a previously refused application at the site that new dwellings within this location would be likely to maintain the vitality of both Heacham and Hunstanton. In other words, services and facilities within those settlements would benefit from the dwellings through potential increased use.
10. Further, within a previous committee report relating to the site where dwellings have been developed adjacent to the appeal site, the Council observed that the development was located 1.4km outside the village and that there is a 1m wide and grass verge footpath opposite that runs into the village. This tallied with my observations during my site visit. Future residents of the dwellings would therefore have the option to access nearby services and facilities on foot should they wish to.
11. Policy LP02 of the LP does allow for residential development outside of development boundaries where amongst other things where it at a minimum respects the character of the adjoining settlement and the countryside, and can be assimilated into the existing fabric of the built up area, where it can be supported by existing and future service and infrastructure provision and where it would maintain the physical separation between existing settlements and protect their identity.
12. The site does not however adjoin the development boundary. Further, Policy 1 of the Heacham Neighbourhood Plan (NP) (2022) seeks to direct small scale (windfall and infill) development to sites within the development boundary of the village. It lists various criteria that a development should comply with, subject to

their relevance to the particular site in question. By reason of the particular location of the proposal and surrounds the proposal would not conflict with those requirements although it would be outside of the settlement boundary.

13. There would therefore be a degree of conflict with Policy LP02 of the LP and Policy 1 of the NP. However, based on the circumstances of this particular site and this particular proposal before me the proposal would not undermine the development strategy for the area which amongst other things seeks to locate development sustainably and there would be no harm to the character and appearance of the area.
14. There would be no conflict with Policy 15 of the NP which amongst other things states that development proposals outside the development boundaries of Heacham will only be supported where they do not cause unacceptable harm to the landscape setting and distinct identity of Heacham and do not detract from the visual separation of Heacham from Hunstanton.

Other Matters

SPA/SAC/Ramsar

15. The evidence indicates that without appropriate mitigation the proposal would have an adverse effect on the integrity of The Wash & North Norfolk Special Area of Conservation (SAC) and The Wash Special Protection Area (SPA) and Ramsar. These sites contain intertidal mudflats and saltmarshes which are important winter feeding areas for wading birds and wildfowl outside of breeding season.
16. The proposal would involve new residential accommodation within proximity to the sites and could therefore result in impacts on the designated sites arising from increased recreational disturbance. An impact pathway is therefore present.
17. Therefore, adopting the precautionary principle, and in the absence of any evidence to the contrary, I consider that as a result of the proposal, likely significant effects on the protected habitats sites cannot be ruled out.
18. I am therefore required to carry out an Appropriate Assessment. Increases in recreational pressure would be likely to have a detrimental impact on wildlife populations present as a result of disturbance to habitat. As such, the favourable conservation status of the species present would not likely be maintained. The development would be likely to have a detrimental impact on the delivery of the sites objectives, adversely affecting their integrity.
19. However, there is a tariff system in place to pay into a mitigation scheme relating to such potential impacts on the SPA/SAC/Ramsar. The evidence indicates that this has been paid. Any potential impacts would therefore be adequately mitigated and there would be no adverse effects on the integrity of the sites.

Biodiversity

20. An updated Ecological Appraisal Report² was submitted during the course of the appeal. This concluded that subject to the implementation of appropriate avoidance, mitigation and compensation measures, it is considered unlikely that the proposals would result in significant harm to Ecological Interests. This report

² Ecological Appraisal Report, Aspect Ecology Ltd, October 2024.

included reptile surveys. No evidence of reptiles was found during the course of the surveys. As such, it is considered that reptiles are likely absent from the site and are unlikely to be affected by the proposed development.

21. The Wash Site of Special Scientific Interest (SSSI) is also nearby along with a further SSSI at Ringstead Downs. However, there is no evidence that the proposal would have any significant adverse impacts on those sites nor damage or destroy the interest features for which they have been notified.
22. There would therefore be no conflict with Policy LP19 of the LP which amongst other things states that development should avoid adverse impacts on biodiversity.

Trees

23. It has been confirmed by Natural England that the area of trees adjacent to the site, Long Wood, is not ancient woodland. An Arboricultural Impact Assessment has been submitted which indicates that a development of two dwellings could be accommodated on and border the site without significant adverse effect on the trees.
24. Appropriate construction methods could be used on any access drive to the properties, whilst protective fencing during construction would act to prevent damage. One ash tree exhibiting signs of ash dieback is proposed for removal and there is nothing to compel me to believe that the woodland would come under unacceptable pressure as a result of two no. dwellings in this location either through use within the fringes or from falling debris. Therefore, even classifying the woodland as long established woodland, the proposal would not conflict with LP19 of the LP which amongst other things notes that development should seek to avoid any adverse impact on biodiversity and geodiversity.

Other

25. The Council have raised no significant concerns relating to Highways Safety and there is nothing within the evidence that leads me to any other conclusion.
26. I note that the proposal is described as self-build housing. The appellant notes that a condition could be used to secure the units as self-build and a condition is provided. I also note the Council's position on seeking to secure self-build through a condition on another application along with Policy 31 of the LP which states that the delivery of plots for custom and self-build housing will be secured by a planning condition or S106 agreement.
27. However, a condition requiring occupation of the dwellings by the persons who had primary input into the design and layout of the units would be unlikely to pass the tests within the Framework. In any event, any additional benefit the scheme may receive from being self-build is unnecessary given the circumstances surrounding the location of this particular site. This does not however preclude the dwellings coming forward on a self-build basis.
28. The evidence suggests that the Council can demonstrate a five year supply of housing land following the adoption of the LP but the evidence is unclear on whether the presumption in favour of sustainable development applies by reason of the most recent housing delivery test results. However, that matter is not important in this particular case as even if I were to consider that was the case, applying the presumption would make no impact on my decision in any event.

29. There would be no conflict with policies LP06, LP13 and LP18 of the LP which respectively relate to Climate Change, Transportation and Design and Sustainable Development.

Conditions

30. A limited number of conditions have been supplied by the Council and I have based the conditions I include around those albeit re-worded some in the interests of standardisation. Conditions 1-4 are necessary to define the proposal. A condition relating to the requirement for the dwellings to be used as principal residences is necessary given the justification within the Heacham Neighbourhood Plan. A condition relating to tree protection is necessary in the interests of the character and appearance of the area. Conditions 6 and 8 are necessary in the interests of biodiversity interests at and close to the site.

Planning Balance and Conclusion

31. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it. The appeal is therefore allowed.

T Burnham

INSPECTOR

SCHEDULE OF CONDITIONS

1. Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.

3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

4. The development hereby permitted shall not be carried out except in accordance with the following approved plan: Site Location Plan.

5. No development or other operations shall commence on site until the existing trees and/or hedgerows to be retained have been protected in accordance with a scheme that has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the erection of fencing for the protection of any retained tree or hedge before any equipment, machinery, or materials are brought on to the site for the purposes of development or other operations as well as details of the construction methods and permanent fencing that are to be utilised in order to protect trees at and close to the site.

The protective fencing for construction purposes shall be retained intact for the full duration of the development until all equipment, materials and surplus materials have been removed from the site. If the fencing is damaged all operations shall cease until it is repaired in accordance with the approved details. Nothing shall be stored or placed in any fenced area in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made without the written approval of the Local Planning Authority.

6. Prior to the first occupation of the development, a lighting design strategy for biodiversity for areas to be externally lit shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include but not be limited to appropriate luminaire specifications, light barriers / screening, spacing and height of lighting units, light intensity, directionality and dimming and part night lighting. Any lighting installed at the site shall be in accordance with the approved scheme.

7. The dwellings hereby approved shall be occupied only as the primary (principal) residence of those persons entitled to occupy them. The occupiers of the dwelling shall be required to provide evidence that they are meeting the requirements of the condition and shall make this information available at all reasonable times to the Local Planning Authority.

8. All works shall be carried out in accordance with the mitigation and enhancement measures contained within the Ecological Appraisal Report, Hunstanton Road, Heacham, Norfolk by Aspect Ecology dated October 2024.