



Appeal Decision

Site visit made on 23 April 2025

by **P Storey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 May 2025

Appeal Ref: APP/F2605/W/24/3349863

Willow Barn (Clinton Willows), Cutthroat Lane, Yaxham, Dereham, Norfolk NR19 1RZ

- 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 John Searle against the decision of Breckland Council.
 - The application Ref is 3PL/2023/1193/F.
 - The development proposed is described as:
"To build a detached 4 bedroom bungalow and detached garage on part of the garden area at Clinton Willows. The energy efficiency of the property is a priority as it intended to use a MVHR system with incorporated air source heat pumps providing the hot water and the heating. Solar PV and battery storage are being evaluated. Access to the new property will be using one of the existing entrances as a shared access which will be legally defined. The water supply will be from a bore hole and a new sewerage treatment plant will be installed."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An update to the National Planning Policy Framework (the Framework) was published on 12 December 2024. The main parties have been given the opportunity to comment on the effect of the updated Framework for the appeal, and I have had regard to any comments received in my decision.

Main Issues

3. The main issues are whether the proposed development would:
 - be suitably located, having regard to the spatial strategy of the development plan, and access to services and sustainable transport;
 - have an acceptable effect on the character and appearance of the area; and
 - accord with local and national planning policy relating to flood risk.

Reasons

Whether a suitable location

4. The appeal site forms part of the spacious garden of an existing residential property, comprising a detached dwelling and its ancillary buildings located in the northeast corner of the residential plot. The area subject to the appeal is situated to the southwest of this plot and currently consists mainly of lawned land.

5. The appeal site lies within the parish of Yaxham and falls under the scope of the *Neighbourhood Plan for Yaxham "NP4Yaxham" 2016-2036, 'The Referendum Plan', March 2017* (the NP). Both the NP and the *Breckland Local Plan, September 2023* (the BLP) define the settlement boundaries of Yaxham and Clint Green. The appeal site lies outside both of these defined settlement boundaries.
6. Policy GEN03 of the BLP establishes the settlement hierarchy across the Council area, based on access to services and sustainable transport. The policy identifies Clint Green and Yaxham as 'villages with boundaries'. BLP Policy GEN05 generally supports new development within these defined boundaries, subject to compliance with other relevant policies. BLP Policy HOU04 addresses development proposals outside defined village boundaries, allowing for appropriate development immediately adjacent to such boundaries. BLP Policy TR01 promotes locating development in areas with access to sustainable modes of transport, aiming to reduce the need to travel by private car. Additionally, Policy HOU1 of the NP resists new residential development outside settlement boundaries unless specific criteria are met.
7. As there is existing development nearby, the appellant states that only limited additional infrastructure would be required to support a new dwelling. However, the appeal site is several hundred metres from the nearest defined settlement, is remote from services, and is accessed via a narrow rural road with no pedestrian footpaths or public transport provision. Based on the available evidence and my observations during the site visit, I am not persuaded that the site is sustainably located in terms of access to services and sustainable transport. As such, the proposal would not align with the spatial strategy of the BLP and NP, nor would it satisfy the exception criteria in the relevant development plan policies.
8. Although the appellant acknowledges the site's location outside a defined settlement boundary, they express concerns with the process by which these boundaries were defined. However, it is not the purpose of the appeals process to question the integrity of adopted development plan policies.
9. The appellant also refers to the Framework's support for development on small sites, infill plots, and windfall sites in appropriate circumstances. However, I am not satisfied that this proposal is such an appropriate circumstance, particularly in light of the conflict with the adopted development plan.
10. For these reasons, I conclude that the proposed development would not be suitably located in terms of the spatial strategy of the development plan or its accessibility to services and sustainable transport. Consequently, it would conflict with Policies GEN01, GEN03, GEN05, HOU02, HOU04 and TR01 of the BLP, as well as the relevant policies of the NP, the aims of which have summarily been set out previously. It would also conflict with the relevant provisions of the Framework, which have similar aims.

Character and appearance

11. The appeal site is accessed via Cutthroat Lane, a narrow rural road bordered by verges and hedgerows. Although there is some scattered residential development in the area, the site lies well outside any defined settlement and is characterised by a distinctly rural setting that reflects its countryside location.

12. The proposed dwelling and garage would be lower in height than the existing dwelling and would incorporate traditional design features and materials in keeping with nearby built development. However, despite forming part of a residential garden, the site's current undeveloped state contributes positively to the rural character of the surroundings.
13. The garden boundaries are defined by mature hedgerows, offering a degree of screening from public views. Nonetheless, the proposed development would remain visible above the hedgerows, particularly from the west, where it would appear as a disproportionate addition to the built form in this countryside setting. Although additional planting is proposed, this would require time to mature, and I am not convinced it would adequately mitigate the visual impact of the scheme on the surrounding landscape.
14. For these reasons, I conclude that the proposed development would result in an unacceptable intrusion into the countryside setting that would harm the character and appearance of the area. It would conflict with Policies COM01, GEN02 and ENV05 of the BLP, and the relevant policies of the NP, which collectively seek to ensure development integrates with and respects the character of the surrounding area and landscape. It would also conflict with the relevant provisions of the Framework, which have similar aims.

Flood risk

15. The Council's officer report indicates that part of the appeal site lies within an area of high surface water flood risk, according to the Environment Agency (EA) flood risk map. Whilst the submitted evidence offers limited technical detail in this regard, I have not been presented with any compelling reason to challenge the Council's position in terms of the EA classification. I have therefore determined the appeal on the basis that part of the site is at risk of surface water flooding.
16. The Framework seeks to avoid inappropriate development in areas at risk of flooding by steering it towards areas of lowest risk, through the application of the sequential test, and then, if necessary, the exception test. The Framework is clear that the sequential test must consider all sources of flood risk, including surface water, as reflected in Policy ENV09 of the BLP. The Planning Practice Guidance (the PPG) further clarifies that even if a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test must still be satisfied.
17. In this case, no flood risk assessment has been provided, nor has a sequential test been carried out. The appellant refers to long-term personal experience of the site, stating that whilst the adjacent road occasionally floods after heavy rainfall, the site itself has never flooded. They also refer to an adjacent watercourse and culvert, noting that their efforts to improve drainage have been limited by external factors. Measures such as the installation of soakaways and a sewage treatment plant are also proposed to mitigate flood risk.
18. Whilst I recognise the appellant's efforts, I must determine this appeal based on the available evidence, which indicates that part of the site is at risk from surface water flooding. In line with the development plan, the Framework, and the PPG, the sequential test remains a necessary requirement in these circumstances. The mitigation measures put forward by the appellant are considerations relevant to the exception test, which only applies once the sequential test has been passed. As

no such test has been undertaken, and no evidence has been provided to demonstrate that alternative sites at lower flood risk are unavailable, the proposal fails to comply with this requirement.

19. For these reasons, I conclude that the proposal has not demonstrated that future occupiers would be adequately protected from flood risk. The proposal would therefore conflict with Policy ENV09 of the BLP and the relevant provisions of the Framework, the aims of which have previously been set out.

Other Matters

20. The site lies within the Zone of Influence of one or more European Sites identified under the Norfolk Green Infrastructure and Recreational Avoidance Mitigation Strategy (GIRAMS). It is also located within the catchment of The Broads Special Area of Conservation (SAC) and Ramsar site, which are sensitive to the effects of nutrient pollution resulting from new development.
21. To address the requirements of the GIRAMS, the appellant has made a financial contribution to the Council intended to mitigate the additional recreational pressure on the European Sites arising from the proposed development. A 'nutrient neutrality calculation' has also been submitted in relation to the site's location within the SAC and Ramsar catchment.
22. Were I minded to allow the appeal, it would be necessary to consider these matters within an appropriate assessment. However, as I have found the proposal to be unacceptable for other substantive reasons, it has not been necessary to carry out such an assessment in this case.

Planning Balance

23. Paragraph 11.d) of the Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless certain circumstances apply. Under paragraph 11.d) ii., this includes circumstances where the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole.
24. Footnote 8 of the Framework clarifies that, for applications involving the provision of housing, paragraph 11.d) is engaged where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Council has confirmed that it is currently unable to meet this requirement, and therefore paragraph 11.d) is applicable in this case.
25. However, based on my previous findings, the policies most important for determining this appeal, as outlined under the main issues, remain broadly consistent with the aims and objectives of the Framework. As such, they are not considered out-of-date.
26. The proposed development would make efficient use of available land and, based on the available evidence, would not require significant additional infrastructure. Whilst it would contribute one additional dwelling to the housing supply, the benefit arising from a single unit is limited. Consequently, the harm resulting from the proposal's conflict with the development plan would significantly and demonstrably outweigh the modest benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

27. The proposal would conflict with the development plan as a whole and there are no considerations, including the provisions of the Framework, to lead me to a decision other than in accordance with the plan. I therefore conclude that the appeal should be dismissed.

P Storey

INSPECTOR