



Appeal Decision

Site visit made on 10 February 2025

by **S Pearce BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 May 2025

Appeal Ref: APP/F2605/W/24/3350954

Plot 5, The Meadows, Dereham Road, Garvestone NR9 4QT

- 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 I Curry against the decision of Breckland Council.
 - The application Ref is 3PL/2024/0026/F.
 - The development proposed is described as a “proposed 4 Bed Bungalow”.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the determination of the application, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and amended on 7 February 2025. In addition, the Council also adopted the Breckland Design Guide and Breckland Landscape and Settlement Character Assessment in April 2024. Both main parties have had the opportunity to comment on the revised Framework and these documents during the appeal process and these have been taken into consideration in my decision.

Main Issues

3. The main issues are:
 - whether the appeal site is a suitable location for the proposed development, having regard to the development plan,
 - the effect of the proposed development on the character and appearance of the area,
 - the effect of the proposed development on the integrity of European sites, and
 - the effect of the proposed development on ecology.

Reasons

Whether a suitable location

4. The appeal site lies within Garvestone, outside of a defined settlement boundary. In such locations, Policy GEN 05 of the Breckland Local Plan 2023 (LP) allows for limited development. This includes housing compliant with Policy HOU 05, which lists four qualifying criteria, all of which should be met. The first criterion requires

development to comprise of sensitive infilling and rounding off of a cluster of dwellings with access to an existing highway.

5. The LP defines infilling as building taking place on a vacant plot in an otherwise built-up street frontage. To be considered infill within the LP, a development will generally have built development along the road on either side of the site and be similar to adjacent properties in terms of its visual impact, plot size, dwelling size, floor levels and scale.
6. The appeal site is an irregular shaped parcel of land, which is devoid of built development. It has a narrow frontage, which widens towards the rear of the appeal site. Irrespective of the precise distance, the appeal site comprises a gap between Plot 4, The Meadows and Holly House. These neighbouring properties sit within a linear row of built development on either side of the appeal site.
7. While noting the proximity of the adjacent footpath and pond to the appeal site, the proposal would be broadly comparable to adjacent properties with regards to its visual impact, plot size, dwelling size, floor levels and scale. Having regard to these matters, the appeal site can therefore be reasonably described as a vacant plot in an otherwise built-up frontage.
8. With regards to rounding off, the LP defines it as the completion of an incomplete group of buildings on land which is already partially developed and in such a way which will either complete the local road pattern or define and complete the boundaries of the group.
9. The appeal site is not partially developed. Its boundaries are defined and distinct from the neighbouring built form. It is noted that the proposal would broadly mirror the pattern of an adjacent development and would not represent an outward expansion of the settlement. However, the limits of the neighbouring development are well-defined, and it does not, therefore, appear as an incomplete group of buildings. As such, the appeal scheme would not comprise the rounding off of a development.
10. While the Council assert that the appeal site comprises a visually important gap, there is limited evidence to substantiate this. Nevertheless, development proposals need to comply with all criteria listed in LP Policy HOU 05, and I have identified conflict with the first criteria.
11. Consequently, the appeal site is not a suitable location for the development proposed, contrary to LP Policies GEN 05 and HOU 05. Collectively, these seek, among other things, to ensure development is located in accordance with the Council's settlement hierarchy.

Character and appearance

12. The layout of the built development along Dereham Road is predominantly set back from the highway. Together with grassed verges, hedges, trees and surrounding countryside, this gives the area a spacious, rural and verdant character and appearance. The appeal site is a prominent parcel of land, which, along with the adjacent footpath and pond, forms a verdant gap between existing built development. It is largely undeveloped and contains several trees and extensive vegetation. Due to its location, size and undeveloped, verdant nature, it contributes towards the character and appearance of the area.

13. The appeal scheme seeks to erect a detached bungalow and detached garage and retain the majority of the trees within the site. Although the appellant contends that there would only be glimpsed views of the appeal scheme and the proposal would be enclosed by mature landscaping, several trees are earmarked for removal close to the front boundary of the appeal site and along its rear boundary.
14. The loss of these trees would inevitably open up views of the appeal scheme. As such, while users of the footpath would be aware of the existence of surrounding development and noting the proposed siting of the dwelling and its low ridge height, it is likely that there would be partial views of the proposed development from both Dereham Road and the footpath.
15. While the appellant asserts the proposal would not materially affect the existing gap, with the verdant nature of the appeal site only minimally affected, the introduction of built form would, nevertheless, urbanise the appeal site. Such development would result in the erosion of an undeveloped area of land that forms a verdant break in an otherwise built-up frontage. Therefore, the appeal scheme would be at odds with, and detrimental to, the prevailing character and appearance of the area.
16. The evidence indicates that six of the seven trees proposed for removal will need to be removed regardless of whether the appeal scheme is allowed. While this may be, tree felling alone would not materially alter the verdant appearance of the appeal site.
17. For these reasons, the proposed development would unacceptably harm the character and appearance of the area, contrary to LP Policies COM 01, GEN 02 and ENV 05. Collectively, these seek, among other things, to ensure new development contributes to the distinctive character of the local area and recognise the intrinsic character and beauty of the countryside.

European sites

18. LP Policy ENV 02 seeks, among other things, to ensure the highest level of protection is given to European sites and that any mitigation measures must be justified as fit for purpose with appropriate evidence.
19. The appeal site lies within the catchment area of protected sites, including the River Wensum Special Area of Conservation and the Broads Special Area of Conservation and Ramsar site.
20. The Habitats Regulations Assessment, submitted with the planning application, stated that mains sewer connecting to a water recycling facility is not available on this part of Dereham Road. Therefore, the appeal scheme seeks to connect to an on-site package treatment plant, for the disposal of foul water associated with the proposal. It further advises that the purchase of one 0.1kg/year credit is required to mitigate the 0.05 kg/year of phosphorus effluent predicted to arise from the proposed development.
21. The appellant has indicated their willingness to purchase a nutrient credit and suggested that it could be secured by a pre-commencement condition. However, the evidence indicates that the availability of credits is limited. In the event of planning permission being granted for this development, there is a period of time to implement the permission.

22. In this regard, while noting the appellant's concerns in respect of securing credits prior to obtaining planning permission, it is uncertain whether sufficient credits will be available from the scheme provider, at the time the appellant decides to consider payment to secure them. While noting it has been highlighted that Biodiversity Net Gain (BNG) credits can be secured via a pre-commencement condition, I am not, therefore, persuaded that such a condition would meet the tests for conditions as set out in the Framework.
23. The appeal site also falls within the Zone of Influence (ZoI) for several European designated sites scoped into the Norfolk Green Infrastructure and Recreational disturbance Avoidance and Mitigation Strategy (GIRAMS). The evidence indicates that this includes the Brecks, North Norfolk Coast and the Broad.
24. New housing development within the ZoI would be likely to increase the number of recreational visitors to these sites. While the effect of the appeal scheme is likely to be limited, in combination with other developments there is, however, a risk of significant effects on the designated sites.
25. For small scale schemes, such as the appeal proposal, the Council have advised that a financial contribution, in accordance with the GIRAMS, is required for recreation impact avoidance and mitigation measures. The appellant has submitted a Unilateral Undertaking which seeks to secure such a payment.
26. The Conservation of Species and Habitats Regulations 2017 (the Regulations) requires the Competent Authority to consider whether the proposal could adversely affect the integrity of protected sites. I shall return to this, if necessary, once I have considered all other matters in the planning balance.

Ecology

27. The appeal site contains several trees and vegetation and is located proximate to a neighbouring pond and adjacent to open countryside. It is noted that the planning application was validated without an ecology survey and no such survey was requested during the planning application process. Moreover, no objections were raised by the Council's ecologist and Natural England.
28. However, having regard to the nature and context of the appeal site, in the absence of substantive evidence it is not possible to determine whether there would be any adverse impact upon ecology and whether any such harm could be adequately mitigated. Moreover, it is not clear from the evidence submitted whether BNG could be achieved.
29. A survey¹ confirmed that Great Crested Newts (GCN) were not present in the adjacent pond during consideration of the development for 1-4 The Meadows. However, the survey is dated 2018 and is not, therefore, up to date. The survey did conclude that the Habitat Suitability Index for GCN was below average. However, while the appellant has indicated that the factors measured within the survey are not likely to have changed for the better, given the passage of time, I cannot be certain, in the absence of up to date information, that the site-specific circumstances remain the same.
30. Consequently, I am unable to conclude that the proposed development could be accommodated without causing harm to ecology, and whether any harm identified

¹ Great Crested Newt HIS & eDNA Report May 2018

could be satisfactorily mitigated. As such, the proposal is contrary to LP Policy ENV 02 which seeks, among other things, to ensure all development with the potential to affect biodiversity should demonstrate how such effects have been considered, avoided, mitigated and, if necessary, adequately compensated for and how net gains for biodiversity are being secured as part of the development.

Planning Balance

31. The Council are unable to demonstrate a Framework compliant supply of housing land. No information in respect of the extent of the shortfall has been provided.
32. Paragraph 11 d) of the Framework states that, where the policies which are most important for determining an application are out-of-date, which includes situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed, or any adverse impacts of doing so significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
33. With regards to protected habitat sites, if I were to have undertaken an appropriate assessment, in light of the mitigation measures put forward and notwithstanding the concerns raised in respect of securing such mitigation, I may have concluded no harm in respect of this matter. On this basis, paragraph 11 d) ii is engaged.
34. The proposed development would cause harm in respect of the site location, the character and appearance of the area and ecology. As such, it would not accord with the development plan as a whole. The weight to be given to this conflict is significant, as the policies in respect of these matters broadly reflect the provisions of the Framework.
35. The proposal would make a modest contribution towards the areas housing supply. The Government's objective is to significantly boost the supply of homes. The Framework supports the development of windfall sites and recognises that small sites can make an important contribution to meeting the housing requirement. The proposal would lead to some social and economic benefits through the construction of the property and the activities of the future residents of the scheme.
36. The appellant states that the appeal site lies in a sustainable location, with excellent access via sustainable modes of transport to the services and facilities within the village. It is noted that Garvestone previously had a settlement boundary, which the appeal site adjoined. The appellant highlights that the village has a bus stop, church, village hall, play area and primary school within walking distance of the appeal site along a paved pedestrian footway. Having regard to the location of the appeal site and the services listed, the appellant states that the proposed dwelling will help to maintain and enhance the vitality of the village.
37. Moreover, the evidence indicates that there is a daily bus service from Garvestone to Dereham, with the appellant highlighting that incremental growth within villages would serve to support and enhance existing bus services.
38. Within the LP review it has been highlighted that Garvestone is classified as a Larger Settlement in the Smaller Villages category. The appellant considers this is

evidence that some growth in the village is needed to sustain existing services and facilities. However, the evidence indicates that the preparation of the emerging LP remains at an early stage, so its policies carry limited weight.

39. While there is support for new housing, the benefits in respect of the appeal scheme would be limited, given the scale of development proposed. Therefore, the harm identified in respect of the main issues would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
40. On this basis and having regard to the requirements of the Regulations, given that I am dismissing this appeal on other grounds, it is not necessary for me to consider the integrity of protected sites any further, nor undertake an appropriate assessment.

Conclusion

41. For the above reasons, I conclude that the proposed development would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR