



Appeal Decision

Site visit made on 15 May 2025

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 27 May 2025

Appeal Ref: APP/Y2620/W/25/3361125

Land east of Archway, Bridge Road, Colby, NR11 7EA

- 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 James Walker against the decision of North Norfolk District Council.
 - The application Ref is PF/23/0913.
 - The development proposed is the erection of a five bedroom detached dwelling and detached garage.
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Decision

1. The appeal is dismissed

Main Issues

2. The main issues in this case are: i) whether the site is suitable for the proposed development bearing in mind its rural location and in terms of accessibility to services; ii) whether the proposal would result in a level of light spill to the detriment of the area; and iii) whether the proposal would lead to adverse effects on European Sites.

Reasons

3. Banningham is a small village with a church, pub and parish hall. Scattered development extends out of the village in a generally northerly direction, along Colby Road until it becomes Church Road at the junction with Bridge Road. At this point there is a built-up frontage on the east side of Church Road for a distance of about 140m, and a few houses clustered around the junction along Bridge Road which ends with the dwelling Archway, immediately to the west of the appeal site. Beyond this point is open countryside, which surrounds Banningham village.
4. The site is a field that, to the west, runs along the side of the bungalow 'Archway' and the rear of housing along Church Road. To the east is 'Elden's Retreat', an open recreational space of the parish council which is otherwise surrounded by open countryside.

Whether the site is suitable for the proposed development bearing in mind its rural location and in terms of accessibility to services

5. The starting point, in accordance with legislation, is the policies of the development plan. The site is within the area designated as Countryside under policy SS 1 of the North Norfolk Core Strategy. This policy sets out the spatial strategy for the North Norfolk District which seeks to direct the majority of new development to the towns identified as Primary and Secondary Settlements, with a smaller amount of new

development focused on designated Service Villages and Coastal Service Villages to support rural sustainability. Banningham has no such designation and the land is therefore designated and subject to the policies for the countryside.

6. The explanation to this policy states *“The North Norfolk countryside, and the many small villages and hamlets that are not selected settlements, are designated as Countryside. This countryside area is a principal element in the rural character of North Norfolk and is enjoyed by residents and visitors. The quality and character of this area should be protected and where possible enhanced, whilst enabling those who earn a living from, and maintain and manage, the countryside to continue to do so”*.
7. Within the countryside development is restricted to that which supports the rural economy, meets affordable housing needs and provides for renewable energy. Whilst an additional household might be said to support the rural economy, in the sense of adding to local trade, etc, this is a very minor benefit and carries no significant weight.
8. There is a limited range of services in Banningham, and an infrequent bus service connecting to Aylsham, North Walsham, and onto Cromer. The site location is within walking distance of the bus stop (near the Crown Pub). However, Colby Road (and Church Road) is narrow and without footways, so that it is not likely to be attractive to frequent use by pedestrians or cyclists. I therefore consider that as a location in the countryside and with the lack of any substantial provision for the needs of day to day living, jobs and services, the only likely regular form of transport would be motorised vehicles. It is therefore not a sustainable location.
9. The appellant explains that the proposed house would be built in order to maintain and work the site for self-sufficient agricultural purposes, full time by his wife, and part time by himself, enabling the rearing of chickens for eggs, as well as meat chickens and rabbits. Already at the location, there is a flock of egg production chickens which need to be visited regularly, especially during the winter months, to ensure their welfare is maintained. It is also the intention to run a small business from the site. The appellant states that he is in the process of setting up a mushroom growing venture with a view to supplying local businesses.
10. This does not amount to a justification for a house in the countryside. It is doubtful that the land would be sufficient to support a family, and the appellant's case is far from demonstrating that a viable agricultural business could be sustained on the site. Thus there is no justification for a dwelling on the site in accordance with policy. I therefore conclude that site is not suitable for the proposed development bearing in mind its rural location and in terms of accessibility to services.

Whether the proposal would result in a level of light spill to the detriment of the area

11. The elevations of the proposed dwelling indicate a considerable number of roof windows, that could reasonably be expected to spill light upwards.
12. The site is within the Low Plains Farmland landscape type as set out in the North Norfolk Landscape Character Assessment. Within this landscape type, a strong rural character with a sense of remoteness and tranquillity is a valued feature. Given the importance of the rural character of this location, additional light spill should be avoided. The appellant states that this could be discussed and adjusted, and adds that this had not been raised during the period up to the council's

decision. He adds that the intention would be to have complete black out units on all windows, thus mitigating any light pollution.

13. I do not doubt the sincerity of this statement, but there is nothing before me to illustrate how this might be achieved in a way that would allow a condition to be imposed that would be enforceable and reasonable. I therefore find that this matter stands against the grant of planning permission.

Whether the proposal would lead to adverse effects on European Sites.

14. As the delegated report states, long-term nutrient pollution has led to adverse impacts upon Habitats Sites to the extent that the condition of some sites, including The Broads Special Area of Conservation and Ramsar site, is no longer considered favourable. Nutrient Neutrality guidance issued by Natural England on 16th March 2022 requires competent authorities to ensure any planning applications proposing a net gain in overnight accommodation (e.g. new homes) must provide evidence there will be no net increase in nutrient loads created within an affected catchment area as a result of the proposed development, that is, the development will be nutrient neutral.
15. As a competent authority, I am required to have regard to the requirements of the Conservation of Habitats and Species Regulations 2017. Whilst minor developments may not have an adverse impact upon Habitats Sites individually, the incombination effect of nutrient pollution from large numbers of developments have been assessed as causing a Likely Significant Effect (LSE) on the integrity of Habitats Sites. Foulwater discharge is considered the primary source of nutrient pollution for residential developments. Foul water drainage from this development would discharge to Aylsham Waste Water Treatment Works, which discharges into one of the affected catchment areas, consequently prohibiting development.
16. For his part, the appellant states that he has enquired about the cost of mitigation of nutrient enrichment for the proposed dwelling. There are credits available for this area, and should the appeal be successful, it would be possible to get things in motion to secure the mitigation credits.
17. I have noted the consultation response from the Landscape section of the council dated 4 April 2025 which sets out a reasoned explanation of why it is considered that, although there have been further submissions, there is at present no formal strategy to address Nutrient Neutrality, and whilst it would be possible to work towards finding a solution, that is not in place at present.
18. I am therefore left in the position that I cannot be assured that the proposed development would not have an adverse impact upon Habitats Sites, by way of incombination effect of nutrient pollution from large numbers of developments, which have been assessed as causing a LSE on the integrity of Habitats Sites. For this reason, I cannot grant planning permission.

Other matters

19. The council has accepted that currently it cannot demonstrate a five-year housing land supply for the district. This therefore means that I must consider paragraph 11 ii d of the National Planning Policy Framework. This states (as applicable here):

“11 ii d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting

permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. In this regard, the question of whether policies are out of date includes, for applications involving the provision of housing, situations where: the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 78); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years”.

20. My view on this is that the appeal proposal for 1 addition dwelling is not sufficiently significant in contributing to rectifying the shortfall, and that in any event the adverse impacts of allowing the appeal proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, the policies that I have dealt with above, and the matter of nutrient pollution.

Conclusion

21. For the reasons that I have set out, the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR