



Appeal Decision

Site visit made on 2 June 2025

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th of June 2025

Appeal Ref: APP/V2635/W/25/3360585

Cley Cottage, The Marsh, Walpole St. Andrew, Norfolk PE14 7JG

- 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 W Reeve against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref is 24/00981/F.
 - The development proposed is erection of an agricultural building (retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal, the Council adopted the Kings Lynn and West Norfolk Local Plan 2021-2040 (LP) on 27 March 2025. This replaced the Site Allocations and Development Management Policies Plan (2016) and Core Strategy (2011). In light of this, the main parties have been given the opportunity to provide comments on the new LP in relation to their cases. I have had regard to the comments received and have considered the proposal against the relevant policies in the LP.
3. Whilst the description of development only refers to the erection of an agricultural building, the submitted plans detail a new access, driveway and the removal of a section of hedgerow to enable this access within the red line boundary on the site location plan. I note the appellant indicates that the access and driveway would constitute permitted development. That is, development granted planning permission by the Town and Country Planning (General Permitted Development) (England) Order 2015. However, it is not for me to determine, as part of an appeal under section 78 of the Town and Country Planning Act 1990 (the Act), whether the access and driveway would constitute permitted development. It is open to the appellant to apply for a certificate of lawfulness under sections 191 or 192 of the Act to demonstrate whether it is permitted development. In my view, and with limited evidence to the contrary, the proposed creation of the access would be operational development, facilitating the use of the proposed agricultural building, which in itself requires planning permission. I have therefore taken into account the proposed access and driveway, as shown on the submitted plans, in the determination of this appeal.

Main Issues

4. The main issues are:

- whether the location is suitable for the proposed development;
- the effect of the development on the character and appearance of the area, and;
- the effect of the development on biodiversity.

Reasons

Location

5. Both parties agree that the appeal site lies outside of a defined settlement boundary. It therefore falls within the countryside for planning purposes.
6. The proposal is for an agricultural building in an agricultural field. The Council in their statement of case consider that insufficient justification has been put forward to warrant a large scale building constructed on greenfield land, with conflict identified with Policies LP18, LP19 and LP21 of the LP.
7. I am mindful that the previous local plan policies, against which the proposal was found to conflict with, only permitted development in the countryside where it could be demonstrated that it was essential for agricultural or forestry use.
8. Policy LP18 relates predominantly to design, requiring development to be of high quality and to conserve and enhance the natural environment. Policy LP19, amongst other matters, seeks ecological appraisals where Biodiversity Net Gain requirement is engaged and Policy LP21, amongst other matters, requires development to conserve and enhance the amenity of the wider environment and requires the scale, height, massing, materials to respond sympathetically to the local setting.
9. As none of the above policies require justification or restrict development on the basis of its intended use, I find that they are not determinative on this particular issue. Consequently, in the absence of any policy conflict on this issue and notwithstanding my conclusions in relation to character and appearance, I find that in principle, the erection of an agricultural building in an agricultural field in this area is acceptable.

Character and appearance

10. The appeal site is located on the edge of Walpole Marsh village at the end of a ribbon of residential development on the northside of The Marsh. A large agricultural field, in the appellants ownership is located to the rear. To the south is Cley Cottage, a detached chalet bungalow. A tall hedgerow runs along the north-east boundary of the field which the building is located in, along with a hedgerow between the appeal building and road frontage.
11. The appeal site consists of a large red brick and tile detached building. The building was originally erected as a triple bay 1.5 storey detached garage with rooflights. This application was dismissed at appeal¹. The scheme before me

¹ Ref: APP/V2635/W/22/3305682

proposes modifications to the building to enable it to be used as an agricultural building for the surrounding land. The existing rooflights would be removed, the original garage doors facing Cley Cottage would be bricked up and new openings would be inserted on the opposite elevation, facing the agricultural field.

12. The agricultural building would have relatively low eaves, a high pitched ridgeline and openings that would appear domestic in their proportions. The building would be constructed in red brick and tiling. These materials are reflective of domestic dwellings locally.
13. Collectively these design factors give the proposed agricultural building the appearance of a domestic building, appearing at odds with the more functional appearance of agricultural buildings in the locality, which I observed tended to be constructed in metal, with larger openings than that proposed and typically with corrugated roofs.
14. Whilst the tall height of the hedgerow on the north-east boundary would substantively screen the proposal, due to the proposed buildings tall height and scale, in close proximity to the road, the hedgerow along The Marsh road would provide limited screening. The proposal would therefore appear unduly prominent, and given its design, would appear at odds with its intended agricultural purpose.
15. Even with the buildings separation from the domestic curtilage of Cley Cottage, and separate access, it would nevertheless remain in close proximity to the road frontage and the existing access of Cley Cottage. Given its domestic appearance, location and close relationship to the adjacent property, the building would relate more to the adjacent residential property against which it would be predominantly viewed against and thus have an urbanising influence on the countryside, detracting from the rural identity of the countryside setting.
16. The removal of a section of hedgerow to facilitate access to the proposed building would further increase the visibility of the building on the approach from the north east of The Marsh road, exacerbating the harm identified above. I am also mindful that the height of the hedgerow either side of the proposed access may have to be reduced in order to provide sufficient visibility from the access point, which would also further increase the visibility of the appeal site and add to the harm.
17. The appellant states the amount of land in their ownership warrants a building that can accommodate large scale agricultural vehicles. Limited information has been submitted as to what vehicles would be stored within the building. Whilst this is not a policy requirement, because the proposed openings would be limited in size and due to the proposed agricultural store on the first floor, the ground floor would have a restricted height, limiting the size of the equipment that could be stored. Given these design constraints, and with limited evidence to the contrary, I am not persuaded that it could be practically used for its intended agricultural purpose.
18. For the above reasons, I conclude that the development would cause harm to the character and appearance of the area, conflicting with Policy LP18 and LP21 of the LP. Together these require development to be of high quality design, responding to the local context and character by ensuring scale, layout, materials enhances quality of the environment and enhances the landscape setting as well as enhancing the amenity of the wider environment which includes visual impact.

Biodiversity

19. Both parties agree that as the building has been built for several years, it is exempt from biodiversity net gain (BNG). However, a section of hedgerow would be removed to facilitate the access, and an area of existing grass would be replaced with a gravel driveway. I concur with the Council that these alterations would not be de minimis, and as such it would not be exempt from BNG.
20. Limited details have been submitted to demonstrate how BNG could be achieved. There is no evidence before me which establishes an ecological or biodiversity baseline for the site. Given the size and nature of the land within the appellants ownership, I consider that this matter could likely be addressed on site. Notwithstanding this, I do not have sufficient information before me to confirm that the BNG requirements would be met and thus I cannot be satisfied that the proposal would achieve a BNG.
21. As such, the proposal would not accord with the aims of Paragraph 187 of the Framework which ensures decisions should contribute to and enhance the natural and local environment by providing net gains for biodiversity. Nor would it accord with Policy LP19 of the LP which, amongst other matters, seeks ecological appraisals where Biodiversity Net Gain requirement is engaged.
22. The Council on this issue allege conflict with Policy LP10 of the LP. However, this relates to development associated with the National Construction College Site, Bircham Newton, British Sugar Factory, Wissington and RAF Marham. As such, this policy has not been determinative.

Other Matters

23. The appeal site is located within the proximity of the North Norfolk Coast Special Area of Conservation (SAC), the Wash Special Protection Area (SPA) and the Wash Ramsar Site and the Wash Site of Special Scientific interest (SSSI). The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on (a) European site(s) (either alone or in combination with other plans or projects), the competent authority must, before any grant of planning permission, make an appropriate assessment (AA) of the project's implications in view of the relevant conservation objectives. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to undertake an AA, or consider this matter further.
24. Whilst there have been no objections from interested parties or statutory consultees, this does not automatically render the proposal acceptable, which I have determined on its planning merits.

Conclusion

25. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

T Bennett

INSPECTOR