



Appeal Decision

Site visit made on 20 May 2025

by **N Robinson BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 June 2025

Appeal Ref: APP/K2610/W/24/3357681

Land Adj Blofield Hall, Hall Road, Blofield Heath, Norfolk NR13 4DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr and Mrs Robert and Linda Foster against the decision of Broadland District Council.
 - The application Ref is 2024/3030.
 - The development proposed is erection of 1no. self-build dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Planning Practice Guidance (PPG) advises that The Town and Country Planning (Permission in Principle) Order 2017 (as amended) ('the Order') is an alternative way of obtaining planning permission for housing-led development, which separates the consideration of matters of principle from the technical detail. This consent route has 2 stages: the first 'permission in principle' (PiP) stage establishes whether a site is suitable in principle, and the second 'technical details consent' (TDC) stage, assesses the detailed development proposals. This appeal relates to an application under the first (PiP) stage.
3. An applicant can apply for PiP for residential development by expressing a minimum and maximum number of dwellings. In this case, PiP has been sought for the erection of one dwelling. The scope of the considerations is limited to location, land use and the amount of development¹. All other matters are considered as part of a subsequent TDC application if PiP is granted.
4. Under Article 5B of the Order, permission in principle must not be granted for development which is habitats development. Habitats development means development which is likely to have a significant effect on a qualifying European site either alone or in combination with other plans or projects. There is a specific process to deem what would constitute habitats development which I must assess.

Main Issues

5. In light of the above, the main issues in this appeal are:
 - whether the proposal would be habitats development under Article 5B of the Order; and

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

- in the event that permission in principle can be granted for the development sought, whether the location, land use and amount of development is acceptable.

Reasons

Whether habitats development

6. The appeal site is within the catchment area for the Broads Special Area of Conservation (SAC) and the River Wensum SAC. The PPG gives the scope of the permission in principle stage as being limited to those matters set out in paragraph 3 above, with all other matters deferred to the TDC stage. However, it also makes it clear that permission in principle cannot be granted for habitats development which is defined in the Order as development likely to have a significant effect on a European designated site either alone or in combination with other projects. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) impose the duty on me, as the competent authority, to make that assessment, i.e. to consider whether the proposal would be likely to have a significant effect on the integrity of the SACs, either alone or in combination with other plans and projects.
7. The conservation objectives for the aforementioned SACs are to ensure that the integrity of the sites is maintained or restored as appropriate, and to ensure that the sites contribute to achieving the favourable conservation status of their qualifying features. The Broads SAC's qualifying features include habitats, such as calcium-rich nutrient-poor lakes, lochs and pools; naturally nutrient-rich lakes or lochs which are often dominated by pondweed; purple moor-grass meadows; very wet mires often identified by an unstable surface; calcium-rich fen dominated by great fen sedge; calcium-rich springwater-fed fens; alder woodland on floodplains; and species such as Desmoulin's whorl snail, otter, fen orchid, and little whorlpool ram's-horn snail. The River Wensum SAC's qualifying features include rivers with floating vegetation often dominated by water-crowfoot and species such as Desmoulin's whorl snail, White-clawed (or Atlantic stream) crayfish, Brook lamprey and Bullhead. The qualifying features in both SACs are vulnerable to the effects of development, including through harm to water quality through nutrient pollution.
8. Natural England advises that all types of overnight accommodation within the Council's area can cause excessive levels of nutrients resulting in eutrophication at European sites, including the aforementioned SACs, causing a likely significant effect on their integrity. Additionally, the site is within the Zone of Influence of multiple European designated sites including the Broads, Valley Fens, and East Coast SACs in which recreational activity associated with new housing developments is placing pressure on the qualifying features of the SACs. In light of this, the proposal, alone and in combination with other developments, would be likely to have significant effects on the integrity of the SACs.
9. The PPG sets out that if the Local Planning Authority is satisfied, after taking account of mitigation measures in the appropriate assessment and concluding that the development will not adversely affect the integrity of the protected site, then, subject to compliance with other statutory requirements regarding the permission in principle process, it can grant permission in principle². As I am the competent authority for this appeal, this falls to me.

² Paragraph: 005 Reference ID: 58-005-20190315

10. The Council's strategy for avoiding an adverse effect from nutrients is to ensure that planning applications for residential development demonstrate nutrient neutrality and that proposals where additional recreational impact is likely to affect European designated sites make a contribution towards the Council's Green Infrastructure and Recreational Avoidance and Mitigation Strategy (GIRAMS).
11. No detail has been submitted regarding how additional nutrient loads discharging into the surrounding water network would be dealt with. Given this, I cannot be assured that the proposal would not raise nutrient levels in the SACs thereby harming water quality through nutrient pollution which causes adverse effects on habitats and harm to the integrity of the SACs. A Unilateral Undertaking (UU) has been provided relating to the GIRAMS payment. However, that obligation does not clearly define the appeal site with a site plan or provide evidence of the signatory's title to the land. I cannot therefore be satisfied that all persons with an interest in the site are a signatory to the obligation. Given this, the obligation before me is incomplete and its implementation would be uncertain. Without that certainty, I cannot conclude that the recreational impacts of the proposal would not have an adverse effect on the integrity of the SACs.
12. As the competent authority, I have carried out an appropriate assessment of the effect of the proposal as required by the Habitats Regulations. In light of the above, and in the absence of any other mitigation, I cannot be satisfied that there would be no significant adverse effects on the integrity of the European site designations. As such, the proposal would constitute habitats development for the purposes of the Order. Therefore, it is excluded from a grant of permission in principle under Article 5B of the Order.

Location of development

13. As the proposal is not considered a form of development for which permission in principle can be granted, no further assessment of the proposal in relation to the suitability of its location for housing is required as part of this appeal.

Conclusion

14. For the reasons given above I conclude that the appeal should be dismissed.

N Robinson

INSPECTOR