



Appeal Decision

Site visit made on 21 May 2025

by **S Rawle BA (Hons) Dip TP Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 16 June 2025

Appeal Ref: APP/K2610/W/24/3354062

Land off Banningham Road, Aylsham NR11 6LT

- 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 Luke Daniels against the decision of Broadland District Council.
 - The application Ref is 2024/0639.
 - The development proposed is the erection of 1no. self-build dwelling on land off Banningham Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The fourth reason for refusal relates to insufficient information having been provided to demonstrate nutrient neutrality with regard to its nitrate and phosphate impact on The Broads Special Area of Conservation. The fifth reason for refusal relates to insufficient information having been provided to demonstrate that the proposal would not create adverse recreational impact on protected sites within The Broads, Valley Fens and East Coast zones of influence. Given my findings in relation to the other main issues I will deal with these matters in the "Other Matters" section of the decision.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area including the extent it would preserve or enhance the character or appearance of the Aylsham Conservation Area; and
 - Whether or not the appeal site is an appropriate location for the proposed dwelling having regard to the development plan policies relating to development outside settlement limits and its accessibility to services and facilities.

Reasons

Character and appearance

4. The appeal site is located within the Aylsham Conservation Area (ACA) which in the ACA Character Statement March 2008 (ACACS) has been sub-divided into a number of distinct zones, each with its own character in the Town Centre and Drabblegate. The appeal site is not located within the Town Centre but is located to the east and south-east of Drabblegate with its loosely strung out houses and

farmsteads where the ACACS describes the attractive character of the area being set by the water meadows, willow trees and glimpses of the river to the west and the gently rising ground to the east with hedgerows and trees beyond.

5. The significance of this part of the ACA derives from the enduring historic pattern of development along Drabblegate with attractive properties along the road with a backdrop of open green areas including agricultural land which provide both aesthetic and historical value.
6. The appeal site comprises an area of land which forms the corner of a much larger parcel of land on the western side of Banningham Road to the east and south-east of Drabblegate which comprises hedgerows and trees and forms an integral part of the character and appearance of Drabblegate.
7. On the opposite side of the road to the appeal site on the eastern side of Banningham Road is an existing row of houses. However, the appearance of the land on the western side of the road is materially different. As outlined above, the appeal site forms the corner of a much larger parcel of land. Although the appeal site and this larger area accommodates other uses including an agricultural barn, a couple of caravans, a couple of containers and children's play equipment, in contrast to the other side of the road, the appeal site and this wider parcel appears as a largely undeveloped open green area. There is a public footpath to the north of the appeal site beyond which is a significant open area comprising agricultural land.
8. Consequently, notwithstanding the existing uses on the appeal site and the land immediately adjoining it, the character and appearance of the appeal site and the adjoining land on the same side of the road derives to a significant extent from its largely green openness which creates a sense of spaciousness to the east and south-east of Drabblegate. This sense of spaciousness provides an important transition from the country lane feel associated with the hamlet of Drabblegate and the more suburban feel associated with the row of dwellings on the eastern side of Banningham Road which are located outside of the ACA. This sense of spaciousness makes a significant contribution to the character and appearance of the area.
9. The proposal would involve the introduction of a detached dwelling. I acknowledge that the proposal would be tucked between the existing barn and the trees along Banningham Road, and the orientation of the dwelling and the bulk and massing would be comparable to the dwellings on the opposite side of the road.
10. However, as outlined above, the character and appearance of the appeal site and adjoining land on the western side of the road is materially different from the land and development on the eastern side of the road. As a result, the introduction of the proposed dwelling along with the associated works and domestic paraphernalia would result in an urbanising impact which would significantly diminish openness and the existing sense of spaciousness. This would have a significant adverse impact on the character and appearance of the area and would neither preserve nor conserve the character or appearance of the ACA.
11. The ACA is a designated heritage asset, and the proposal would harm its significance. The appellant accepts that the proposal would result in less than substantial harm to its significance and I agree. I afford great weight to the ACA's conservation which will form part of the planning balance later in my decision.

12. I therefore conclude that the proposal would unacceptably harm the character and appearance of the area and would neither conserve or enhance the character or appearance of the ACA. Consequently, the proposed development would conflict with Policies 2 and 3 of the Greater Norwich Local Plan, March 2024 (GNLP) and Policies GC4 and EN2 of the Development Management DPD 2015 (DMDPD), which among other things seek to ensure development respects the character of the local area, avoids harm to designated heritage assets and protects and enhances conservation areas. I afford this issue great weight in the determination of the appeal, and it provides a strong reason for refusing the proposed development.

Whether or not an appropriate location

13. The appeal property is located outside the settlement limits. Policy GC2 of the DMDPD provides the approach to the location of new development and highlights that outside of the settlement limits, development which does not result in any significant adverse impact, will be permitted where it accords with a specific allocation and/or policy of the development plan. The proposal does not accord with Policy 7.2 of the DMDPD as it is not within a main town, within a settlement boundary or an affordable rural exception site.
14. The proposed development is for a self-build dwelling and Policy 7.5 of the DMDPD sets that small scale residential development of up to 3 dwellings for self-build homes will be permitted on sites that are within or adjacent to settlements.
15. The appellant considers that the appeal site is adjacent to the defined settlement boundary whereas the Council do not agree. For my part, notwithstanding that I understand that the intervening land is within the ownership of the appellant, the appeal site is separated from the settlement boundary by some distance and includes some open land within the ACA mentioned above. As a result, I am not satisfied that the appeal site it is located adjacent to the settlement boundary.
16. However, even if I had been satisfied that the appeal site was located adjacent to the settlement boundary, the proposal still would not accord with Policy 7.5 of the DMDPD as all development covered by the policy would need to respect the form and character of the settlement including having no significant adverse impact on the landscape. It would also need to accord with other relevant local plan policies. Given my findings on the first main issue, the proposal has failed to meet these criteria.
17. Similarly, given the finding on the first main issue it would not accord with Policy GC2 of the DMDPD as the proposal would result in a significant adverse impact on the character and appearance of the area and therefore would not accord with specific policies of the development plan. Consequently, development plan policies do not support the proposed dwelling at this location.
18. I turn now to consider whether or not the appeal site represents a sustainable location. I accept the appellant's evidence that the nearest bus-stop is about 300 metres away and Aylsham town centre with its associated shops and facilities is about 1.45 km away with the local high school being about 1.1 km away and the local primary and nursery being about 1.6 km away.
19. Land use patterns that are most conducive to walking are where there are a range of facilities and services within a 10-minute walk or about 800 metres. As outlined

above, the main service and facilities fall beyond that range. I accept that cycling to these services and facilities could be a possibility, but would not be a particularly attractive proposition, particularly in adverse weather and during the hours of darkness.

20. That said, I acknowledge that there is a bus stop within a comfortable walk, and this provides a good service to both Aylsham town centre, including a supermarket and a number of other settlements, including Norwich. As a result, notwithstanding the distance the proposed development would be from the services and facilities, there is a convenient public transport system available for future residents of the proposed dwelling.
21. The National Planning Policy Framework (the Framework) highlights that priority should be given first to pedestrian and cycle movements and second to access to high quality public transport. Consequently, taking these factors together, notwithstanding the availability of public transport within convenient walking distance, future residents would still likely be reliant on the private car. The proposed development would therefore not represent a location which is sustainable as contrary to the Framework it would not be located where the need to travel would be limited.
22. Moreover, given that the proposed development would not be considered sustainable development it would not accord with Policy GC1 of the DMDPD and Policy 2 of the GNLP as it would not represent sustainable development in accordance with the Framework.
23. I therefore conclude that the proposed dwellinghouse would not be located in an appropriate location having regard to the development plan policies relating to development outside settlement limits and would not be suitably located in terms of its accessibility to services and facilities particularly in relation to walking and cycling. Consequently, the proposal would be at odds with Policies GC1, GC2, 7.2 and 7.5 of the DMDPD and Policy 2 of the GNLP for the reasons set out above.
24. However, the weight I afford this issue is tempered by the fact that the proposal would be served by public transport within convenient walking distance and consequently I afford this issue moderate weight in the determination of the appeal.

Other Matters

25. I have taken account of the fact that the appellant indicates that the proposed development would be a self-build unit. The Council has a duty under the Self Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet identified demand for the district.
26. The Framework supports small sites to come forward for self-build and custom-build housing. I have taken account of the appeal decision for a site at Tivetshall St Margaret¹ where the Inspector in that case found that there was a shortfall in the provision of self-build housing units and even the provision of one dwelling should be afforded moderate weight. I too afford the provision of a self-build unit moderate weight in the determination of the appeal.

¹ APP/L2630/W/24/3346313

27. In terms of housing supply there is a disagreement between the parties as to whether the Council can demonstrate a five-year supply of housing land. The Council consider that the GNLP is not out of date as the Inspector's report confirms that from the date of adoption it can demonstrate 5.77 years supply of housing land. On the other hand, the appellant considers that the Council cannot demonstrate a five-year supply of housing land and considers the tilted balance should apply.
28. Given the age of the relevant adopted policies in the GNLP I consider that the Council can demonstrate a five-year supply of housing. However, even if they could not, the application of policies in the Framework that protect areas or assets of particular importance (i.e. the ACA), provides a strong reason for refusing the proposed development. Consequently, the presumption in favour of sustainable development, as set out in paragraph 11(d) of the Framework is disengaged.
29. That said, having also considered any public benefits, I accept that the proposal would have a cumulative effect on the supply of housing, albeit only to a limited extent and would have some economic, social and environmental benefits. For example, it would provide some jobs and create demand for materials during the construction phase and would broaden the availability of housing in the area. The proposal would also make a modest contribution to enhance or maintain the vitality of the local settlement. I also acknowledge that the proposed development would make efficient use of the appeal site. On that basis, I afford the totality of the benefits significant weight in the determination of the appeal.
30. In reaching that view I have taken account of the other appeal decisions that have been brought to my attention including the one at Tivetshall St Margaret mentioned above which also made reference to an appeal decision in Guestwick. The appellant points out that in both these decisions the appeal sites were much more detached from services and facilities than the situation here.
31. However, as outlined above, I have taken account of the location of the appeal site relative to the services and facilities. Such an assessment is by its very nature site specific and will depend on many factors and so a direct comparison with other sites in other areas which have a different relationship to the nearest settlement and available public transport is not a determinative factor in many cases.
32. In relation to the appeal at Guestwick, beyond being more detached from services and facilities which I have dealt with above, there is no evidence to suggest that the cases are directly comparable. In relation to the case at Tivetshall St Margaret, the Inspector found that the proposal would not be harmful to the character and appearance of the area and that Paragraph 11(d) of the Framework was engaged. That is materially different from my findings, and it follows that the planning balance undertaken in that case is materially different from the situation here. As a result, these other appeal decisions have limited weight in the determination of the appeal.
33. The appeal site is located within the Broads zone of influence which includes The Broads Special Area of Conservation (SAC). This European site is afforded protection under the Conservation of Habitats and Species Regulations 2017 as

amended (The Habitat Regulations). I understand that due to the nitrate and phosphate impact the SAC is deemed to be in an unfavourable conservation status.

34. The appellant accepts that the proposal would result in an additional dwelling and is located within the nutrient catchment area. Where a proposal is likely to have significant effects on European sites, Regulation 63 of the Habitat Regulations requires the competent authority to carry out an Appropriate Assessment (AA). However, an AA is only required where the competent authority is minded to grant consent for the proposal. Since I am dismissing the appeal, it is unnecessary for me to undertake an AA.
35. The appellant has suggested that mitigation can be provided and sets out in their Appeal Statement that they were working on achieving suitable nutrient mitigation. They go on to advise that if that cannot be achieved the Council has made significant progress on credits to mitigate for nutrients and a pre-commencement condition could be imposed. Very little information has been provided about the mitigation scheme that they were working on and consequently this would not provide the necessary protection and has very limited weight in the determination of the appeal. In terms of the credits to mitigate for nutrients, the Council has advised that although they are working with third parties to provide a credit scheme for mitigation there are currently no mitigation schemes available for the appeal site. Consequently, it is far from certain if the development would be made acceptable by the imposition of a pre-commencement condition.
36. The Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy (GIRAMS) advises that increased housing growth within The Broads, Valley Fens and East Coast zones of influence places additional recreational pressure on the protected European Sites. The appellant has provided a signed unilateral undertaking to secure a financial contribution towards mitigation measures identified by the GIRAMS. The Council consider that if such contributions are secured the appellant would be able to demonstrate that they are adequately mitigating recreational impacts on the protected sites. I have no reason to disagree, but as indicated above given that I am dismissing the appeal for other reasons it is unnecessary for me to undertake an AA which would have been necessary if I had been minded to allow the appeal.

Planning Balance

37. I have afforded some matters weight as outlined above and overall, I afford the totality of the benefits significant weight in the determination of the appeal. On the other hand, I afford the harm that the proposal would have on the character and appearance of the area, including the ACA and the fact that the proposed dwellinghouse would not be located in an appropriate location great weight and moderate weight respectively. Bearing in mind that Paragraph 11(d) of the Framework is disengaged, and the scheme should be considered under a normal planning balance I find that the harm clearly outweighs the benefits.

Conclusion

38. 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. Consequently, the appeal should be dismissed.

S Rawle, INSPECTOR