



Appeal Decision

Site visit made on 22 July 2025

by R Norman BA(Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2025

Appeal Ref: APP/Y2620/W/25/3365327

The Old Rectory, Aylsham Road, Felmingham, Norfolk NR28 0LD

- 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 Paul Bartholomew against the decision of North Norfolk District Council.
 - The application Ref is PF/22/0213.
 - The development proposed is Demolition of Single Storey Link Blocks and Conversion of Existing Care Home into 16 No. Residential Apartments.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development in the above heading is taken from the Appeal Form as the proposal was amended from that described on the original Application Form. As such, the description on the Appeal Form is the correct one.

Main Issues

3. The main issues are:
 - Whether or not the development would adversely impact the mature trees within and adjoining the appeal site;
 - The potential impacts on protected species, specifically roosting bats;
 - Whether or not the development would result in adverse effects on the integrity of European Sites in relation to recreational disturbance;
 - Whether or not the development would result in adverse effects upon the integrity of European Sites in relation to nutrient enrichment;
 - Whether or not the development would be at risk, or increase risk elsewhere, of surface water flooding; and
 - Whether or not the development makes adequate provision for community and infrastructure contributions.

Reasons

Trees

4. The appeal site is located on Aylsham Road within the village of Felmingham. It sits back from the road, accessed via a driveway. Within the site is an existing

building which was formerly a care home but is now vacant. A number of trees within the appeal site are covered by an area of Tree Preservation Order (TPO) TPO/20/0976.

5. The proposed development would convert the existing vacant care home into 16 residential apartments, involving the demolition of the existing link blocks between each main building.
6. There are a number of mature trees within and adjacent to the site and the area is verdant and well screened. Some of the trees are very large and contribute to the overall visual character of the area. The majority of the trees within the appeal site are to be retained, and details of the trees, their root protection areas (RPAs) and general condition have been provided in the Appellant's arboricultural assessments, surveys and statements and a Tree Schedule. These reports outline the methods that can be used to limit the impacts on the trees, including supervised excavation within the RPAs of trees T3, T4, G6, G8 and H1, direct on-site supervision of an arboriculturist during demolition works, the use of protective fencing and ground boarding and using no dig surfacing techniques.
7. The information before me provides some comfort that the proposed works relating to the existing building and provision of parking and landscaping areas could be carried out without resulting in damage to the existing trees and hedgerows within the site, subject to conditions ensuring the works are carried out in accordance with the submitted reports and suitable and qualified on-site supervision is carried out.
8. However, I have limited information before me in relation to the likely provision of underground services, other than that they should be located outside of any RPAs and employ trenchless techniques where feasible and hand excavation under supervision. In the absence of more detailed proposals in this regard, I cannot conclude that these works would not result in harm to the existing trees within the appeal site and which form part of the TPO due to their landscape and visual value.
9. As such the proposal is contrary to Policies EN 2 and EN 4 of the North Norfolk Core Strategy (2008) (Core Strategy) which seek to ensure that development protects, conserves and where possible enhances distinctive landscape features such as trees and retains existing important landscaping and natural features, amongst other things.

Protected Species

10. The existing building on the appeal site has been vacant for some time and therefore should be assessed for the potential for roosting bats. The Appellant has carried out a number of surveys and provided reports including a Preliminary Ecological Assessment and Preliminary Roost Assessment, an Ecology Walkover and Bat Activity assessments and surveys.
11. The Council's concerns relate to the potential for roosting bats in the building and I note the list of specific points within the Officer's Report. I acknowledge that the information provided throughout the application process expanded on the preliminary assessments, however it appears that the additional surveys were more limited in number than required and are somewhat contradictory with some

reports highlighting that the building had low potential for roosting bats but also identifying two separate pipistrelle roosts in Building 2.

12. It also appears that full internal inspections of the buildings have not been undertaken and coupled with the findings of roosts, I consider that it is not reasonable to conclude that there is low potential for bat roosts within the building, especially given the surrounding vegetation and foraging potential.
13. Notwithstanding the surveys carried out to date, I consider that these have not been sufficient or clear enough in their conclusions to demonstrate whether the proposed development would impact bats, which is required to be assessed by the statutory consideration under Regulation 9 of the Conservation of Habitats and Species Regulations (2017) (as amended). As they are a protected species, I do not consider it to be appropriate to secure further surveys by condition.
14. Consequently, the development is at odds with the requirements of Policy EN 9 of the Core Strategy and Chapter 15 of the National Planning Policy Framework (the Framework). Collectively, these seek to ensure that all development should protect the biodiversity value of land and buildings, maximise opportunities for restoration, enhancement and connection of natural habitats and, where there is reason to suspect the presence of protected species, applications should be accompanied by a survey assessing their presence and be sensitive to and make provision for their needs.

Recreational Disturbance

15. The appeal site falls within Group Area Zones of Influence and European Designations. The Norfolk Green Infrastructure and Recreational Impact Avoidance Mitigation Strategy (2021) (GIRAMS) applies in this instance and seeks to ensure that no adverse effects are caused to European sites, either alone or in combination with other developments, and applies a tariff approach to mitigate any adverse effects. This tariff is applied per dwelling and should be secured by a legal agreement.
16. I note the information submitted by the Appellant to show that the use of the building as a care home was no longer suitable and accept that a care home is a residential use, as are apartments. However, I have been provided with limited information that would allow for a comparison of the likely recreational disturbance between a care home and general residential apartments. These two uses could generate very different levels of activity and as such, taking a precautionary approach, I am unable to conclude on the basis of the information before me, that there would not be adverse effects in this regard. Furthermore, I have not been provided with any legal agreements to secure the payment of the tariffs required to mitigate any harms.
17. It has therefore not been demonstrated that the development would not result in adverse effects, either alone or in combination with other developments, on the integrity of European Sites within Norfolk. The development would therefore fail to accord with the requirements of Policies SS 4 and EN 9 of the Core Strategy which require development to protect and enhance natural assets and geodiversity and, where they would cause a direct or indirect adverse effect to nationally designated sites, prevention, mitigation and compensation measures are provided, amongst other things.

Nutrient Enrichment

18. The proposed development would provide residential accommodation on a site which falls within the catchments of the Broads Special Area of Conservation and Ramsar Site and is in a nitrate vulnerable zone.
19. The submitted reports identify that there are no public sewers onsite and the existing onsite drainage system discharges to nearest public sewer. A proposed drainage strategy and layout has been provided, and it has highlighted that the existing pipework may be suitable for re-use subject to condition survey and agreement.
20. A Nutrient Neutral Assessment and Mitigation Strategy has been provided which provides calculations in relation to nutrient export, wastewater load and phosphorus balance and states that the development site is not within a sewered area and currently discharges to a septic tank system which is proposed to be updated. Details relating to the existing septic tank system is limited however, and it is not wholly clear how the upgrading of this system relates to the proposed drainage strategy and connection to the Felmingham Water Recycling Centre.
21. The Appellant has highlighted that the development would incorporate mitigation measures including water saving fixtures and appliances, grey water recycling, rainwater harvesting and the purchase of credits or habitat enhancements and point out that the decision on the planning application was made by the council prior to Natural England being consulted. However, the details before me regarding these mitigation measures are limited.
22. The Council note that the drainage field in relation to the mature trees on site has not been fully detailed and there is some discrepancy in the figures used for the proposed development flows and the occupancy and water usage figures, and based on the information before me, I consider that these have not yet been satisfactorily addressed by the Appellant.
23. Accordingly, insufficient and unclear information has been provided which fails to demonstrate that the proposed development would not result in adverse effects on the integrity of European Sites in relation to nutrient enrichment as required by the Conservation of Habitats and Species Regulations (2017) (as amended). I am therefore unable to conclude that there would not be likely significant effects and, as such, the proposed development fails to comply with Policies SS 4 and EN 9 of the Core Strategy which seek to ensure that opportunities to improve river water quality and minimise air, land and water pollution will be taken where possible, and encourage sustainable drainage systems to reduce flood risk, promote groundwater recharge and improve water quality, amongst other things.

Flood Risk

24. The appeal site is located within Flood Zone 1 which is considered to be an area of low risk in relation to flooding. The application was supported by a number of documents, including a Drainage Strategy Report and Surface and Foul Water Drainage Strategy as well as infiltration testing details.
25. The proposed development would incorporate permeable hard surfacing which would provide benefits over and above the existing situation, as well as attenuation tanks to regulate water discharge and outfall to a nearby ditch. However, the

submitted surface and foul water drainage strategy again does not provide clear information on the existing drainage systems and highlights that an existing drainage system survey is required to verify the discharge arrangements and the suitability of the system.

26. I acknowledge that the Appellant advises that the rates of discharge would not be dissimilar to the previous care home, however the information submitted is lacking in terms of the existing drainage systems and their capacity and suitability to be re-used for the proposed development, as well as in terms of details of all of the areas of hard surfacing within the appeal site, full details of the SuDS arrangements and fails to follow the LLFA guidance and the Planning Practice Guidance. It has therefore not been adequately demonstrated that a suitable method of surface water drainage can be achieved in this instance, and it would not be appropriate to secure this level of additional information by condition.
27. It is therefore not possible to conclude that the proposal would not be at risk of flooding or give rise to surface water flooding elsewhere. As such, the proposed development would not comply with the provisions of Policy EN 10 of the Core Strategy which requires new developments to provide appropriate surface water drainage arrangements for dealing with surface water run off. It would also not comply with paragraphs 173 and 175 of the Framework which seek to ensure that flood risk is not increased elsewhere, and developments should incorporate sustainable drainage systems unless there is clear evidence that it would be inappropriate.

Community and Infrastructure Contributions

28. As identified in the previous sections of this report, a legal agreement has not been provided to secure any necessary contributions towards nutrient mitigation and GIRAMS to offset adverse impacts arising from the proposed development. In addition, as the proposal would be for a scheme of 10 or more dwellings, on-site and off-site open space provision and contributions would be required. The Council have stated that it appears that the on-site provision of open space can be achieved, and that the Appellant has demonstrated that it would not be viable to provide the off-site contributions, however the provision and management of the open space areas would need to be secured by legal agreement.
29. The Appellant has indicated that they would be willing to have a Section 106 Agreement for the GIRAMS contribution, but no such agreement has been submitted as part of this appeal.
30. Accordingly, as no legal agreement has been submitted to secure the necessary infrastructure, the proposal fails to comply with the provisions of policies SS 6 and CT 2 of the Core Strategy which require planning conditions or obligations to secure the necessary infrastructure, services, community facilities or open space improvements to make a development acceptable, amongst other things.

Other Matters

31. An objection has been received from a local resident raising concerns about the lack of public sewerage facilities in the village, traffic and road safety and the character of the area. However, these matters would not alter my overall findings in this case and therefore it is not necessary for me to reach conclusions on these.

Conclusion

32. For the reasons given above, and having had regard to all matters raised, the appeal should be dismissed.

R Norman

INSPECTOR