



Appeal Decision

Site visit made on 31 July 2025

by **H Marriott MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 August 2025

Appeal Ref: APP/Y2620/W/25/3362663

Crosswinds, Grub Street, Happisburgh, Norfolk NR12 0RX

- 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 Philip Buskell against the decision of North Norfolk District Council.
- The application Ref is PF/24/0556.
- The development proposed is described as 'change of use of vacant B8 storage back to a residential dwelling (C3)'.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the integrity of European habitat sites.

Reasons

3. Based on the evidence before me, Crosswinds lies within a phosphorus and nitrogen sensitive catchment of the Broads Special Area of Conservation (BSAC) and Ramsar site. The Council's evidence specifically identifies the site as being located within the River Bure Nutrient Neutrality Surface Water Catchment. The appeal site is also located within the Zone of Influence of other European designated sites, including the North and East Coast Sites, North Valley Fens and The Wash Area. These sites are important areas for birds, plants and wildlife.
4. In relation to nutrient pollution, Natural England's nutrient neutrality advice¹ (NE advice) relates to new development with the potential to affect water quality, resulting in adverse impacts on habitat sites. It advises that excessive levels of nutrients can lead to a loss of biodiversity. The BSAC and Ramsar sites are identified as being in an unfavourable condition, where nutrient neutrality is a potential solution to enable development to proceed.
5. Crosswinds is a bungalow that was originally occupied as a residential dwelling. A change of use application in 1998 granted planning permission for the change of use of Crosswinds from a dwelling to an office and store², which at that time was proposed to be used in association with a mail-order business. Whilst the appeal proposal seeks a change of use of Crosswinds only, this constitutes new development³ and the appeal proposal would result in additional overnight accommodation when compared with its current office and store use. On this basis,

¹ Natural England Letter dated 16 March 2022

² Council ref: PF/98/1588.

³ Section 55 of Town and Country Planning Act.

the appeal proposal has the potential to contribute to nutrient loading affecting water quality, resulting in adverse impacts on habitat sites.

6. The appellant contends that mitigation is not required since the appeal proposal would only contain two bedrooms and could result in less people utilising Crosswinds, including for washing/toilet facilities. Whilst the former business use employed approximately eight staff, the Council indicates that commercial uses are exempt from a requirement to demonstrate nutrient neutrality, as it is generally accepted that people tend to work and live in the same catchment. As a consequence, there is no substantive evidence before me to indicate that the proposed dwelling would result in less nutrient loading, or that the appeal proposal would discharge outside of the affected catchment.
7. Under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) as the competent authority, it is necessary to undertake an appropriate assessment in relation to the likely significant effects of the proposed development, alone or in combination with other plans or projects, on the integrity of these sites.
8. Consequently, based on the evidence before me, and in the absence of mitigation to achieve nutrient neutrality, the proposal would result in increased nutrient pollution. Whilst such effects relating to one additional dwelling would likely be small, the evidence nevertheless indicates that in combination with other plans or projects, there is the potential for significance adverse effects on the integrity of the BSAC and Ramsar site.
9. The appeal proposal would also likely result in increased recreation disturbance from visitors which, without mitigation, is likely to affect the integrity of the habitat sites identified. The Council has confirmed that the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy (GIRAMS) sets out a strategic cross-boundary approach to mitigating the in-combination effects of development on the European habitat sites. This includes a specified financial contribution per dwelling. The Council has confirmed that it has received the correct sum in accordance with GIRAMS and the corresponding Section 111 form⁴. As a consequence, there is no longer any dispute between the main parties with regards to this particular matter.
10. Had I been minded to allow the appeal, it would usually be necessary for me to consult Natural England with regards to the acceptability of this sum in terms of mitigating the recreational disturbance from the appeal proposal. However, this would not address the issues in relation to the absence of mitigation to achieve nutrient neutrality.
11. Following an appropriate assessment, I therefore conclude that it has not been demonstrated that the proposed development would not adversely effect the integrity of European habitat sites. In this regard it would be contrary to the requirements of Policies SS 4 and EN 9 of the North Norfolk Local Development Framework Core Strategy (2008) which seek to ensure the protection and enhancement of natural environmental assets and require that development proposals that would cause direct or indirect effect to nationally designated sites or other designated areas to not be permitted unless prevention, mitigation and compensation measures are provided.
12. It is noted that the policies of the CS pre-date the latest version of the National Planning Policy Framework (the Framework). Even so, these policies remain part of the adopted development plan and generally conform with Section 15 of the

⁴ Section 111 agreement under the Local Government Act 1972.

Framework including advice that if significant harm to biodiversity resulting from a development cannot be adequately mitigated then planning permission should be refused. As such, I had regard to them and there would also be conflict with the Framework as identified in these respects.

Other Considerations

13. The proposal would make a minor yet positive contribution to housing supply and would bring a vacant building back into use. The change of use also has the potential to reduce vehicle movement to and from the site with associated environmental benefits. There would be economic and social benefits as future residents would feed into the local economy and provide support for local services and facilities. However, given that the proposal is for one additional dwelling, these associated benefits would be modest.
14. The Council identified no other harm in relation to living conditions, loss of an employment use, design or highway safety. It also identified no specific conflict in relation to Policy H09 of the CS which relates to the conversion and re-use of rural buildings as dwellings. However, these considerations indicate the absence of harm rather than any benefit.
15. The Council has confirmed that it is unable to demonstrate a 5-year housing land supply (5YHLS). As such, Paragraph 11 d) of the Framework is a relevant consideration. When a 5YHLS cannot be demonstrated, the Framework advises that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the proposal. Habitat sites are such areas/assets. Given the issues raised in relation to the adverse effect of the proposed development on the integrity of European Habitats sites as set out above, the requirements of Paragraph 11 d) of the Framework is not engaged. Accordingly, the proposed development does not benefit from a presumption in favour of sustainable development and paragraph 11 d) of the Framework indicates that permission should not be granted.

Planning balance

16. The harm to the integrity of European habitats site and the related policy conflicts weigh substantially against the appeal proposal. In these respects, the proposed development would conflict with the development plan when considered as a whole. The reuse of the appeal site for residential purposes would make a small, yet important contribution to meeting local housing needs and could potentially be delivered quickly. There would also be modest economic and social benefits to the local area. However, these benefits do not outweigh the harm identified.

Conclusion

17. 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. For the reasons given above the appeal should be dismissed.

H Marriott

INSPECTOR