



Appeal Decision

Site visit made on 10 June 2025

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2025

Appeal Ref: APP/Y2620/W/25/3358956

Ambrose House, Mill Road, Banningham, Norfolk NR11 7DT

- 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 Matthew Ambrose against the decision of North Norfolk District Council.
 - The application Ref is PF/22/1068.
 - The development proposed is proposed affordable self/custom build dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for a full award of costs was made by Mr Matthew Ambrose against North Norfolk District Council. That application is the subject of a separate Decision.

Preliminary Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024. This was after the application for planning permission to which this appeal relates was determined by the Council¹ but prior to the submission of the appeal itself². Thus, the Framework paragraph numbers referred to in the reasons for refusal will relate to the Framework as it existed at the time of the Council's decision. However, I am satisfied that the appeal's timeline is such that main parties have had the opportunity to take the revised Framework into account in the preparation of their appeal submissions. I have determined the appeal accordingly.
4. The appellant has submitted with the appeal a signed and dated Unilateral Undertaking (UU) made under section 106 of the Town and Country Planning Act 1990 (as amended) (the Act). The UU sets out the mechanism by which the appellant proposes to secure the proposed dwelling as a self-build development. A payment was also made to the local planning authority with the initial submission of the application in respect of the Green Infrastructure and Recreational Impact Avoidance and Mitigation (GIRAM) Strategy and recreational impacts of new development on protected habitats sites. I shall return to these matters later in my decision.

¹ Date of decision: 26 July 2024

² Appeal dated: 15 January 2025

Main Issues

5. The main issues are:

- Whether or not the appeal site is a suitable location for the proposed development, with particular regard to the development plan and the National Planning Policy Framework (the Framework);
- Whether or not the appeal site is a suitable location for the proposed development, with particular regard to highway safety and the local highway network;
- Trees
- Protected species

Reasons

6. The appeal site itself forms part of a larger, rectangular area of land behind the garden plots of five dwellings that front on to Mill Road. It shares boundaries with residential garden plots along two sides, and an open fields to its north. There was evidence at the time of my visit of a pond within the site whilst the between the existing building and residential properties on Mill Road. Other than the hard-core surfaced track leading from Mill Road into the site and culminating in an informal turning and manoeuvring area, the majority of the remainder of the site comprised of largely overgrown surface vegetation of varying lengths, within which were a number of trees.
7. Access to the site is taken from Mill Road by a gravelled track that leads between two of these frontage properties. Other properties between the appeal site and the B1145 appear to have longer garden plots that extend all the way to a line of trees that also forms the rear boundary of the appeal site. Farmland lies beyond the row of trees.

Location

8. Policy SS1 of the North Norfolk Local Development Framework Core Strategy³ (the CS) sets out the spatial strategy for new development within North Norfolk. It states that the majority of new development will take place in the district's towns and larger villages, identifying principal and secondary settlements in this regard, with a small amount of new development to be focused on designated 'service' and 'coastal service' villages. The remainder of the district outwith these settlements, including any settlements not specifically listed within CS Policy SS1, are defined as 'countryside' for the purposes of the development plan. CS Policy SS2 sets out the type of development appropriate within the countryside to that which requires a rural location and is for one or more of a list of forms of development.
9. Banningham is not a named settlement within CS Policy SS1. It is not therefore a principal or secondary settlement, nor is it defined as a 'service' or 'coastal service' village. Whilst the appeal site has a Banningham address, the cluster of houses and buildings around the junction of the B1145 and Mill Road are detached from the main body of Banningham village, which lies a short distance to the northwest across intervening fields, or via the B1145 and Colby Road. Whilst the appeal site

³ September 2008

may not be physically or visually isolated it does, for the purposes of the development plan, lie in the countryside as defined by CS Policy SS1. Nor is it particularly well positioned in terms of access to local services and facilities, whether those in Banningham itself, or further afield.

10. Although the appellant seeks to argue that CS Policy SS1 is 'of little, if any' relevance to the appeal scheme, its broad, overarching approach to spatial strategy is applicable, not least because it acknowledges that within the countryside particular types of development may well be limited. Thus, CS Policy SS2 sets out the range of development considered appropriate to a countryside location, including the 'extension and replacement of dwellings'. Neither main party has made a case that the proposed development falls within the other 'exceptions' set out within CS Policy SS2.
11. There is an existing building within the appeal site, located towards the rear of the site close to its field boundary with the field behind. The building is unkempt and somewhat ramshackle in its appearance and although its internal spaces are internally linked, it is comprised of distinct and different elements and types of structure. There remains a significant gulf in the position of the main parties regarding the status of the existing building within the appeal site. It was evident from my observations of the building during my visit to the site that there were some trappings of domestic residential occupation of the building; furniture including a sofa, shelves with ornaments on display, decorations, remnants of a kitchen and appliances and some bathroom items. However, these elements could equally be observed to amount to the storage of domestic items alongside storage of other items such as building materials and tools.
12. From the evidence available and the extent of the matters commonly agreed between the parties, it seems to me that, at best, the building was likely previously part of the occupation of a larger portion of land for residential purposes incidental to the occupation of that property at Chapel Cottage. There may have been further residential occupation of the building subsequently but the extent, frequency, duration and nature of occupation is not clear from the evidence before me. Whilst this may, as has also been agreed between the parties, be sufficient to render the site as being previously developed land it does not amount to the proposal being for a replacement dwelling. Nor does it provide a sufficiently compelling fallback position for the appellant to be able to rely upon, particular given the incidental nature of occupation as accepted by the appellant, that the building should be considered to be an existing, separate stand-alone and independently occupied dwelling. It is not within the bounds of an appeal under section 78 of the Act to consider the lawfulness of an existing use of land or building. It is thus open to the appellant to apply to have such matters formally determined under sections 191 or 192 of the Act. Any such matter would be unaffected by my determination of this matter.
13. I am not therefore persuaded that the appeal site presents an appropriate location for residential development in the manner envisaged by CS Policies SS1 and SS2. It has not been adequately demonstrated that the proposal would benefit from the exemption provided by CS Policy SS2 (7th bullet-point) for the extension or replacement of dwellings. The appeal site is not physically or visually isolated from other dwellings and its redevelopment would, the parties agree, amount to the redevelopment of previously developed land. It is not, however, situated particularly conveniently relative to the limited services and facilities in Banningham where

residents would realistically rely upon a private vehicle for access rather than walking or cycling along unlit, sometimes narrow and twisting local roads with no pathways. CS Policy SS4 is also cited in the first of the refusal reasons and, whilst the appellant seeks to downplay its significance, it sets out a broad, over-arching approach to the delivery of sustainable development. Collectively, the appeal scheme fails to accord with the aims and provisions of CS Policies SS1, SS2 and SS4.

14. Nevertheless, the redevelopment of previously developed land, which is broadly agreed between the parties, is a matter that attracts some weight in support of the proposal. The application was also described upon submission by the appellant as a self-build dwelling. None of the policies to which I have been referred make reference to the development or delivery of self-build properties. The Framework however recognises the role of a mix in terms of size, type and tenure of housing in delivering a sufficient supply of homes, and that this includes, inter alia, self-build homes, as also set out within the Self Build and Custom Housebuilding Act 2015. It is agreed that the appellant is on the Council's self-build register, whilst the appellant's assertion that the Council has made poor progress in meeting demand for self-build plot is unchallenged by the Council.
15. Although it seems that the application was not accompanied by any mechanism to secure the proposed dwelling as a self-build dwelling, other than reference within the development description, I have before me as part of the appeal a UU that seeks to secure such provision. The Council has acknowledged the contribution that such properties can make to housing mix, and that positive weight may be attached to such provision. I am satisfied that the UU's provisions are sufficient to allow me to consider the proposal as a self-build proposal and that as such carries moderate weight in support of the proposal.
16. The weight that that these matters carry in support of the proposal is supplemented by the agreed position that the Council is unable to demonstrate a deliverable 5-year housing land supply. The Framework is clear that where policies which are most important for determining an application are out of date, permission should be granted. This is unless the application of particular policies in the Framework provide a strong reason for refusing, or that any adverse impacts of doing so would significantly and adversely outweigh the benefits when assessed against the Framework as a whole and having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes.

Highways matters

17. The appeal site would continue to be accessed via a single-lane track that runs between two frontage properties on Mill Road. The track had, at the time of my visit, closely-cut grassed verges on either side and would provide an access appropriate to and commensurate with the development of a single dwelling on this land. I have not been presented with any compelling reasoning to lead me to conclude that this element of the access would not be sufficiently safe.
18. Mill Road itself is a long, straight single-track rural lane, serving a number of properties along its length before it peters out to unmade tracks and field accesses. Visibility along its length is good and, other than a short length immediately after its junction with the B1145 North Walsham Road where roadside hedges are tight to

the verge, provides sufficient width in field and driveway openings for the occasional vehicle to satisfactorily pass each other.

19. However, the junction of Mill Road and the B1145 North Walsham Road has limited visibility in both directions due to the proximity and position of roadside hedges. Although subject to a 40mph speed limit, the restricted visibility is such that when the vegetation is in leaf, it is necessary to edge forwards onto the B1145 before being able to commit to turning either left or right out of Mill Road. Furthermore, the restricted width of Mill Road for the first stretch of its length at the junction and the proximity of the roadside hedges to the carriageway, would present further difficulties should a vehicle turning in to Mill Road encounter another seeking to leave. None of these areas are within the appellant's gift to be able to manage to reduce vegetation intrusion or to mitigate the restrictions to visibility that presently exist.
20. Whilst Mill Road currently serves a number of dwellings and such conflicts thus have the potential to already exist, a further dwelling in this location would be unlikely to improve this situation. Whilst I am mindful of the appellant's submission in the form of 'crashmap' data⁴ showing only two 'slight' incidents, neither of which appear to be plotted at the B1145 / Mill Road junction, this does not mean that the existing road layout provides safe access to and from Mill Road. An additional dwelling would add to the traffic using this junction and, although unlikely to result in significant inward or outward movements on its own, it would add to an already less than satisfactory arrangement at the junction.
21. CS Policy CT5 sets out the Council's approach to transport impacts arising from new developments. In the context of Mill Road and its junction with the B1145 North Walsham Road, I am not persuaded that the, albeit limited, levels of traffic generated by the proposed development could be safely accommodated within the existing local road network. Furthermore, as described above, the nature of the local highway network and the appeal site's location relative to services and facilities in Banningham would act as a disincentive to use means of travel other than private vehicle to access those services. The appeal scheme would conflict with the aims and provisions of CS Policy CT5 in this respect. Whilst the Framework advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety I am also mindful that it seeks to ensure safe and suitable access can be achieved for all users. I am not persuaded that the appeal scheme would do so for reasons I have set out.

Trees

22. The proposed dwelling would replace the existing building, occupying a larger footprint area but in much the same general location within the site. The existing building lies on a concrete slab which would be removed and the area subsumed by the proposed dwelling. A number of trees lie close to the proposed building, either as part of the tree and vegetation belt along the site's northern boundary, or as isolated individual or small groups of trees within the site's interior.
23. The proposal's series of linked accommodation 'blocks' would result in a heavily articulated built-form within the site. As such, its form would follow the constraints placed by the existing trees, which the appellant has set out within an updated

⁴ Appellant Statement of Case Appendix 9

Arboricultural Assessment⁵ (AA). Thus, the submitted AA and its constituent sections and drawings satisfactorily demonstrate that the proposal would avoid unacceptable impact upon the trees within the site. Indeed, the scheme as proposed would facilitate the retain tree 7 and establish as a focal point in the design and layout of the proposed dwelling. Together with the accompanying tree protection plan and suitable construction control and mitigation measures, I am satisfied that the appeal scheme has sufficiently demonstrated that unacceptable harm to trees would be avoided. There would be no conflict with CS Policies EN2 or EN4, or the relevant provisions of the Framework in this respect, as a consequence.

Protected Species

24. As with the appellant's AA, it is not clear why, if the submission of an ecological survey was a validation requirement and one was omitted, why this was not highlighted at the time. Nevertheless, the appellant maintains that one was submitted with the application and thus formed part of the planning application documents. A copy of the submitted Preliminary Ecological Appraisal and subsequent update specifically in relation to the submission of the current appeal scheme were also submitted as part of the appeal documents.
25. Subject to suitably worded conditions in the event that an appeal should succeed, I am satisfied that the appeal scheme could make sufficient provision to ensure that an unacceptable impact upon protected species could be avoided. There would be no conflict with the aims and provisions of CS Policy EN9 or the relevant sections of the Framework in such an event.

Other Matters

26. The appeal site lies within the catchment area for the River Bure which is a component part of the Broads Special Area of Conservation and RAMSAR sites. The Council was advised by Natural England that the site lies within an area relative to protected habitats sites where nutrient pollution can and has led to adverse impacts upon those sites.
27. It is common ground that the appellant made a payment with the submission of the planning application to mitigate the recreational impact of the proposal upon protected habitats sites. The Council's officer report confirms that the payment was made in line with the 'Green Infrastructure and Recreational Impact Avoidance and Mitigation (GIRAM) Strategy to mitigate the impacts of additional residents and visitors that arise from new developments.
28. However, the appeal scheme proposes to disconnect from the existing mains sewerage connection that the current building is connected to in favour of a new package treatment plant. Whilst it appears from the appellant's statement that this approach could provide a nutrient neutral solution it still appears to be a work in progress with limited detail. As a competent authority with regard to the requirements of the Conservation of Habitats and Species Regulations, had the appeal been successful it would have been necessary for me to make an appropriate assessment. However, as I am not minded to allow the appeal there is no need for me to consider these matters further.

⁵ Target Trees – site surveyed 10 April 2020 and 17 May 2022

29. I am mindful that planning permission was granted relatively recently for a new dwelling on a nearby site on Mill Road⁶. Some of the details of that scheme have been made available to me and I am aware, from my visit to the site, of its location relative to the appeal site. I do not however have the full details of that proposal before me and so cannot be certain as to the extent to which it is comparable with the current appeal scheme. Nevertheless, I am also conscious that with regard to the appeal scheme, the Council found no harm to the character or appearance of the appeal site and its surrounding arising from the proposed dwelling's design, character or appearance, or its effects on the living conditions of occupiers of existing nearby dwellings. I have however considered the appeal proposal on its own merits and the evidence available to me and the presence of another planning permission nearby weighs neither in support of nor against the current matter. Nor does the absence of harm in respect of character and appearance and living conditions, which are neutral matters in the overall consideration of the appeal scheme.

Planning Balance and Conclusion

30. The appeal scheme would fail to align with the strategic spatial approach to development set out by CS Policies SS1, SS2 and SS4 for development in the countryside. I am not persuaded that the proposed dwelling amounts to a replacement dwelling and in this respect I am satisfied that the Council's approach to the matter was appropriate. The proposal would result in the redevelopment of previously developed land, which is a matter that weighs in support of the proposal.
31. So too, the development of a self-build dwelling, the register for which the appellant is listed within and which would assist the Council in going some way towards its targets for a mix of homes and, in a broader sense, its overall housing supply. It is common ground that the Council are unable to demonstrate a 5-year housing land supply and, as such paragraph 11(d) of the Framework is engaged. The proposal would provide an additional dwelling towards the Council's housing supply figures, albeit that the benefit arising from a single dwelling in this respect would be limited.
32. For the reasons set out however the adverse impacts of granting planning permission in terms of the appeal proposal's location, the development plan's approach to encouraging sustainable patterns of development and ensuring safe and suitable access significantly and demonstrably outweigh the benefits of the proposal.
33. For these reasons, and having considered all other matters raised, including the benefits of the scheme and the provisions of the Framework, I conclude that the appeal should be dismissed.

G Robbie

INSPECTOR

⁶ LPA Ref No: PF/21/2507