



Appeal Decision

Site visit made on 4 November 2025

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2025

Appeal Ref: APP/K2610/W/25/3363654

Church View, Church Road, Lingwood, Norfolk NR13 4TR

- 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 Robert Smith against the decision of Broadland District Council.
 - The application Ref is 20210898.
 - The development proposed is 'remove existing partially demolished pre-fabricated bungalow. Build 4 bedroomed house'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the integrity of European sites.

Reasons

3. The appeal relates to a reasonably large parcel of land to the south side of Church Road. Within the site is a partially collapsed structure which I understand was formerly a prefabricated bungalow. The appeal proposal includes the removal of this structure and the construction of a two-storey dwelling.
4. In circumstances where a proposal is likely to have a significant effect on a European site designated under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations'), there is a duty on the competent authority to consider implications for the conservation objectives of the site within the framework of an Appropriate Assessment. This duty would now fall to me. In accordance with the National Planning Policy Framework ('the Framework'), Ramsar sites should be given the same protection.
5. In considering whether or not the proposal would affect designated sites, I note the appellant's reference to an outstanding issue as to whether a dwelling currently exists on the site which they have been trying to resolve with the Council. I understand that a Certificate of Lawfulness ('the CL') confirming a lawful use of a single residential dwelling was granted in 2017. However, that related to the position at the date of the CL which was some eight years ago now.
6. Since that date, the evidence before me suggests that there has been significant deterioration in the former bungalow structure. I saw that it is now in very poor condition with significant areas of the walls and roof collapsed and parts of the remaining structure leaning and/or with elements detaching. Although a small section to one end is more intact, the majority of the structure would reasonably be

described as derelict. It could not credibly be said to be habitable as a dwelling and given the current condition and in the absence of firm evidence to demonstrate otherwise, I consider it far from clear that it could realistically be restored to residential use.

7. The planning application form also indicates that the last use of the site ended in 2000. Accordingly, the period of non-use appears to be around 25 years which is a considerable stretch, and around eight years more than was the case at the time of the CL. There is also limited explanation before me in this appeal to clearly substantiate an intention to resume residential use of the structure during this period.
8. If the appellant wishes to ascertain whether there still remains a lawful use of a single residential dwelling on the site, they can make a further application under section 191 of the Town and Country Planning Act (1990). However, on the basis of the limited evidence that is before me in this appeal and having regard to the physical condition of the structure and the period of non-use, I am not satisfied as a matter of fact and degree that the residential use of the dwelling has been demonstrated to still persist. Indeed, the appellant has themselves acknowledged a question as to whether the dwelling does or does not exist.
9. Therefore and mindful of the precautionary approach that should be taken in exercising my duty to protect European sites, I find on balance that the proposal should be considered as resulting in a new dwelling on the site.

Nutrient Effects

10. The Broads Special Area of Conservation ('SAC') and Ramsar site are protected under the Habitats Regulations and Framework. The information before me indicates that the Broads contains one of the richest assemblages of rare and local aquatic species in the country and that it is important for its waterbody, mire, fen and woodland habitats which support varied plant and invertebrate species and otters, and which provide wintering habitats for wetland birds.
11. Advice provided by Natural England identifies that some component parts of the Broads SAC and Ramsar site are in unfavourable condition owing to excessive levels of nitrogen and phosphorus, with these nutrients causing eutrophication which is impacting on the integrity of the sites. Proposals that would give rise to additional nutrients within the affected catchments could exacerbate adverse effects. However, Natural England advise that achieving nutrient neutrality is one potential way to mitigate effects of development.
12. The proposal would provide overnight accommodation which would generate wastewater. The Council indicates that the appeal site is within the River Yare catchment area with a hydrological connection to the affected parts of the Broads sites. Whether or not the site is on the outer edge of the catchment, this suggests that nitrogen and phosphorus in wastewater discharged from the development would have a potential pathway to The Broads and there is no substantive evidence before me to the contrary.
13. The appellant suggests that they would source the most efficient waste water treatment system available, but no details are before me and insofar as I have found that the proposal should be considered as providing a new dwelling, I am unable to determine that associated wastewater discharge would not result in increased levels of nutrients reaching the Broads relative to the existing baseline.

Any increase in nitrogen and phosphorus loads resulting from a single dwelling alone would be likely to be relatively small. However, I find taking a precautionary approach that a likely significant effect on the Broads through additional nutrient loading as a result of the proposal, either alone or in combination with other plans and projects cannot be ruled out.

14. In order to offset the nutrient loads of the development and mitigate the effects of the proposal, the appellant refers to use of a reed bed system. However, no firm details of any system are before me as part of the appeal. Nor do I have calculations or other substantive evidence demonstrating that there would be adequate scope to fully offset nutrient loads associated with the dwelling. The appellant indicates that the lack of detail was deliberate to save time and money while initiating feasibility discussions with the Council, after which detail could be established. Be that as it may, the absence of detail in this appeal means that I can have little confidence that a reed bed system would offer effective and adequate mitigation.
15. The appellant also refers to a potential scheme allowing purchase of credits as mitigation. However, they have not provided further detail of any scheme to demonstrate how this would be effective as a means to achieve nutrient neutrality. Even if I were satisfied that purchase of credits would be effective in principle, I am not aware that the appellant has purchased or agreed purchase of any credits from an accredited supplier.
16. Furthermore, I have no firm details to substantiate the appellant's assertions that credits are readily available and that priority is given to sites with the lowest phosphorus levels that need to be mitigated and that have experienced the longest delays in the planning process. Indeed, the reference to prioritising suggests to me that the supply of credits is not infinite and even if the appeal site were to fall within the priority categories, I cannot ascertain from the information before me that the development would ultimately qualify and be able to access necessary credits.
17. In exercising my duty to protect the designated sites, I must adopt a precautionary approach. Given the uncertainty around whether or not a potential reed bed system or purchase of credits would offer adequate scope to achieve nutrient neutrality and mitigate the effects of the proposal, I consider it would not be appropriate or reasonable to defer this matter to a planning condition which the appellant may be unable to discharge.
18. For these reasons, I find that the proposal has not demonstrated nutrient neutrality and in the absence of adequate mitigation for the effects of additional nutrients from the appeal site, I am not sufficiently satisfied that adverse effects on the integrity of the Broads SAC and Ramsar site can be excluded.

Recreation Effects

19. The appeal site is also within the Zone of Influence of European and Ramsar sites scoped into the Norfolk Green Infrastructure and Recreational Disturbance Avoidance and Mitigation Strategy 2021 ('GIRAMS'), specifically The Broads and East Coast Special Protection Area ('SPA'), SAC and Ramsar sites. The information before me indicates that new residential development within the Zone of Influence could contribute additional visitors to the GIRAMS sites which are vulnerable to the effects of recreation.

20. Insofar as the proposal would result in a new dwelling within this Zone of Influence, it could contribute additional visitors to the GIRAMS sites. The effect of the appeal development alone would be limited, but could increase recreational activity which, in combination with other plans and projects, would have a likely significant effect on the designated sites.
21. To mitigate potential recreational effects of development, the GIRAMS seeks financial contributions towards strategic measures according to a tariff. The appellant acknowledges the potential solution. However, no Unilateral Undertaking or any other suitable mechanism securing the relevant contribution has been provided as part of the appeal. The Government's Planning Practice Guidance further makes clear that a negatively worded condition limiting development until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases and I have no firm evidence that there are exceptional circumstances which would warrant such an approach here.
22. Accordingly, I can only conclude that the recreation effects of the development would not be mitigated and I find that adverse effects on the relevant SPA, SAC and Ramsar sites included within the GIRAMS can not be excluded.

Conclusion on Main Issue

23. Given the above, I conclude that adverse effects on the integrity of the Broads and East Coast European and Ramsar sites cannot be ruled out.
24. I have no firm reason to find that there are no alternative sites that could accommodate the development with lesser effects on the integrity of the designated sites, nor that there are imperative reasons of overriding public interest that would outweigh the adverse effects. In these circumstances, the operation of the Habitats Regulations would preclude the proposal from proceeding. There would also be conflict with Policy 3 of the Greater Norwich Local Plan 2024 and Policy EN1 of the Broadland Local Plan Development Management Policies 2015. These policies broadly seek protection or enhancement of biodiversity and require, amongst other things, that proposals address potential visitor pressure caused by residents that would detrimentally impact on protected sites and demonstrate that the integrity of sites in an unfavourable condition would not be adversely affected. It would also be contrary to the Framework's objectives for the protection of biodiversity and the conservation of the natural environment.

Other Matters

25. The appellant refers to inconsistent views between different Council officers who have dealt with proposals on the site, delays to the progress of applications and a lack of communication from the Council including a failure to respond to questions. They also note that they were not advised of the Council's intention to refuse permission prior to the decision being issued which denied them the opportunity to address matters. However, while I am sympathetic to the appellant's frustration, these are essentially procedural matters which do not alter my consideration of the planning merits of the proposal.

Planning Balance

26. Having found above that the proposal would result in a new dwelling, it would contribute to the supply of housing locally. The Framework seeks to significantly

boost the supply of housing, and I note that in determining the application, the Council assumed that it was unable to demonstrate a five year housing supply. The provision of a dwelling would therefore be an important benefit attracting significant weight. However, the contribution to supply and so the extent of the benefit deriving from a single dwelling would be very limited.

27. The Framework also advises that the needs of groups with specific housing requirements should be addressed and requires Council's to plan for people wishing to commission or build their own homes. However, there is no mechanism before me that would ensure the development would meet the definition of self-build or custom housebuilding and so this matter attracts limited weight.
28. The appellant refers to creation of a wild flower meadow and orchard and bird and bat boxes to help wildlife. Details are limited, but I am not in any event persuaded that this would outweigh the potential harm to European and Ramsar sites so as to offer an overall benefit to biodiversity.
29. In its existing condition, the site is somewhat untidy and I note the appellant's reference to incidents of theft, vandalism, fly-tipping and antisocial behaviour as well as contamination and asbestos which could be addressed by development. However, it is unclear that resolving these matters would be dependent on a scheme which I have found would cause harm to European sites.
30. I have no firm reason to disagree with the Council's view that the development would not harm nearby heritage assets and I acknowledge that there are no objections from statutory consultees, but these are neutral factors which weigh neither for nor against the appeal. I have also noted the appellant's reference to the support of local residents who signed a document to say they were in favour of the proposal, but this does not alter my assessment of the planning merits in the case.
31. On the other hand, I have found that the proposal would adversely affect the integrity of European and Ramsar sites. Accordingly, policies within the Framework relating to habitats sites would in this case provide a strong reason for refusing the development. Even adopting the Council's approach and assuming there is no five year housing supply, the presumption in favour of sustainable development at paragraph 11 of the Framework does not therefore indicate that permission should be granted.
32. In my assessment, the limited benefits of the development would not outweigh the adverse impacts and the resulting conflict with the development plan. The conflict with the Habitats Regulations is further a matter of overriding concern.

Conclusion

33. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR