
Appeal Decision

Site visit made on 11 November 2025

by **E Dade BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 November 2025

Appeal Ref: APP/F3545/W/25/3372807

Pernataen, Snailwell Road, Newmarket, Suffolk CB8 7DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr & Mrs CJ Richmond against the decision of West Suffolk Council.
 - The application Ref is DC/25/0552/PIP.
 - The development proposed is new dwelling and adaption to on-site parking on land within the curtilage of Pernataen, Snailwell Road, Newmarket.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (permission in principle stage) establishes whether a site is suitable in-principle and the second (technical details consent) stage is when detailed development proposals are assessed. This appeal relates to the first stage.
3. The scope of considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent Technical Details Consent application, if permission in principle is granted.
4. A decision on whether to grant permission in principle must be made in accordance with relevant policies in the development plan, unless material considerations indicate otherwise. Since its determination of the application for permission in principle, the Council has adopted the West Suffolk Local Plan 2025 (WSLP). Policies cited on the decision notice have been superseded, and I have determined the proposal in accordance with policies of the WSLP.
5. To avoid harm to nature conservation sites, the WSLP is predicated on the implementation of the West Suffolk Recreational Disturbance Avoidance and Mitigation Study June 2025 (RAMS). In my decision I have had regard to the guidance within the RAMS as a material consideration.
6. Where development is likely to have a significant effect on a European site without mitigating measures in place, an appropriate assessment must be undertaken before consideration of the grant of permission in principle.

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

7. If the decision-maker is satisfied, after taking account of mitigation measures in the appropriate assessment and concluding that the development will not adversely affect the integrity of the European site, then, subject to compliance with other statutory requirements regarding the permission in principle process, it can grant permission in principle. However, where development is likely to have a significant effect on a qualifying European site, it is 'habitats development' and permission in principle must not be granted.

Main Issue

8. Having regard to the above, the main issue in this appeal is whether the proposed development would be 'habitats development', having particular regard to the effect of the proposed development on the integrity of Breckland Special Protection Area (SPA) and Special Area of Conservation (SAC) Devils Dyke SAC, and Wicken Fen (a component of the Fenland SAC).

Reasons

9. The appeal site comprises an area of garden land to the side of the host dwelling. The site fronts onto Snailwell Road and is within Newmarket's built area.
10. The RAMS recognises that Newmarket, and by extension the appeal site, is within the zone of influence (ZOI) of the Breckland SPA and SAC, Devils Dyke SAC, and Wicken Fen. These European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
11. The qualifying features of the Breckland SPA are its breeding populations of stone curlew, nightjar, and woodlark. The qualifying features of the Breckland SAC are its inland dunes, natural eutrophic lakes, dry heaths, calcareous grassland, wet woodland, and great-crested newt. The qualifying features of the Devils Dyke SAC are its calcareous grassland. The qualifying features of Wicken Fen are its purple moor grass rush pasture, calcareous fen, spined loach, great-crested newt, wetland invertebrate assemblage, and wetland plant assemblage.
12. The conservation objectives of the Breckland SPA are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Wild Birds Directive. The conservation objectives of the Breckland SAC, Devils Dyke SAC, and Wicken Fen are to ensure the integrity of the sites is maintained or restored and ensure the sites contribute to achieving the favourable conservation status of their qualifying features.
13. The ZOI reflects the area within which the majority of visitors to those European sites live. Housing growth within the ZOI will result in an increase in local population and increased visitors to those European sites.
14. The RAMS identifies that these European sites are vulnerable to recreational disturbance from visitors, such as through trampling, contamination from dogs, increased fire risk, spread of non-native species and disease, disturbance to rabbits and ground-nesting birds, and impacts on grazing.
15. The proposal would provide one additional dwelling and therefore would lead to a small uplift in local population. Therefore, when considered in combination with other similar development, the proposal is likely to have a significant effect on the qualifying features of the Breckland SPA and SAC, Devils Dyke SAC, and Wicken Fen through increased recreational pressure.

16. The RAMS identifies a range of mitigation measures necessary to avoid adverse effects on the integrity of these European sites. For the Breckland SPA and SAC, mitigation measures would seek to manage visitor access, such as through strengthened right of way restrictions, enhanced footpaths, improved signage and interpretation, and monitoring of visitors, and improved site protection through increasing ranger coverage, appointment of a project manager, and installation of hard barrier infrastructure. For the Devils Dyke SAC, mitigation would include a visitor and access management plan, signage and interpretation, and additional access infrastructure, and for Wicken Fen, footpath improvements, cycle network repairs, and car park expansion and upgrade.
17. The RAMS indicates that mitigation measures would be funded through a Strategic Access Management and Monitoring (SAMM) tariff applied to development of new dwellings, with additional costs to secure mitigation where likely significant effects are identified with respect to Devil's Dyke SAC and/or Wicken Fen. Applicants can make a payment to the Council upfront, or through payment in lieu of a planning obligation or contributions secured via a s106 legal agreement. The appellant has not made an upfront payment of the SAMM tariff.
18. The appellant considers the SAMM tariff can be secured through condition or unilateral undertaking. However, the PPG states that it is not possible for conditions to be attached to a grant of permission in principle². Whilst planning obligations also cannot be secured at this stage³, there is no legal reason why an obligation cannot be entered into at any time. However, no planning obligation has been provided by the appellant.
19. Consequently, the proposal contains no mechanism to secure the necessary financial contribution. In the absence of mitigation, I cannot be certain that the proposed development would not affect the integrity of European sites.
20. Where the adverse effects on the integrity of a European site cannot be excluded, consent can only be given if there are no alternative solutions or there are any imperative reasons of overriding public interest. No compensatory measures have been put forward, and I have found none myself. Whilst the provision of a single dwelling to the area's housing supply would be a small benefit, it would not be of sufficient scale to amount to overriding public interest.
21. As set out above, in the absence of mitigation measures or an adequate mechanism by which to secure such mitigation, I must conclude the proposed development would have likely significant adverse effects on the integrity of the Breckland Special Protection Area SPA and SAC, Devils Dyke SAC, and Wicken Fen (a component of the Fenland SAC). I have identified no alternative solutions or compensatory measures, and there are no overriding reasons of public interest in favour of the development. Therefore, the Habitats Regulations require that consent not be granted.
22. For these reasons, the proposed development would conflict with WSLP Policy SP11 which requires proposals demonstrate that adequate measures are put in place to avoid or mitigate potential adverse effects of increased recreational pressure on European site.

² Paragraph: 020 Reference ID: 58-020-20180615

³ Paragraph: 022 Reference ID: 58-022-20180615

23. Therefore, the proposal would be habitats development and is an exempt form of development under Article 5B of the Town and Country Planning (Permission in Principle) Order 2017 (as amended), which indicates that permission in principle may not be granted. Consequently, it is not necessary to assess the proposal against matters within the scope of permission in principle, namely its location, the proposed land use, and the amount of development.

Other Matters

24. I have found that the proposed dwelling would have an adverse impact on the integrity of European sites and thus would be exempt from permission in principle. I attach substantial weight to this finding against the appeal.
25. The appellant has a chronic health condition, and the proposed dwelling would enable the appellant to remain within the community at accommodation suited to their needs. The appellant suggests the host property cannot be suitably adapted, and high house prices prevent purchasing a suitable dwelling in the area. However, it has not been demonstrated that adaptation is not possible or that construction of a dwelling adjacent to the host property is the only option available to the appellant. Therefore, whilst a positive consideration, the provision of an accessible dwelling carries only modest weight in favour of the appeal.
26. I have had due regard to the Public Sector Equality Duty set out under s149 of the Equality Act 2010, but the harms associated with the proposal outweigh its benefits in terms of eliminating discrimination against persons with the protected characteristics of disability and advancing equality of opportunity for those persons and fostering good relations between them and others. Therefore, I conclude that it is proportionate and necessary to dismiss the appeal.

Conclusion

27. For the reasons set out above, I conclude that the appeal should be dismissed.

E Dade

INSPECTOR