



Appeal Decision

Site visit made on 18 November 2025

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 December 2025

Appeal Ref: APP/Y2620/W/25/3369528

77 Norwich Road, Fakenham, Norfolk NR21 8HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Chris Almond of Almond Arch Properties Ltd against the decision of North Norfolk District Council.
 - The application Ref is PO/24/0808.
 - The development proposed is the erection of single storey dwelling - outline with all matters reserved.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form states that the site address is 'Garden at the rear of 77 Norwich Road, & behind 79 Norwich Road, NR21 8HH. Access via Orchard Close NR21', whereas the decision notice and appeal form refer to the site as '77 Norwich Road'. I have taken the address from the decision notice and appeal form as this is sufficiently precise. I do not consider that this has prejudiced any of the parties and I have proceeded with the appeal on this basis.
3. The application was made in outline with all matters reserved for future consideration. In accordance with article 5 (3) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the appellant has submitted plans, which show where the access point from the highway to the site would be situated. I am determining the appeal on this basis.
4. My attention has been drawn to the emerging North Norfolk Local Plan, which has reached the Main Modifications stage following examination and the Inspector's final report is pending. No emerging policies were referred to in the reason for refusal. Nonetheless, the Council indicate that there are some unresolved objections in respect of one relevant emerging policy and no significant unresolved objections in respect of other relevant emerging policies, and that consequently moderate and significant weight should be afforded respectively. The appellant has not disputed this position, and I have proceeded with the appeal on this basis.

Main Issues

5. The main issues are the effect of the proposed development on:
 - highway safety; and
 - the integrity of European sites, with particular regard to nutrient neutrality.

Reasons

Highway safety

6. The appeal site is to the rear of the existing dwellings fronting Norwich Road. Orchard Close, a private cul-de-sac, provides access to properties from Norwich Road, and includes a narrow track leading to the appeal site. Norwich Road is subject to a 20 miles per hour speed limit and has a pedestrian footway to one side, including across the entrance to Orchard Close.
7. The proposal is for a single-storey dwelling to the rear of the existing dwellings fronting Norwich Road. While the development has been submitted in outline form with all matters reserved, the plans indicate that the dwelling would be accessed from Norwich Road via Orchard Close. The submitted plans indicate that Orchard Close and the properties to either side of the access point to Norwich Road are outside the ownership and control of the appellant.
8. The proposal would intensify the use of the access from Norwich Road to Orchard Close. The access is confined by the existing walls and hedges forming the boundaries of the adjacent properties. These features restrict visibility in both directions for vehicles exiting Orchard Close. There is no substantive evidence before me that demonstrates that the access is able to achieve the visibility splays required by the Manual for Streets. The evidence does not provide sufficient certainty that safe and suitable access to the site can be achieved for all users, particularly as the appellant does not have control over securing the required visibility splays.
9. Orchard Close is narrow with no pedestrian footways. However, as it is not a through road and serves few properties, it is lightly trafficked. The proposal for one dwelling would not significantly increase the amount of traffic using Orchard Close. Accordingly, any conflict between road users would be infrequent, whilst the width of the road serves to limit traffic speeds. Moreover, the straightness of Orchard Close leading away from Norwich Road provides good forward visibility. Nevertheless, it has not been demonstrated that safe and suitable access to Orchard Close from Norwich Road can be achieved.
10. I therefore cannot conclude that the proposal would not have an unacceptable impact on highway safety. The development conflicts with Policy CT 5 of the Core Strategy 2008 (CS), which requires that the proposal provides for safe and convenient access, and the National Planning Policy Framework (the Framework), which requires that safe and suitable access can be achieved for all users and that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Nutrient neutrality

11. Guidance was issued by Natural England (NE) on 16 March 2022 requiring competent authorities to carefully consider the nutrients impacts of any new plans and projects (including new development proposals) on habitats sites and whether those impacts may have an adverse effect on the integrity of a habitats site that requires mitigation, including through nutrient neutrality.
12. The site lies within the catchment of the River Wensum Special Area of Conservation (SAC). NE has highlighted that the SAC is in unfavourable condition

due to nutrients where new development may have an adverse effect by contributing additional nutrients and therefore where nutrient neutrality is a potential solution to enable development to proceed.

13. The Conservation of Species and Habitats Regulations 2017 (the Habitats Regulations) require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of protected habitats sites, either alone or in combination with other plans and projects within the framework of an Appropriate Assessment (AA). This responsibility falls to me in the context of this appeal. An AA must contain complete, precise and definitive findings which are capable of removing all reasonable scientific doubt as to the absence of adverse effects on the integrity of a protected site.
14. The proposal for new overnight accommodation has the potential to lead to an increase in additional nutrients reaching the River Wensum SAC due to the implications of foul and surface water drainage systems. Therefore, there is a possibility that the proposal would have a likely significant adverse effect on the integrity of the SAC either alone or in combination with other plans and projects.
15. Regulation 70(3) of the Habitats Regulations states that where the assessment provisions apply, outline planning permission must not be granted unless the competent authority is satisfied (whether by reason of the conditions and limitations to which the outline planning permission is to be made subject, or otherwise) that no development likely adversely to affect the integrity of a European site or a European offshore marine site could be carried out under the permission, whether before or after obtaining approval of any reserved matters. Consequently, outline planning permission should not be granted unless the proposal would not, beyond all reasonable scientific doubt, lead to an adverse effect on the integrity of a European Site.
16. I have not been provided with any substantive evidence in respect of the potential nutrient loading that may result from the development. Accordingly, I am unable to determine what mitigation would be appropriate to achieve nutrient neutrality. The appellant has indicated that a pre-commencement condition could be attached requiring the details of the strategy for nutrient neutrality to be agreed before development takes place and that the precise details of the development at the reserved matters would include the relevant information.
17. However, such a condition would effectively defer the AA to the post-decision stage. This is in direct contravention with the requirements of the Habitats Regulations for me as the competent authority to undertake the AA before granting any planning permission. Therefore, taking a precautionary approach, I can only conclude that the proposal has the potential to adversely affect the integrity of the River Wensum SAC as a result of nutrient pollution, either alone or in combination with other plans and projects.
18. I conclude that the proposal has the potential to adversely affect the integrity of the River Wensum SAC and I cannot be certain that this could be suitably mitigated. The development therefore conflicts with Policies SS 4, EN 9 and EN 13 of the CS, which collectively require proposals to ensure protection and enhancement of natural environment assets, not permitting proposals that would cause a direct or indirect adverse effect to nationally designated sites, and only permitting proposals where there are no unacceptable impacts on the natural environment.

19. The appellant has made a payment in relation to the Norfolk Green Infrastructure and Recreational Impact Avoidance Mitigation Strategy 2021. The Council has confirmed receipt of this payment and considers that this provides appropriate mitigation for the indirect effects resulting from recreation pressure on European designated sites.

Planning Balance

20. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the aforementioned policies of the CS, with the associated conflict reflecting that the proposal would have an unacceptable impact on highway safety and would result in an adverse impact on the River Wensum SAC. The proposal conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise.
21. The appellant contends that the Council is currently unable to demonstrate at least a five year supply of deliverable housing sites that the Framework requires. While the Council disputes this position, in such instances, paragraph 11. d) of the Framework indicates that permission should be granted unless application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. Footnote 7 of the Framework details that this includes policies relating to habitats sites.
22. The proposal would make a positive contribution to housing supply within walking distance of services and facilities with associated social and economic benefits during the period of construction and once the dwelling is occupied. The Framework explains that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. However, the contribution of a single dwelling to meeting housing need in the District and the associated benefits are limited by the scale of development proposed.
23. Even if I were to accept that the Council is unable to demonstrate a five year supply of deliverable housing sites, given that the proposal would have a harmful effect on the River Wensum SAC, the application of the policies in the Framework provide a strong reason for refusing planning permission for the development proposed. When considered as a whole, the proposal does not conform with the presumption in favour of sustainable development outlined in paragraph 11 of the Framework.

Conclusion

24. 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.

J Pearce

INSPECTOR