



Appeal Decision

Site visit made on 14 October 2025

by A Phillips MPlan BA CertHE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 December 2025

Appeal Ref: APP/F2605/W/25/3369962

Lyngwhite Farm Hingham Road, Great Ellingham, Norfolk NR17 1JG

- 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 Richard Schwartz against the decision of Breckland Council.
 - The application Ref is PL/2024/1156/OMIN.
 - The development proposed is 5 no. dwellings with associated soft landscaping, amenity space and private shared access (self build).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for outline permission for five self build dwellings with the matters of access, layout and scale to be determined as part of the outline application. The matters reserved are appearance and landscape.
3. It is noted that both parties are happy with the proposed description to have been updated to include 'self build'. I, therefore, have kept this in the proposed development description.
4. The appellant has provided a Unilateral Undertaking regarding making a payment towards Norfolk Recreational Impact Avoidance and Mitigation Strategy Action Plan 2024 (RAMS). In addition, the appellant has provided further evidence to suggest that the administration and monitoring fee has been paid. The Council are seeking to ensure that if the appeal was allowed a financial contribution would be secured via a legal agreement. On this basis, I will now deal with reason for refusal number 8 on the Decision Notice under other matters.
5. Following the submission by the appellant of the Great Crested Newt Survey Report 10 June 2025, the Council no longer has any concern regarding Great Crested Newts. However, it is noted that the Council still has concerns regarding impact on bats. Therefore, while the effect on ecology remains a main issue, this is now solely focused on the potential impact of the proposal on bats that are a protected species.
6. The appellant has provided an updated signed Unilateral Undertaking on self builds. While the Council has provided a draft Unilateral Undertaking also on self builds, this is unsigned. On this basis, I will be making my decision on the Unilateral Undertaking provided by the appellant in their final comments. I went back to both parties to ask for comments on the definition of Eligible Person within the appellant's Unilateral Undertaking.

7. Following revised plans both the Council and the Local Highways Authority are no longer seeking refusal of the proposal on highway safety reasons. On this basis, reasons for refusal 4 and 5 of the Decision Notice are no longer being sought by the Council and therefore are no longer a main issue in this appeal.
8. The Council has also confirmed that its Tree Officer has considered the Arboricultural Impact Assessment April 2025 and confirms that subject to a condition the information is acceptable. On this basis reason 7 of the Decision Notice is no longer a main issue.
9. Therefore, the areas of conflict between the two main parties are reasons for refusal 1,2,3 and 6 on the Decision Notice that form the main issues of the appeal, with reason for refusal number 8 now dealt with under other matters.
10. The appellant provided new evidence late into the appeal process, as new information that primarily relates to a recent appeal decision and a committee decision by the Council. The Council has had opportunity to comment, though I have only considered those comments directly relating to the appellant's new evidence.
11. The appellant has questioned the title of the Council's Local Plan, though has not provided any suggestion that less weight should be given to it apart from the Council still cannot demonstrate a five year land supply.

Main Issues

12. The main issues are:
 - Relevant policies for the location of housing in line with the Council's spatial strategy and its accessibility to services and/or facilities.
 - Effect on the character and appearance of the local area.
 - Effect on ecology, specifically on bats.

Reasons

Spatial strategy and accessibility to services and/or facilities

13. The site is located outside of the settlement boundary of Great Ellingham and is accessed via Hingham Road. Hingham Road is a national speed limit unlit road, which does not benefit from a footpath for approximately one mile towards the primary settlement of Great Ellingham.
14. It was noted from my site visit that Great Ellingham benefits from a primary school, village shop, village hall, pub and a church. On this basis for a rural village, it is relatively sustainable.
15. Policies GEN01, GEN03 and GEN05 of the Breckland Local Plan September 2023 (Local Plan) seek to provide sustainable development. These policies confirm that Great Ellingham is a Local Service Centre that means development outside of the settlement boundary must comply with Policy HOU3 of the Local Plan and Policy GEN05 requires development outside settlement boundaries to comply with an exception that includes Policies HOU03 or HOU05 of the Local Plan.
16. Policy HOU3 relates to development outside of the settlement boundaries of local service centres. It requires development, including for self-build, to be immediately

adjacent the settlement boundary, not significantly exceed the housing target, the design contributes to preserving or potentially enhancing historic nature and community connectivity as well as the development not leading to the coalescence of settlements. It is noted that the Council cannot demonstrate a five-year housing land supply and on this basis the housing target element of this policy holds limited weight. However, given the significant distance between the site and the settlement boundary the proposal would still significantly conflict with this policy.

17. Both parties have confirmed that the proposal is within the parish of Great Ellingham. Policy HOU5 relates to small villages and hamlets outside of settlement boundaries and allows for sensitive infilling or rounding off a cluster of dwellings. It is noted that the dwellings to the north of the site are within a different district. The Council have argued that this policy is not applicable, though has refused the application on this policy. Given that most of the dwellings in the local vicinity are in a neighbouring district, it is not considered that this group of dwellings forms either a small village or hamlet. On this basis, this policy is not considered to be relevant to the determination of this proposal. Therefore, the Local Plan does not support this residential development outside of the settlement boundary.
18. It is accepted that development is in the countryside and therefore there are limitations on how sustainable transport can be. Paragraph 110 of the National Planning Policy Framework 2024 (Framework) support this by stating 'opportunities to maximise sustainable transport solutions will vary between urban and rural areas'. However, this part of the Framework is not seeking to prevent some sustainable options for development in rural areas. The Framework also makes it clear in paragraphs 115 and 117 that there should be safe access for all users and priority should be given to pedestrian and cycle movements.
19. While Great Ellingham has a range of local services, it is accepted that people are likely to drive by private vehicles to benefit from a full range of services and facilities. However, any future occupant of this proposed development is extremely unlikely to walk or cycle along Hingham Road to reach the local services, given the lack of footpath or streetlighting would potentially be dangerous. Therefore, the proposal has not given priority to pedestrian or cycle movements, nor has it demonstrated that sustainable transport solutions have adequately been considered. The lack of sustainable transport solutions weighs significantly against the proposal.
20. The appellant has provided several appeal decisions where location to services and facilities is a main issue. The full details of each appeal have not been provided, which makes it difficult to provide a direct comparison. In addition, several of the appeals the Inspector makes it clear that the site is either close to the settlement or able to access some facilities/services by sustainable means. For instance, appeal decision APP/L2630/W/24/3353472 the Inspector states 'Accessing services and facilities on nearby Longwater Lane and nearby community facilities would not be a particularly long or difficult walk for most pedestrians. Occupiers would be able to use well lit, flat footpaths. Cycling to nearby services and facilities would also be possible on this 30mph road' and the Inspector for appeal decision APP/C1435/W/24/3341984 refers that the 'appeal site lies immediately adjacent to the settlement'. On this basis, these other appeal decisions do not materially affect my view that the unsustainable location weighs significantly against the proposal.

21. While the full context of each appeal is not known I have considered the late evidence submitted by the appellant. The appeal decision APP/F2605/W/25/3370598 the Inspector has considered the local circumstances and determined that it would be possible to walk into the village. However, as detailed above for this current appeal I have determined that anyone walking into the village could be placed in unnecessary danger. Therefore, while I note there is some comparison I only grant limited positive weight to this proposal.
22. The other two appeal decisions mentioned APP/F2605/W/24/3349863 and APP/F2605/W/24/3346832 were both dismissed that included determination that the sites were not in suitable locations. It is acknowledged that the benefits and harms of these appeals were different. However, each application is determined on its own individual merits.
23. The appellant has also highlighted that the Council is not making a consistent approach to its decision making. While there appears to be some differences between this decision that appears to be in a significantly longer line of dwellings and the current appeal, which provides a different context I still grant limited weight in favour of this proposal due to some lack of consistency by the Council.
24. I therefore conclude on this issue that the proposal does not have sustainable access to services and facilities. On this basis, the proposal does not accord with Policies GEN01, GEN03, GEN05, HOU02 and HOU3 of the Local Plan that overall seek to provide sustainable growth and controls development outside settlement boundaries. In addition, the proposal does not comply with Policies COM1, TR01 and TR02 of the Local Plan, which seek to ensure safe access to the site by cycling and walking and promoting sustainable methods of transport. The proposal also does not comply with chapter 9 of the Framework, as detailed above. Policy HOU5 of the Local Plan, as detailed above, is not considered to be relevant to the determination of this proposal.

Character and appearance

25. The site is part of an existing paddocks with mature trees and hedgerow defining both the southern and eastern edge. On the opposite side of the road are open agricultural fields. To the north and south are residential properties. The proposal seeks to place five self-build dwellings on part of the paddocks. Unlike most of the existing dwellings in the locality, the proposal is clearly designed to be development in depth.
26. The proposal by virtue of its location would erode the countryside by creating more built form in the local area. As a result, I find that the proposal does not preserve or enhance the character of the countryside. In addition, it is noted that any development in the undeveloped countryside would have some harm to the rural character. However, there is no reason to suggest that if the proposal was allowed that a high quality design and landscape could not be brought forward at reserved matters stage. On this basis, while the proposal would cause some harm to the rural character of the countryside it only weighs moderately against the proposal.
27. I therefore conclude on this issue that the proposal does not preserve or enhance the character and appearance of the local area. On this basis the proposal does not comply with Policies GEN02, COM01 and ENV05 that overall seeks to ensure that development is in keeping with the local area and where possible enhance the natural beauty and character of the countryside. This is supported by Chapter 12

of the Framework. While no specific section of the Breckland Design Guide Supplementary Planning Document (SPD) has been referred to by the Council, it is noted that this SPD covers the importance of high quality design and the need to preserve green gaps in the countryside.

Ecology

28. Much of the site, defined by the red line, has been kept away from tree belts and hedgerows along the east and southern boundaries of the wider site. From the evidence before me, the Council's primary concern is the creation of a new access onto Hingham Road and that this might damage or remove trees in this location.
29. The appellant has provided an Arboricultural Impact Assessment April 2025, which the Council's Tree Officer considers to be acceptable, subject to conditions. The Arboricultural Impact Assessment April 2025 states that the tree in proximity to the proposed access would be maintained apart from some pruning works. On this basis, the potential impact on bats would be negligible and conditions could be used to ensure that any bats are fully protected and habitats on site are enhanced.
30. I therefore conclude on this issue that there is no material harm to bats from this proposed development. On this basis, the proposal complies with Policies ENV02 that seeks to protect biodiversity, mitigate harm and any residual harm is appropriately compensated. The proposal is considered to comply with Chapter 15 of the Framework.

Other Matters

31. The appellant has provided a signed unilateral undertaking securing a financial contribution to the RAMS, which seeks to mitigate the additional recreational pressure on the European Sites arising through the proposed development. It is also noted that an administration and monitoring fee has been paid. If the appeal was to be allowed, it would be necessary to consider this matter within an appropriate assessment.
32. The layout of the site means the way buildings, routes and open spaces would be provided as part of the proposal. With layout being fixed future potential self builders could not change the layout as part of a reserved matters. It is accepted there is no requirement for them to have input into the layout, as designing the final appearance of the dwelling would still meet the requirements of a self build or custom build. However, it does mean that the signed Unilateral Undertaking by the appellant does not allow for the Council to agree to a future Eligible Person. In my judgment a self-build condition is highly unlikely to meet all the six tests for conditions as set out in the Framework, with specific reference to enforceability. Therefore, with no workable legal agreement, or potential condition, to ensure the proposal comes forward as self-build plots, the potential benefit of self-build plots and fulfilling a demand in the district only holds limited weight.
33. With the proposal not meeting the definition of self-build dwellings, it is therefore not exempt from Biodiversity Net Gain (BNG). With no valid exemption, the proposal would be subject to the biodiversity gain condition and the minimum information requirements as detailed under Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The failure to provide the necessary information to satisfy the biodiversity condition substantially weighs against the application.

Planning Balance

34. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise.
35. The Council accepts that they cannot demonstrate a deliverable five year supply of housing land as required by Paragraph 78 of the Framework. Consequently, paragraph 11 d) of the Framework, which is a material consideration of significant weight, is engaged. It states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole, 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, individually or in combination.
36. 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 Local Plan, due to harm to the character and appearance of the local area and the unsustainable location of the site. For these reasons, the proposal conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise.
37. The Framework promotes residential development where it will enhance or maintain the vitality of rural communities and acknowledges that this might be in nearby settlements. The benefit of the five, potential self-build, dwellings in supporting both services within the village and nearby settlements is limited. There is also likely limited economic benefits during the construction phase. I have also granted limited weight, as detailed above, based on similar decisions provided by the appellant.
38. However, I have concluded that there would be substantial harm due to lack of compliance with BNG and significant harm due to the lack of suitable access to footpaths/cycle lanes for potential occupants to safely travel into the village and the heavy reliance on private motor vehicles also significantly weighs against the application. In addition, there is moderate harm to the character and appearance of the local area.
39. The adverse impacts would, therefore, significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.

Conclusion

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

A Phillips

INSPECTOR