



Appeal Decision

Site visit made on 8 January 2026

by **I A Dyer BSc (Eng) FCIHT**

an Inspector appointed by the Secretary of State

Decision date: 5th February 2026

Appeal Ref: APP/K2610/W/25/3375116

Land Adj 33, The Heath, Hevingham, Norfolk NR10 5QL

- 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 Mark Williamson against the decision of Broadland District Council.
 - The application Ref is 2025/1594.
 - The development proposed is outline application for new self-build dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the address of the site as it appears on the Council's Decision Notice as this identifies the site with greater accuracy than the address provided with the Application Form.
3. The application was made in outline form, with all matters reserved for determination at a later date. Whilst the appellant has provided plans showing the possible layout, point of access and appearance of the proposal I have treated these as indicative and determined this appeal on that basis.

Main Issues

4. The main issues in this appeal are: -
 - Whether the appeal site is a suitable location for housing development, having particular regard to local policy for the provision of housing, and access to services and facilities.
 - The effect of the proposal on Protected European Sites.

Reasons

Location

Policy

5. The appeal site (the site) lies between two existing residential properties fronting The Heath. In the vicinity, development is sporadic and located close to the road, although groupings of development of greater depth occur at intervals. There is no dispute between the parties that the proposal lies outside of any settlement limit identified in the development plan and is therefore in the countryside for planning purposes.

6. Policy GC2 of Broadland District Council Development Management DPD (2015) (the DMDPD) supports new development outside of development limits which would not result in any significant adverse impact and where it accords with a specific allocation and/or policy of the development plan.
7. Policy 7.5 of the Greater Norwich Local Plan (2024) (the GNLP) provides support for residential developments of up to 3 dwellings for self-build and custom build homes for people who meet the eligibility criteria for Part 1 of the relevant district's self-build register, subject to certain criteria. The first criterion requires that the site is within or adjacent to settlements with a defined settlement boundary or that the site is within or adjacent to a settlement without a defined settlement boundary.
8. The planning application describes the proposal as a self-build dwelling, but this, of itself, is insufficient to secure it as such. The Council's Custom and Self-Build Housing Supplementary Planning Document (SPD) (2015) (the SPD) identifies that, where an application is initially submitted in outline, as in this case, and the end occupier is not known, conditions should be applied to the grant of outline permission to secure adequate information about the future occupier at reserved matters stage so that their eligibility for Part 1 of the register can be verified.
9. The Council have suggested wording of a draft condition and I have sought comments from the parties as to whether such a condition would satisfy the tests set out in the National Planning Policy Framework. On this basis I have established that there could be a means by which the proposal could be secured as a self-build dwelling.
10. There is dispute between the parties regarding the other criteria set out within the policy. In regard to the location of the site, it lies some distance from the settlement limit of Hevingham, the closest settlement with such a limit. A larger cluster of development, an outlier of Hevingham lies around the junction of The Turn with The Heath. Within this cluster development is denser, providing it with a more urban character and appearance, clearly distinct from its rural hinterland. The site lies some distance from this cluster and is visually separate from it. The site clearly lies within the area of more sporadic development where the vicinity of the dwelling has a distinctly rural appearance and character. The site, therefore, does not form part of that outlying settlement.
11. Policy 7.5 further requires that any new development should respect the form and character of the settlement including housing density, the ratio of the building footprint to the plot area and have no significant adverse impact on the landscape and natural environment.
12. The proposal is in outline, and I have no substantive evidence before me to demonstrate that the proposal would be out of keeping with nearby property densities or site coverage, or that it would result in harm to landscape. It will, however, be seen below that I have found that the proposal would result in harm to the natural environment.
13. Policy 7.5 further requires that the proposal accords with other relevant local plan policies.
14. The appellant argues that the Council do not define a settlement within the SPD. In the absence of such the appellant has considered their proposal against the definition of a settlement provided in a supplementary planning document

produced by East Suffolk Council. In support of this approach the appellant has drawn my attention to a recent appeal decision in Broadland¹ at Weston Green Road.

15. Whilst Development Plans are drawn up in accordance with underlying national planning policy, their provisions and policies are relevant only to their local context. The provisions and policies of one development plan are not directly transferrable to another planning authority.
16. Broadland's SPD does not seek to provide a definitive definition of a settlement but provides guidance on how to consider proposals against the criteria of Policy 7.5 of the Local Plan, based on their individual merits and on a case-by-case basis.
17. In reaching their decision in the Weston Green Road appeal the Inspector has clearly made an assessment of the site on its own individual merits, reaching a conclusion that, in that case, the appeal site lay within a settlement without a defined boundary. The Inspector has made no reference to reliance upon the East Suffolk SPD in their reasoning. I have followed a similar process in reaching my decision and determined the appeal on its own, particular, merits.

Access to services and facilities

18. Policy GC2 of the DMDPD seeks to focus new development where future occupiers will have access to services, facilities, and employment opportunities.
19. Policy 2 of the GNLP seeks to ensure that new development has safe and convenient access for all, including by non-car modes, to on-site and local services and facilities. It further seeks to encourage the use of more sustainable transport modes. These policies accord closely with those parts of the Framework which seek to promote sustainable transport.
20. The outlying part of Hevingham has very limited services whilst the village of Hevingham itself offers a variety of amenities including a Village Hall, Pub, Primary School, Garden Centre, and a number of businesses that could provide employment opportunities and these could cater for many of the day-to-day needs of future occupiers of the proposal.
21. The roads in the immediate vicinity are unlit and have no footway provision. The nearest bus stops to the site are in Holt Road and are, again, some considerable distance away.
22. The lack of street lighting, pedestrian facilities, speed of vehicles travelling on the local roads and distances involved are likely to deter walking and cycling, particularly if accompanied by children, or during inclement weather or the hours of darkness. These factors would also deter use of public transport as these roads would form the routes to the bus stops.
23. Whilst there are shorter routes to Hevingham village, using public footpaths, these are unlit and are not seen as suitable alternatives as they are unpaved and unlit and could be difficult to use during poor weather. Given the small scale of the development, opportunities to meaningfully improve access by sustainable modes of transport would be very limited.

¹ PINS REF:APP/K2610/W/25/3363614

24. Thus, the future occupiers of the site would be almost totally reliant on the use of the private car to meet their day-to-day needs.
25. The appellant refers to three recent appeal decisions where Policy 7.5² was considered. It will be seen that I have found that the proposal would not accord with Policy 7.5. Further, Policy 7.5 includes within its criteria the requirement that the proposal must accord with other relevant local plan policies.
26. I note that, in any case the Inspectors in the appeals cited by the appellant determined the appeal following a planning balance and that in all of the cases the Inspectors considered sustainability of access to services and facilities to be relevant factors. I have, in any case, determined this appeal on its own merits.

Conclusion on Location

27. The proposal would undermine the spatial strategy of the development plan, which seeks to locate development in the most sustainable locations. It would result in the use of unsustainable transport, and, as the effect of this would be ongoing, this would result in material harm that carries considerable weight in my deliberations
28. I therefore conclude that the site is not a suitable location for the development, having particular regard to local policy for the provision of housing, and access to services and facilities. It would, therefore, be contrary to the aims of Policy GC2 of the DMPDP and Policies 2 and 7.5 of the GNLP.

Protected European Sites

Policy

29. When making their decision, the Habitats Regulations require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of a protected site, either alone or in combination with other plans and projects within the context 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.
30. Policy 3 of the GNLP confirms that all new developments should avoid harm to designated assets of the natural environment, having regard to their level of significance (local, national, and international) in accordance with the requirements of the National Planning Policy Framework (the Framework) and relevant policies in other Development Plan Documents and Neighbourhood Plans.
31. The policy further requires that all residential development will address the potential visitor pressure caused by residents of the development that would detrimentally impact on sites protected under the Habitats Regulations through the payment of a contribution towards the cost of mitigation measures at the Protected European Sites.
32. Policy EN1 of the DLDPD seeks to protect and enhance the biodiversity of the district, whilst Policy EN4 of the DLDPD seeks to protect amenity, human health and the natural environment from pollution.

Recreation

² PINS Refs: APP/L2630/W/24/3346313, APP/K2610/W/25/3363614 and APP/L2630/W/24/3356503

33. In regard to the catchment for recreational activities, there is no dispute between the parties that the proposal lies within the area of influence of one or more Protected European Sites. I have not been provided with detailed information on the potential recreational impacts of residential development on the protected habitats in the district to reach an informed judgement. However, it is my understanding that Broadland District Council has resolved to adopt the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy (GIRAMS), formulated in consultation with Natural England (NE) and that its Recreational Avoidance Mitigation tariff requires a contribution for each dwelling to address recreational harm resulting from an increase in the local population. Provision of such a payment should be sufficient to allow me to conclude through an AA that a development will not have any adverse impact, alone or in combination with other development, on the integrity of the habitats site as a result of increased recreational usage.
34. The appellants have stated that they are willing to provide such a contribution, and this would normally be secured through a planning obligation. However, no such obligation has been submitted to me.
35. The appellant asserts that he has been unable to provide a planning obligation because the Council has a protocol requiring that they produce the document for signature. However, there is no reason that a planning obligation could not be provided in the form of a Unilateral Undertaking (UU). By its very nature, a UU is a one-sided commitment and can be produced by the appellant himself without input from the Council.
36. Negatively worded conditions requiring a planning obligation to be entered into should only be used in exceptional circumstances where there is clear evidence that the delivery of the development would otherwise be at serious risk. There is no clear evidence to suggest that this would be the case in this instance and so, the use of such to secure the Recreational Avoidance Mitigation contribution would be inappropriate.
37. It would typically be necessary for me to consult NE to undertake the AA and to assess the effectiveness of any mitigation put forward. However, in the absence of an obligation securing the payment, a consultation with NE would not resolve the matter of an absence of payment.

Nutrients

38. NE has advised the Council that nutrient pollution is having an adverse effect on habitats sites within the district, namely River Yare SAC and the Broads and River Wensum SAC which are Protected European Sites.
39. The Council has advised that the site is within the catchment of the Broads and River Wensum SAC. NE's 'Advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites' (16 March 2022) (NE's advice) confirms the Broads and River Wensum SAC is in unfavourable condition due to excessive nutrients, namely Nitrogen and Phosphorus.
40. NE's advice also confirms, 'In freshwater habitats and estuaries, poor water quality due to nutrient enrichment from elevated nitrogen and phosphorus levels is one of the primary reasons for habitats sites being in unfavourable condition.'

41. The government's Chief Planner has also advised that where habitats sites are in an unfavourable conservation status and additional nutrient loads, such as from development, may have an adverse effect, proposals affecting such sites should be carefully considered and mitigation should be used to ensure that there are no adverse effects.
42. In addition to the above, the evidence provided indicates that new overnight accommodation has the potential to have an adverse impact on nutrient levels.
43. There is no dispute between the parties that the proposed development would generate additional nutrients and that these would discharge into the Broads and River Wensum SAC catchment. The appellants have provided a Nutrient Neutrality Assessment and stated their intention to purchase Nutrient Credits as a mitigation strategy. Whilst the appellants have expressed the intention to purchase nutrient credits, there is no evidence before me that they have done so and thus no mitigation has been provided to offset any resultant harm from nutrients. As no mitigation has been secured at this point I am unable to conclude that no harm would result. I am therefore unable to complete the AA favourably.
44. Given the above I am unable to conclude that there would be no adverse effect of the proposal, alone, on the Broads SAC.

Conclusion regarding effect on Protected European Sites

45. I conclude that the proposal would adversely affect the integrity of the Protected European sites and that this would not be suitably mitigated. The proposal would conflict with the requirements to ensure that there will be no adverse impacts on Protected European sites in Policy 3 of the GNLP and Policies Policy EN1 and EN4 of the DMDPD as well as the nature conservation requirements of the Framework and the Habitats Regulations.

Other Considerations

46. There is no dispute between the parties that, due to issues associated with achieving nutrient neutrality, the Council accepts that it is unable to demonstrate a 5YHLS, resulting in a shortfall in housing land, contrary to the Government's expectations.
47. The provision of a single dwelling would make a small contribution to address this shortfall in an area where there is considerable unmet demand for housing. Furthermore, it has been demonstrated that, subject to condition, this could be secured as a self-build dwelling. This is a type of development for which the Council have, thus far, only granted a limited number of permissions, and the provision of which is supported by the Government within the Framework.
48. The proposal would also provide modest social and economic benefits from the construction of the development and increase in local population. The Framework supports the development of windfall sites, noting that small and medium sites are often built-out relatively quickly.
49. These matters weigh in favour of the proposal, but, due to the scale of the development, and notwithstanding the unmet housing need, carry only moderate weight in my deliberations.

50. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. However, in this case the occupiers of the proposal would be almost entirely dependent on the use of the private car to meet their day-to-day needs.
51. I have found that the proposal would harm habitats sites. This would be contrary to the aims of those parts of the Framework that seek to conserve and enhance the natural environment and this harm provides a strong reason for refusing the development proposed. Therefore, the presumption in favour of sustainable development set out in paragraph 11d) of the Framework does not, in this case, apply.

Conclusion

52. Pursuant to Section 38(6) of the Planning and Compulsory Purchase Act 2004, a determination must be made in accordance with the development plan unless material considerations indicate otherwise.
53. The proposal conflicts with the development plan and, in this case, the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is, therefore, dismissed.

I A Dyer

INSPECTOR