
Appeal Decision

Site visit made on 5 September 2024

by **T Burnham BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 October 2024

Appeal Ref: APP/F2605/W/24/3336357

Beechurst, 8 Commercial Road, Dereham, Norfolk NR19 1AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr James Buckman - Buck Estates Pension Fund & Saprest Properties Pension Fund against the decision of Breckland District Council.
 - The application Ref 3PL/2022/0934/F, dated 8 August 2022, was refused by notice dated 4 July 2023.
 - The development proposed is demolition of existing buildings and construction of 18 apartments.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The original application was refused by the Council partly on the grounds that an agreed sum as a contribution towards off site affordable housing provision had not been secured through a planning obligation. The same was the case in relation to Green Infrastructure Recreational Impact Avoidance and Mitigation Strategy (GIRAMS) contributions to mitigate the recreational impact of the development on protected sites. Planning obligations in the form of unilateral undertakings have now been provided in relation to those matters.
3. The evidence indicates that these provisions would be necessary to make the development acceptable in planning terms, were I minded to allow the appeal. They are directly related to the development and fairly and reasonably related in scale and kind to the development. The obligation therefore meets the tests within paragraph 57 of the Framework. I will not therefore consider those matters further.
4. The application was also originally refused on the basis that insufficient information had been submitted to demonstrate that the surface water drainage strategy proposed was acceptable and would ensure that the scheme would be safeguarded from flood risk and ensure that flood risk would not be increased elsewhere. Following the original refusal by the Council, a Flood Risk and Drainage Strategy Report has been produced and accompanies the appeal. Regardless of the conclusions of that report, there is nothing to indicate that this is not a matter that could be addressed through the submission of further information via condition were I minded to allow the appeal. I will not therefore consider this matter further.

Main Issues

5. The main issues are therefore the effect of the proposal on the integrity of the River Wensum SAC & Broads SAC/Ramsar with regard to nutrient neutrality and the effect of the proposal on the setting of Dereham Conservation Area.

Reasons

River Wensum SAC & Broads SAC/Ramsar

6. The River Wensum SAC and Broads SAC/Ramsar amongst other things, are designated on account of their range of habitats that support species including white clawed crayfish, whorl snail, brook lamprey, bullhead fen orchid and otter.
7. Natural England has updated the conservation status of the River Wensum SAC and Broads SAC/Ramsar. Concern over water quality in terms of eutrophication is identified. The appeal site falls within a relevant catchment and an impact pathway is therefore present.
8. Therefore, adopting the precautionary principle, and in the absence of any evidence to the contrary, I consider that as a result of the proposal, likely significant effects on the protected habitats sites cannot be ruled out. I am therefore required to carry out an Appropriate Assessment.
9. Unless development which includes additional residential units such as that before me would demonstrably achieve nutrient neutrality, it cannot be concluded that it would not have an adverse effect on the integrity of the SAC's.
10. Although the evidence indicates that a nutrient neutrality mitigation strategy is under development for the Wensum catchment, this does not at present appear to be in place to be utilised and there does not appear to be any concrete indication as to when this may be available.
11. Given that such a scheme is not currently available and in the absence of mitigation being provided with regard to nutrient neutrality, the proposal would conflict with Policy ENV 02 of the Breckland Local Plan (2023) (BLP) which states amongst other things that the highest level of protection will be given to European Sites.

Setting of Conservation Area

12. The appeal site sits a short distance to the south of the Dereham Conservation Area which at its nearest point encompasses land and buildings on the opposite side of Commercial Road to the north of the Police Station which sits partly opposite the appeal site.
13. The extent of the Conservation Area is quite substantial, but where it relates to the core of Dereham near to the appeal site it generally includes traditional and established buildings of substantial age. Therefore, the significance of the Conservation Area sits to a large degree with the form, scale, materials, and layout of its historic buildings. These historic buildings are often finished in brick, incorporate attractive detailing and are set to face the streets on which they are placed.

14. The building which currently occupies the site is clearly of some age but is not listed or specifically identified as a non-designated heritage asset. It is finished in brick and incorporates a wide array of interesting detailing on its front elevation which extends to detailing around the eaves and within the chimney stacks. I note the presence of a rather uninspiring flat roof extension to the rear, and the fact that the grounds are generally laid to hardstanding to incorporate parking, and that car parks are evident around the site.
15. However, the building incorporates elements that are reflective of the significance of the Conservation Area. The building subsequently makes some positive contribution to the significance and therefore setting of the Conservation Area, especially to those approaching it from the south along Commercial Road.
16. The proposal, as a result of the loss of the existing building through its demolition, would detract from the significance of the Conservation Area through harm which would be caused to its setting.
17. The harm to the significance of the Conservation Area would be less than substantial. I must afford this harm considerable importance and weight. Paragraph 208 of the Framework¹ requires such harm to be weighed against any public benefits of the proposal.
18. The building that would be constructed in place of that existing would broadly seek to align its scale and appearance to the much more modern and taller apparently residential largely brick finished building to the north of the site. The overall design and form of the replacement building would not therefore be unfamiliar within the setting of the Conservation Area.
19. It would be finished in brick and would incorporate some limited detailing along with windows of vertical proportion. The proposed replacement building would make a neutral contribution to the setting of the Conservation Area.
20. Nonetheless on account of the loss of the existing building, the proposal would conflict with Policies ENV 07, GEN 02 and COM 01 of the BLP which amongst other matters require that at a minimum the significance of Conservation Areas shall be conserved and that development respects and is sensitive to the character of the surrounding area and makes a positive architectural and urban design contribution to its context and location.
21. There would also be conflict with the Design Guide² which states that where existing built features contribute to local character or have heritage value, they can make a significant contribution to the distinctive character of a development. It suggests that they should provide design inspiration for new development and be retained, enhanced and incorporated into proposals.
22. However, there would be public benefits associated with the scheme. These would include the provision of 18 apartments compliant with and exceeding national space standards in a highly sustainable town centre location. There would be the removal of significant areas of hardstanding and planting of new trees and a substantial biodiversity net gain. A financial contribution would help in delivering affordable housing elsewhere within the district. It is also likely

¹ National Planning Policy Framework 2023.

² Breckland Design Guide – Tibbalds planning and urban design – April 2024.

that current drainage arrangements could be improved given the substantial hardstanding in place at the site. These public benefits would outweigh the harm to the significance of the Conservation Area.

Other Matters

23. Prior approval for change of use from Use Class E (offices) to Use Class C3 (dwellinghouses) to provide a total of 6no. dwellings, with associated access and parking arrangements was previously given in September 2021. Although the time limit for that scheme appears to have passed without completion, I have no reason to believe that another similar approval could not be secured. This matter is brought to my attention in support of the appellant's case.
24. However, any prior approval achieved could not be begun until the appellant had made a Regulation 77 application and received notification from the Council that the development would not have any adverse effect on the integrity of the SAC's. Given the Council's position on this matter and my assessment of this matter, it does not appear likely that such notification would be provided. I therefore afford the fallback position limited weight.

Planning Balance and Conclusion

25. The proposal would conflict with Policies ENV 07, GEN 02 and COM 01 of the BLP. However, the less than substantial harm to the significance of the Conservation Area would be outweighed by the public benefits of the scheme and this is a consideration indicating that a decision could be made otherwise than in accordance with those policies.
26. However, I cannot conclude that the proposal would not have an adverse effect on the integrity of the River Wensum SAC & Broads SAC/Ramsar. The proposal therefore draws conflict with Policy ENV 02 of the BLP. I have afforded this matter substantial weight and the harm in this respect is not outweighed by the benefits of the scheme.
27. The proposal would conflict with the development plan and there are no material considerations which indicate a decision should be made otherwise than in accordance with it. The appeal is therefore dismissed.

T Burnham

INSPECTOR