



Appeal Decision

Site visit made on 7 August 2019

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 13 September 2019

Appeal Ref: APP/J3530/W/19/3224746

Part Garden of Four Ways, Alderton Road, Hollesley IP12 3RL

- 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 Mullins Dowse Architects Limited against the decision of Suffolk Coastal District Council.
 - The application Ref DC/18/5001/FUL, dated 4 December 2018, was refused by notice dated 28 January 2019.
 - The development proposed is new dwelling to part rear garden.
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Decision

1. The appeal is dismissed.

Procedural matters

2. Since the application was determined the appellants have provided a financial contribution towards mitigating the effects of the proposal on European Protected Sites. An agreement under Section 111 of the Local Government Act 1972 has been provided to secure the contribution and as a consequence the Council no longer wish to uphold the second reason for refusal. Although this issue is no longer in dispute between the parties, it is a matter that I will return to later in my decision.
3. Since the Council's determination of the application Suffolk Coastal District Council have merged with Waveney District Council to form East Suffolk Council.
4. Since the appeal was lodged the publication version of the Suffolk Coastal Local Plan 2019 (the emerging Local Plan) has been submitted for examination. However, the emerging Local Plan has yet to be examined and found sound and so attracts limited weight as a material consideration.
5. Following the Council's determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published in February 2019. The parties have had the opportunity to make comments on the revisions to the Framework as part of the appeal process.

Main Issues

6. The main issues are: -
 - Whether the site is a suitable location for a dwelling having regard to local planning policy for the delivery of housing and accessibility to everyday local facilities and services, and: -

- The effect of the proposal on European Designated Sites.

Reasons

Suitable location for a dwelling

7. The appeal site lies off Alderton Road, on an unnamed private access track running north-west shared by a number of properties. In the vicinity of its junction with the access track Alderton Road is a narrow rural road with passing places, lacking segregated footways and street lighting and subject to a 30 MPH mandatory speed limit. To the south of the road lies open countryside. As Alderton Road heads away from the village centre, frontage development becomes increasingly sporadic, with small clusters of development extending back from the road.
8. The site frontage to the track is bounded by a fence with a gate, which would serve as the access to the proposed development. Opposite the site, on this track is a row of dwellings. Mature planting of varying height and fences lie on the other boundaries. Beyond the site to the north-west lies open countryside.
9. There is no disagreement between the parties that the proposal lies outside of the physical limits boundary of Hollesley, as identified within Policy SSP2 of the Site Allocations and Area Specific Policies Development Plan Document (2017) which seeks to direct new housing development to within the physical limits of existing settlements. The appeal site therefore falls within designated countryside. Whilst Policy SP29 of the Suffolk Coastal District Local Plan - Site Specific Policies Development Plan Document (2013) (the Local Plan) protects the countryside for its own sake and limits development to that which of necessity requires being located there, Policy DM4 of the Local Plan allows, subject to certain criteria being satisfied, development of housing in the countryside. These aims are broadly consistent with the aims of the Framework, including Section 9 of the Framework: Promoting sustainable transport.
10. The Framework does not impose a blanket restriction on development outside defined settlements, nor does it explicitly prevent the use of such boundaries. The appeal site is located in close proximity to existing dwellings and is not isolated and so the countryside location does not conflict with paragraph 79 of the Framework. Paragraph 78 supports new housing where it will enhance or maintain the vitality of rural communities and so, whilst the site is outside the settlement boundary this in itself does not persuade me that the site is in an unsustainable location.
11. Hollesley has a range of services and facilities, including a school, branch medical surgery, meeting place, public house, post office and shop. West Somerton has a public house. However, the intervening roads are unlit and lack footways. There is a bus service serving the village providing connection to Woodbridge and Ipswich with a full range of shops and services. However, these are a significant distance away and, on the basis of the evidence before me, the service is restricted in frequency.
12. The nature of the local roads with their lack of lighting and footways, vehicular speeds and the distances involved, are such that they would deter pedestrians and cyclists, particularly after dark, with children or during inclement weather and so residents of the site would still rely heavily upon the private car for their

day-to day needs. Whilst the site shares a similar level of accessibility with the nearby dwellings, this does not, of itself, demonstrate that the additional development would be acceptable in regard to its accessibility and I have considered the proposal on its own merits.

13. The Framework promotes sustainable development in rural areas, requiring that housing should be located where it will enhance or maintain the vitality of rural communities especially where this will support local services. The Framework recognises that rural housing development in smaller settlements can support services in a village nearby and that sustainable transport solutions will vary between urban and rural areas. However, in this instance, there is no meaningful alternative to using the private car to satisfy the day-to-day needs of future occupiers. Given the modest scale of development there is very limited scope to improve connections for walking, cycling or public transport, therefore dependency upon private motor vehicles would be likely to be almost total.
14. Policy DM4 of the Local Plan defines a 'cluster' as consisting of a continuous line of existing dwellings or a close group of existing dwellings adjacent to an existing highway, containing five or more dwellings and is located no more than 150 meters from the edge of an existing settlement, whilst this distance might be extended to 300 metres if a footway is present. The site lies a significantly greater distance from the physical limits boundary of Hollesley with no segregated footway connection. Further, the site lies outside either the existing cluster of development on the track, or the cluster of development fronting Alderton Road. As such it extends the cluster on the track into the countryside and leaves considerable space around itself, rather than infilling a gap in a continuous built up frontage or a clearly identifiable gap within an existing cluster.
15. I therefore find that the site is not a suitable location for a new dwelling, having regard to local and national policy for the delivery of housing and use of land. The development would therefore be contrary to SP1 and SP19 of the Local Plan, which set out the Council's overall approach to development, including the application of a settlement hierarchy for new housing, and would also conflict with Policies SP28, SP29, DM3 and DM4 of the Local Plan which together, amongst other things, seek to protect the countryside, whilst allowing scope for sustainable development. It would also be contrary to the aims and objectives of the Framework which seek to locate development in locations that promote sustainable travel and limit future car use and support a prosperous rural economy.
16. Whilst the appellants cite support from policy SCLP5.4 of the emerging Local Plan, for the reasons set out above, the proposal would not infill a gap in a continuous built up frontage or a clearly identifiable gap within an existing cluster, and so would not satisfy the criteria set out in that policy. In any event, as previously stated, this policy is not yet adopted and as such carries minimal weight.

Effect on European Protected Sites

17. The site is located within the zone of influence of the Sandlings Special Protection Area (SPA), the Alde-Ore Estuary SPA and Ramsar site, the Deben Estuary SPA and Ramsar site (the Deben SPA), the Stour and Orwell Estuaries SPA and Orfordness Shingle Street Special Protection Area of Conservation

(SAC), which are European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Policy DM27 of the Local Plan seeks to protect such sites from harm and, where necessary, seek mitigation against any adverse effect of development. Within the Local Plan the Suffolk Recreational Disturbance Avoidance and Mitigation Strategy (Suffolk RAMS) incorporates strategic mitigation measures to be delivered to avoid adverse impacts. The appellants have provided a financial contribution towards mitigating the effects of the proposal on the SPAs and SAC. This has been secured by an agreement under Section 111 of the Local Government Act 1972.

18. However, the Court of Justice of the European Union recently ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA) rather than at the screening stage¹. This responsibility now falls to me within this appeal. Such an assessment is necessary regardless of the status of the policies of the development plan.
19. Had I been minded to allow the appeal, it would have been necessary for me to seek additional information from the parties and consult Natural England in order to undertake the AA. The AA is required on a case-by-case basis to determine whether or not the project will adversely affect the integrity of the site. It would also have required a consideration of whether or not any proposed mitigation would be adequate, effective, could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it would not change the outcome of this appeal.

Planning Balance

20. The development would provide benefits in terms of delivering an additional home to boost local housing supply. Whilst the Council is able to demonstrate in excess of a five year supply of housing land, this is not a maximum figure and there is no evidence to suggest that a small development of one dwelling would result in a significant oversupply of housing in the area. There would be minor benefits to the local economy in terms of short term employment in the construction industry and longer term support to shops and businesses. The appellants have referred in their Design and Access Statement to the development as self build. National policy and guidance support and encourage the provision of self-built housing. However, there is little evidence before me to demonstrate that the appellants are entered on a self-build register or how the development would be secured as a self build. Taken together, given the limited scale of the development these benefits carry limited weight.
21. It is proposed that the development would be a high quality design incorporating many sustainable features. However, I am not persuaded on the basis of the evidence before me that the dwelling would necessarily be outstanding or innovative in terms of its design and levels of sustainability, and consequently would not represent the circumstances where the Framework considers that great weight should be afforded to such development. In particular the reliance upon the private car would be at odds with the overall aim of sustainability. This is a matter in the proposal's favour to which I attach moderate weight.

¹ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

22. Given the location of the site and the lack of access to safe walking and cycling routes or public transport to provide for day to day needs it is likely that future occupants of the development would be heavily reliant on private motor vehicles to access local shops and services. This, together with the harm that I have found by virtue of the proposal undermining the adopted settlement strategy set out within the Local Plan are significant factors weighing against the scheme.
23. Whilst the issue of the effect of the site on European Sites remains unresolved the effects could only be, at best, neutral in my considerations.
24. In conclusion, even if I were to accept the appellants view that the policies most relevant to the supply of housing within the Development Plan are out of date, the identified harm would significantly and demonstrably outweigh the limited benefits provided by the scheme when considered against development plan policies and the Framework when read as a whole.
25. My attention has been drawn to several appeal decisions. However, from the limited evidence before me I am unable to verify whether these appeals bear a contextual comparison to the case before me. In any case, I have determined this appeal on its own merits.

Conclusion

26. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

I Dyer

INSPECTOR