



Appeal Decision

Site visit made on 9 October 2019

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 7 January 2020

Appeal Ref: APP/J3530/W/19/3233271

Appletree Cottage, Woodbridge Road, Debach, Woodbridge IP13 6BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Ewings against the decision of Suffolk Coastal District Council.
 - The application Ref DC/18/4850/OUT, dated 22 November 2018, was refused by notice dated 8th February 2019.
 - The development proposed is 6 affordable dwellings and a service/access road.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs have been made by Suffolk Coastal District Council against Mr and Mrs Ewings and by Mr and Mrs Ewings against Suffolk Coastal District Council. These applications are the subject of separate Decisions.

Procedural Matters

3. The application is for outline permission with appearance and landscaping reserved for future consideration. A site location plan, 3770/01/P1, an existing site plan 3770/02/P1, and a proposed site plan 3770/03/P1 have been submitted with the application. For the purpose of this appeal I have taken the appearance and landscaping shown on these as illustrative only.
4. On the application form accompanying the proposal, the appellants have ticked the box stating that the application is for market housing. However, throughout their accompanying documentation the appellants have referred to the houses as affordable dwellings and so I have considered the appeal on this basis. I note that this approach was also taken by the Council.
5. Since the application was determined the appellants have provided a financial contribution towards mitigating the effects of the proposal on European Protected Sites. Payment was made under the provisions of Section 111 of the Local Government Act 1972.
6. East Suffolk Council was formed on 1 April 2019 by the merging of Suffolk Coastal District Council with Waveney District Council. The Local Government (Boundary Changes) Regulations 2018 (part 7) states that any plan, scheme, statement or strategy prepared or, where required, published before the reorganisation date by a predecessor council shall be treated as if it had been

prepared and, if so required, published by the successor council until a replacement document is published. Therefore, the Suffolk Coastal District Council Local Plan Core Strategy and Management Policies -2013- (the Core Strategy) and the Suffolk Coastal District Local Plan Site Allocations and Area Specific Policies -2017- (the SAASP) continue to apply to East Suffolk Council until new documents are published that replace them.

7. Since the appeal was lodged the final version of the Suffolk Coastal Local Plan 2019 (the emerging Local Plan) has been submitted for examination. This emerging Local Plan has yet to be examined and found sound and so the policies within it attract limited weight.

Main Issues

8. The main issues are: -
 - Whether the site is a suitable location for housing having regard to development plan and national planning policies, and : -
 - The effect of the proposal on European Designated Sites.

Reasons

Suitable location

9. The appeal site is located on the north-east side of Woodbridge Road. It is currently an open field, laid to grass and bounded by mature hedges. To the south-east of the site lies Appletree Cottage, which is the first dwelling in a cluster of dwellings of limited size fronting Woodbridge Road. On the other boundaries, and across Woodbridge Road, the land is open countryside.
10. The site lies outside of any development boundary identified within the SAASP and as such falls within an area defined as countryside by Policy SP19 of the Core Strategy. It is therefore in the countryside for planning purposes where development will only be permitted subject to the exceptions set out in the Council's countryside policies.
11. Policies SP1 and SP1A of the Core Strategy, which are broadly consistent with the National Planning Policy Framework -2019- (the Framework), support sustainable development, whilst Policy SP29 of the Core Strategy permits development in the countryside only where it is proven necessary or meets other policies in the Core Strategy or the Framework.
12. Policy DM1 of the Core Strategy allows small residential development which meets a particular local need for affordable housing and abuts or is well-related to the physical limits boundary of a Market Town, Key Service Centre or Local Service Centre; or within an 'Other Village' where its scale is in keeping with its setting. This policy also requires that such provision will be considered in relation to, amongst other things, the scale and character of the settlement and the availability of services and facilities. Additionally, it requires that the local need for affordable housing shall first have been quantified within an area to be agreed by the District Council. Furthermore, Policy DM1 requires that the site shall be subject to a legal agreement with the District Council, which provides for permanent control and management of such properties to ensure their retention for local need.

13. Policies SP29 and DM1 are in general accordance with the aims of those parts of the Framework that seek to conserve and enhance the natural environment and the intrinsic character and beauty of the countryside; and to promote sustainable development in rural areas including entry-level exception sites in suitable locations.
14. The proposed development is for a row of 6 detached affordable dwellings served off a single access point on the southern corner of the site. The access track runs behind a substantial mature hedge and views into and out of the site are visually contained by the existing planting. However, it is likely that there would be limited views of the dwellings from the road.
15. The proposed development would be located at the end of a small village and proportionally would be large compared to the existing settlement. It would significantly extend the developed area into the open countryside on one side of Woodbridge Road.
16. Whilst there are employment opportunities in the nearby area, the adjoining settlement does not provide services and facilities to cater for all the day-to-day needs of future occupiers of the site. The nearest settlements with a range of facilities to cater for such needs are some distance away.
17. 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. The availability of rural public footpaths is not seen as providing a suitable route as they are unpaved and unlit and could be difficult to use during poor weather. Whilst there are bus services connecting to nearby service centres, the bus stop is some distance away, accessed by these same local roads and footpaths and the service is also infrequent. I have little evidence, therefore, to suggest that public transport would provide a realistic alternative to the use of the private car.
18. 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. Further, the appeal site lies in an area of only sporadic development, where dwellings form small loose groups or hamlets with no services within them requiring, in all likelihood, a trip into the local town to satisfy their day-to-day needs. Thus, it could not be said that the development would contribute meaningfully to the vitality of villages outside the town.
19. Therefore, I do not consider that the scale of development would be in keeping with its setting in terms of its scale in relation to the character of the settlement and would also have limited access to services and facilities other than by private motor car.

20. A Housing Needs Survey, carried out in 2017, has identified a maximum local need for three affordable dwellings and two market dwellings of a size, type and tenure to be agreed with the Parish Council, Local Authority and appointed Registered Provider. I have no evidence before me that these bodies have been contacted to establish the specific needs of future occupants.
21. The appellants cite the need for more affordable housing in the district, referencing national policy and guidance, the SAASP, the Ipswich and Waveney Housing Market Areas Strategic Housing Market Assessment Volume 2 (2017) and articles in the local press. They also identify that house prices in the Ipswich and Waveney Housing Area have increased at a faster rate than the average throughout England, reaching an average price of nine times local salaries.
22. The appellants have cited local support from third parties and a local employer. The letters of support indicate an interest in moving to the development, some even of locating to the area to do so. However, there is no evidence associated with these representations to demonstrate that those willing to occupy the houses would fulfil the requirements of need for affordable housing or that the type of accommodation proposed would be appropriate for their needs.
23. Whilst there is evidence to confirm a need for affordable housing in the wider area, this does not establish a specific quantifiable local need or establish the type of accommodation needed. Further, whilst some people may wish to move to the area, this aspiration would be in tension with the issues that I have identified regarding transport connectivity of the site. On the evidence before me the need for 6 affordable dwellings of the type proposed has not been demonstrated and as such would be contrary to Policy DM1.
24. No legal agreement has been provided with this appeal. I note that the Council has advised the appellant that, should the appeal be allowed, this matter could be covered by the imposition of a suitable planning condition. However, I am mindful of the advice provided in the Planning Practice Guidance that:-

"Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency". It further advises that: "in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk"¹
25. I have no clear evidence before me that the development would be at serious risk and so the exceptional circumstances whereby a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence do not exist. In the absence of a legal agreement I am not satisfied that the site could be secured as affordable housing.
26. I conclude that the proposal does not satisfy the requirements for an affordable homes exclusion site as set out in Policies SP29 and DM1 of the Core Strategy.

¹ PPG ID: 21a-010-20140306

27. Paragraph 71 of the Framework supports the provision of entry level housing. However, the paragraph requires that development should be adjacent to existing settlements and proportionate in size to them. Whilst the proposal would be adjacent to the cluster, it would far exceed 5% of the size of the existing settlement, which the Framework considers an appropriate maximum size of development by which to gauge proportionality.
28. 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. However, from my reasoning above it will be seen that it is unlikely that the proposal will provide meaningful support for communities outside the local town.
29. Policy DM3 of the Core Strategy allows housing development within the countryside as a replacement dwelling on a one to one basis, the sub-division of a larger dwelling to meet a local need, the conversion of an existing building, or infilling within a 'cluster'. The proposal would not satisfy these criteria. However, these are more restrictive than the exceptions provided in paragraph 79 of the Framework and I consider that this policy is only partially in accordance with the Framework and thus attracts only moderate weight.
30. Policy DM4 of the Core Strategy allows for provision of new dwellings within 'clusters, subject to certain criteria, including, amongst other things, that the scale of development consists of infilling by one dwelling or a pair of semi-detached dwellings within a continuous built up frontage. The proposed development is for more than two dwellings.
31. Further, the policy 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, identified as a Major Centre, Town, Key Service Centre or Local Service Centre, 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 any such settlement with no segregated footway connection. Further, the site lies outside the existing cluster of development fronting Woodbridge Road. As such it extends the cluster along the road, rather than infilling a gap in a continuous built up frontage or a clearly identifiable gap within an existing cluster. The proposal does not, therefore, accord with the requirements of Policies DM3 or DM4 of the Core Strategy.
32. I conclude that the site is not a suitable location for 6 new affordable dwellings having regard to development plan and national planning policies. The proposal would therefore be contrary to Policies SP29, DM1, DM3 and DM4 of the Core Strategy. Similarly, the proposal is contrary to Policies SP1 and SP1A of the Core Strategy, and Policy SSP2 of the SAASP which states that development that is located outside of the physical limits boundary will not be considered as sustainable, unless it meets one of the defined exceptions.
33. The appellants cite support from policies SCLP5.4 and SCLP5.11 of the emerging Local Plan. In regard to SCLP5.4, 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. The proposal also exceeds the maximum number of dwellings that the emerging policy allows within a cluster of 10 or more dwellings. Thus, the proposal would not satisfy the criteria set out in that policy.

34. Policy SCLP5.11 still requires that local need for affordable dwellings be demonstrated, that the scheme incorporates a range of dwelling sizes, types and tenures appropriate to the identified local need; and that the location, scale and design standard of a scheme will retain or enhance the character and setting of the settlement or cluster. For the reasons given above these criteria are not satisfied. In any event, as previously stated, these policies are not yet adopted and as such carry limited weight.

European Designated Sites

35. The site is located within the zone of influence of the Sandlings Special Protection Area and the Deben Estuary Special Protection Area/Ramsar Site (the SPAs), which are European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Policies SP14 and DM27 of the Suffolk Coastal District Local Plan Core Strategy and Management Policies -2013- (the Core Strategy) seek to protect such sites from harm and, where necessary, seek mitigation against any adverse effect of development. 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.
36. 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 stage². 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.
37. 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.

Other Matters

38. The appellants have expressed dissatisfaction with the Council consultation process for the planning application and representation of letters of support. However, this is a matter between the appellants and the Council and lies outside the remit of this appeal.

² People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

39. Both of the main parties are in agreement that the Council is able to demonstrate a 5-year supply of housing land based on its March 2019 Housing Land Supply Assessment (HLSA).

Planning Balance

40. The development would provide benefits in terms of delivering an additional 6 affordable homes to boost housing supply. A shortfall in delivery of affordable housing has been identified. However, there is doubt as to the scale and type of affordable housing that is needed. 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 and a local employer has voiced support of the proposal as providing local housing for future workers. The long term support to shops would be mainly felt in the local town, rather than supporting rural villages and so together these benefits carry moderate weight.
41. It is proposed that the development would be a high quality design. However, I am not persuaded on the basis of the evidence before me that the dwellings would necessarily be outstanding or innovative in terms of its design and levels of sustainability, particularly given the level of reliance upon the private motor car to meet the day-to-day needs of future occupiers of the development and consequently would not represent the circumstances where the Framework considers that great weight should be afforded to such development.
42. 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 and policies for the provision of affordable homes in the countryside set out within the Core Strategy are significant factors weighing against the scheme.
43. 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.
44. In conclusion the limited benefits provided by the scheme would not outweigh the identified harm when considered against development plan policies and the Framework when read as a whole.

Conclusion

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

I Dyer

INSPECTOR