
Appeal Decision

Site visit made on 4 February 2020

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 March 2020

Appeal Ref: APP/X3540/W/19/3233603

Mill House, Yarmouth Road, Lound, Suffolk NR32 5LZ

- 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 Mrs Simone Futter against the decision of East Suffolk Council.
 - The application Ref DC/19/1229/OUT, dated 20 March 2019, was refused by notice dated 21 June 2019.
 - The development proposed is construction of one dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development is taken from the Council's decision notice and has been adopted by the appellant on the appeal form. I have proceeded on that basis.
3. Notwithstanding the description of development, the application was made in outline with all matters reserved. That is the basis on which I have considered the appeal.

Main Issue

4. The main issue is whether occupiers of the proposed development would have satisfactory access to services and facilities.

Reasons

Access to services and facilities

5. The appeal site lies outside of any settlement boundary as defined within the East Suffolk Council – Waveney Local Plan 2019 (LP). For the purposes of planning policy, it is therefore within the countryside. LP Policy WLP1.2 restricts development in the countryside except where other policies in the LP indicate otherwise. LP Policy WLP8.7 provides for a limited amount of housing in the countryside.
6. In essence these policies, along with LP Policy WLP7.1, aim to provide a strategy to ensure that development is guided to locations where people have good and easy access to services and facilities such as shops, schools, employment, health services and other community facilities, whilst minimising reliance on private motor vehicles. This is done by directing most development

to the major towns whilst providing opportunities for some development in villages and the rural areas. This distribution is largely controlled by allocating sites for development and by the use of settlement boundaries around towns and villages.

7. The proposal is for outline permission only with all matters reserved. Therefore, the plans provided are limited. However, although reference has been made to the proposal being for conversion of an existing garage, the indicative block plan illustrates a substantial increase in the footprint of the existing building. In addition, the appellants written submissions refer to conversion and extension of the garage. This leads me to conclude that the proposal would be more than a conversion. I am satisfied that the proposal would constitute construction of a new dwelling and that LP Policy WLP8.11, which provides an exception to the spatial strategy by permitting the reuse of redundant buildings for residential purposes, is not applicable in this instance.
8. The nearest settlement to the appeal site is the small village of Lound situated some 1.5km to the south. Although there is a public house and a café these provide limited services; future occupiers of the proposed dwelling would have to travel further afield to meet their everyday needs. The surrounding road network is made up of unlit roads without the benefit of footpaths, the use of which would be unattractive to pedestrians or cyclists.
9. I have no substantive evidence that the site would be served by reasonably accessible public transport, which could provide a viable alternative to the use of the private car, to travel for work and to higher order services. I therefore consider that future occupiers would be likely to be heavily reliant on the private car to access a full range of community facilities. Whilst dependence on private vehicles may be expected in rural locations, the proposal would only exacerbate this level of reliance.
10. The proposal meets the opening criterion of Policy WLP8.7 of 'up to 3 dwellings' and it would not extend development beyond the confines of the existing curtilage of the donor property. However, the site is not situated within a built-up area of a settlement within the countryside, nor are there existing residential properties on two sides of the site. This is in direct conflict with Policy WLP8.7.
11. In addition, in relation to paragraph 79 of the National Planning Policy Framework (the Framework), both parties agree that the proposal would not be isolated. This view is supported by case law¹ and I have no reason to take an alternative view. Consequently, for that reason, paragraph 79 is not engaged in this instance and the appellant cannot derive any benefit from its provision (d) in support of this appeal.
12. I therefore conclude that the proposal would not provide satisfactory access to services and facilities. Thus, it would conflict with LP Policies WLP1.2 and WLP7.1 which together, and amongst other matters, seek to ensure that developments are to be located where there is adequate access to services and facilities. Further, it would conflict with the Framework in this regard.

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

Other Matters

13. The appeal site lies within the zone of influence of the Benacre to Easton Bavents Special Protection Area (SPA). This zone of influence is slightly wider than the standard 13km. This is because the interest features of the SPA include the Little Tern, the population of which is mobile and known to move along the coast, outside of designated European sites, nesting directly on beaches. These can suffer degradation resulting from human activities, in particular from dog walking, with consequential threats to the ability of the protected species to survive. An additional dwelling, in combination with other development in the area, would be likely to have a significant effect on these sites, by reason of the increased recreational pressure which additional residential development places on these sensitive areas.
14. The SPA is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). Regulation 63 imposes a duty on the competent authority, to consider whether any proposal may have a likely significant effect on the site's conservation objectives either alone, or in combination with other plans and projects within the framework of an appropriate assessment (AA). Paragraph 003^[1] of the Planning Practice Guidance (PPG) states that an AA must contain complete, precise and definitive findings and conclusions to ensure that there is no reasonable scientific doubt as to the effects of the proposed plan or project. As the competent authority, the responsibility for undertaking the AA now falls to me.
15. I do not have a mechanism such as a legal agreement before me that would provide for mitigation in relation to the potential adverse effects on the integrity of the Benacre to Easton Bavents SPA. Therefore, in the event that I were to find that there would be harm to Little Tern, without such a mechanism, this would, in itself be sufficient justification for dismissing the appeal. However, as I have found the proposal to be harmful for other substantive reasons, I do not consider this matter further.
16. The appellant considers the proposal would provide a sustainable form of development that would have social benefits through adding to the local housing stock and by support for the occupants of the neighbouring property by the provision of a neighbour. There would be some short-term economic benefit by employment during the construction phase and by support for services by future occupants. Environmentally the appellant considers that the proposal would have minimal impact on the character of the area.
17. While these issues weigh in favour of the proposal, they are of limited benefit given its minor nature and would be insufficient to outweigh the adverse impacts of the proposal, in terms of its suitability with regard to services and facilities resulting in future occupants being reliant on the private motor car. Consequently, no material considerations justify a decision other than in accordance with the development plan and for the reasons set out the appeal must fail.

^[1] Paragraph: 003 Reference ID: 65-003-20190722

Conclusion

18. For the above reasons the appeal is dismissed.

S Tudhope
Inspector