



Appeal Decision

Site visit made on 4 August 2020

by David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 August 2020

Appeal Ref: APP/F3545/W/20/3249164

Fornham Park, Fornham St Genevieve, Suffolk IP28 6TT

- 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 Anthony Cooper-Barney of Exclusive Luxury Lodges Ltd against the decision of West Suffolk Council.
 - The application Ref DC/19/1584/FUL, dated 31 July 2019, was refused by notice dated 9 January 2020.
 - The development proposed is change of use of park land for the siting of 12 additional holiday lodges and associated landscaping, construction of access road, parking spaces, hardstanding bases and associated landscape planting and infrastructure.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are: (1) the effect of the appeal proposal on the character and appearance of the surrounding area, including the likely long-term effect on protected trees; and (2) would the appeal proposal adversely affect protected species?

Reasons

Character and Appearance

3. The appeal site is situated within a mature deciduous tree belt which is a remnant feature at the south-east boundary of the former Fornham Park estate. These remnants of parkland landscapes are characteristic of the host Plateau Estate Farmland Landscape Character Area as defined in the Norfolk and Suffolk Brecks Landscape Character Assessment. Whilst Fornham Park has historical association with the site of the 1183 Battle of Fornham it is not a Registered Park or Garden or a Conservation Area. It is, however, identified in the development plan as part of a locally designated Special Landscape Area (SLA).
4. As set out in the appellant's Landscape and Visual Appraisal (LVA) the parkland landscape and its setting at Fornham Park has been significantly modified. This includes former mineral extractions in and immediately around the Park, the concrete batching plant to the north and the large Waste Water Treatment Works to the south-west. The character of Fornham Park is being further altered by the 52 holiday lodges already approved under Phases 1 and 2 immediately to the north of the appeal site, including where the parkland tree boundary belt is already particularly diluted in places. Accordingly, I do not

- find the historical Fornham Park landscape to be particularly intact or distinctive.
5. Whilst the woodland block at the appeal site remains discernible as a parkland feature and protected under the wider 1962 Tree Protection Order (TPO), it has been extensively managed such that there was no understorey at the time of my site visit. Its manicured condition is broadly consistent with those thin remnants of boundary tree belt at Phases 1 and 2 to the north. Additionally, there is no public access at the appeal location and due to the proximity of the busy B1106 road it is not a particularly tranquil landscape. Accordingly, I find the baseline condition of the appeal site to be no more than moderate in landscape and scenic terms, with little to elevate it above the ordinary.
 6. The proposed holiday lodges would be modest structures that would be readily subsumed in existing gaps within the canopy and density of the woodland block. The appeal proposal would result in the loss of 4 trees covered by the wider Area TPO. Having observed the 4 trees, I find the appellant's Arboricultural Impact Assessment to have appropriately applied the BS5837:2012 methodology in assessing these specimens as being of low value. In the context of the extent of tree cover at the 4.5 hectares appeal site the proposed loss of these 4 specimens would be imperceptible in terms of the parkland landscape and the wider amenity value provided protected trees. The loss of this small number of lower value specimens would be offset by the proposed native landscaping including trees. The overriding parkland tree belt character would remain broadly unaffected.
 7. Given the proposed layout utilises a small glade and other small pockets within the treed area I am not persuaded that there would be a particular pressure to remove additional trees once the appeal proposal was operational. Part of the attractiveness of the appeal location for holiday accommodation would be its sylvan setting. Unlike permanent residential occupation, I do not consider the proximity of the trees would present particular amenity or risk perception issues for future occupiers of the lodges given the proposed adjacent open wildflower meadow area to the west and the transitory nature of the leisure occupation of the lodges respectively.
 8. In respect of the wider landscape and settlement setting of Fornham St Genevieve, the main settlement is predominantly to the south of the B1106 and the roundabout, some distance from the southern edge of the appeal site. There is an extensive triangular area of woodland between the appeal site and the edge of the settlement which would remain unaffected by the appeal proposal. This woodland area would provide an appreciable degree of separation. Due to intervening distances and vegetation there would be no harmful consolidation or amalgamation with development at the Park Farm Business Centre or scattered outlying dwellings. In landscape terms, the appeal proposal, in combination with other developments would neither significantly alter the overriding rural character north of the B1106 roundabout. The appeal proposal includes for additional tree planting as well as areas for a woodland understorey mix close to the site boundary with the B1106. The detail and implementation of this landscaping could be controlled by condition and has the potential to reinforce the treed setting and approach to Fornham St Genevieve from the north.

9. In terms of visual impact, there are few public rights of way in the immediate vicinity of the appeal site nor is there a public footway along the B1106. The Local Planning Authority (LPA) refers to the cycle/foot path through Phase 3 as approved as part of the Phase 2 development. My understanding is that this is a permissive path, principally to connect the holiday lodge development into the Fornhams. As such a good number of users of the route are likely to already perceive the Phase 3 site as part of the wider manicured landscape of the holiday lodge site rather than a separate area of countryside.
10. Whilst the appeal proposal would result in lodges significantly closer to the B1106 compared to the Phase 2 scheme I share the assessment in the appellant's LVA that any views of the lodges would be fleetingly glimpsed through the vegetation from traffic passing at speed on the B1106. To those receptors, and to users of the foot/cycle path, this is a location whose rural character is already altered by the wide sweeping tarmac entrance and imposing modern vehicular gates immediately to the north-east of the appeal site, the nearby entrance features to the Park Farm Business Park and the other holiday lodges closer to the B1106 on Phase 1 to the north.
11. In terms of the visibility of lodges from the B1106 and the internal foot/cycle path, any short-term visual impact, including vehicles and external paraphernalia, would be modest. This would be due to the small-scale nature of the scheme comprising single storey lodges and its distribution within the woodland setting. The visual impact would diminish over time once the proposed landscaping has become established. I also share the view of my colleague in the recent appeal for Phase 2¹, that the timber cladding would suitably weather and assimilate into the sylvan setting further reducing any visual impact.
12. I therefore conclude that the appeal proposal would not have a significantly harmful effect on the character and appearance of the surrounding area, including the likely long-term effect on protected trees. Accordingly, the proposal would not be contrary to Policy CS3 of the St Edmundsbury Core Strategy 2010 and Policies DM2 and DM13 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document 2015 (the DMPD). Collectively, these policies, amongst other things, seek to resist development that would have an unacceptable adverse impact on the character of the landscape and expect development to protect and be sympathetic to the character of the landscape. Policy DM13 is clear that enhancing the character of the landscape is caveated as "where possible". I am satisfied given the wider package of proposals including the landscape masterplan for the wider appeal site that there would be a modest net enhancement over the longer term. Overall, the appeal proposal would accord with the National Planning Policy Framework (NPPF) at paragraph 170 by conserving and enhancing the character and intrinsic beauty of the countryside at the appeal location.

Protected Species

13. Data from the 2016 bat activity survey on land comprising Phases 1 and 2, the initial summary outputs of 2020 survey work at Phase 3², as well as records from the Suffolk Biodiversity Information Service (Table 3.2 of the appellant's

¹ APP/E3525/W/17/3185630

² Provided as part of the appellant's final comments, received 14 August 2020

Ecological Appraisal), show that the appeal site and host location supports numerous bat populations. All species of bats are protected under the Wildlife and Countryside Act 1981 Schedule 5 s9.4b, 9.4c and 9.5a and The Conservation of Habitats and Species Regulations 2017 Schedule 2.

14. The most comprehensive bat evidence at the appeal location is the 2016 report (summer 2015 surveys) which included a southern transect route passing close to the northern boundary of the Phase 3 land. At the time when both the LPA made its decision and the appeal submitted there was no direct bat survey of the appeal site. The initial summary findings from 2020 survey work provided in August 2020 confirm greater numbers of bats on the Phase 3 site in comparison to the Phase 1 and 2 land. The 2020 summary data is not a full report setting out detail such as the location of transect routes. Reference is also made to further outputs being available after survey work in August and September 2020 to provide a complete seasonal picture of bat activity at the site.
15. The 2020 survey work may well be illustrating that circumstances surrounding bat activity and populations at the appeal location have changed since summer 2015. Accordingly, I consider the 2016 report to be of limited applicability. The emerging 2020 data only provides a partial picture. As such I find that baseline survey of bat activity at the appeal site does not yet allow for a reliable assessment of the effects of the appeal proposal within what it is a suitable woodland habitat for bats. Nor does it allow for a suitably robust conclusion that the proposed mitigation measures would be effective for foraging or commuting bats.
16. In assessing the effects, I have some difficulty with the 2020 survey analysis describing the lodges as being positioned within "areas of grassland" when several of the proposed lodges entirely occupy small pockets within the woodland rather than within the main clearing or other appreciably open areas of grassland. This includes the solitary lodge immediately to the south of the access road in the north-east corner of Phase 3 and the three lodges in the south-east corner of the scheme. The appeal proposal, in my assessment, has not avoided locating structures directly within the woodland habitat in contrast to the more open setting assessed for Phase 2. I am concerned that although the direct loss of trees would be small, there would be a residual physical interference into the cohesiveness of the woodland habitat that has been underestimated in the emerging bat survey work.
17. The Ecological Appraisal (July 2019) has identified a small number of trees on the appeal site which may be suitable for roosting bats. There are no emergence or re-entry surveys of these trees and the appellant relies to an appreciable degree on their retention. Nonetheless, some of the proposed lodges are positioned very close to these trees, notably tree T4 (the Oak) identified in the Ecological Appraisal. From the very limited evidence before me I cannot conclude that were there to be roosting bats in Tree T4 that any changes to the sonic and luminescent landscape from the proximity of development and human activity could be adequately mitigated despite the appellant's suggested approach to lighting (using Bat Conservation Trust guidelines) and additional planting and landscape management.
18. I therefore conclude the appeal proposal has the potential to adversely affect protected species and that there is insufficiently complete and up-to-date

evidence to enable a contrary affirmative conclusion including that the proposed mitigation would be effective. The appeal proposal would be therefore contrary to DMPD Policy DM11 which requires development affecting protected species to reduce disturbance to a minimum and maintain the population identified on the site. It would also fail to accord with NPPF paragraph 170 which requires decisions to contribute and enhance the natural environment including minimising impacts on and providing net gains for biodiversity.

Planning Balance and Conclusion

19. I have found that the impact on the landscape character and visual amenity of the appeal location would be minimal in the short term and offset in the longer term by the wider benefits of the proposing landscaping masterplan. The proposal would not adversely affect the setting of Fornham St Genevieve and would be broadly sustainably located relative to Bury St Edmunds in accordance with DMPD Policy DM34. These are factors that weigh moderately in favour of the appeal proposal.
20. Furthermore, NPPF paragraph 80 says that significant weight should be given to the need to support economic growth and NPPF paragraph 83 supports sustainable rural tourism and leisure developments which respect the character of the countryside. Accordingly, I attach significant weight to these economic benefits. The appellant refers to community benefits. I understand the footpath/cycle route through the site was already secured as part of Phase 2 scheme and is largely intended to serve the wider holiday lodge development. Consequently, I attach no weight to the benefit of this path as part of Phase 3.
21. The cumulative benefits identified above are significant, but they would not outweigh the significant environmental harm arising from the considerable uncertainties regarding potential adverse impacts on protected species. The NPPF is clear at paragraph 8 that sustainable development involves securing three interdependent overarching objectives in mutually supportive ways. As such securing a strong economy must go hand in hand with protecting the environment and helping to improve biodiversity. Given the available baseline evidence on bats it is far from clear that would be the case here and so the proposal would not comprise sustainable development. It would be contrary to an up-to-date development plan policy which is most important for determining the proposal. Given the importance and legal status of the protected species, I find the economic benefits and lack of enduring landscape harm would not amount to material considerations that indicate a decision other than in accordance with DMPD Policy DM11 of the development plan. Therefore, planning permission should not be granted for the appeal proposal.
22. Given this conclusion it is therefore not necessary for me to carry out a Habitats Regulations Assessment (HRA) or to take into account the proposed HRA mitigation (the informal path link to the River Lark) as a benefit of the appeal proposal. I have considered all other matters raised but there is nothing that leads me to conclude other than that the appeal be dismissed for the reasons given.

David Spencer

Inspector.