



Appeal Decision

Site visit made on 8 September 2020

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 16 September 2020

Appeal Ref: APP/F3545/W/20/3249902

All Saints Hotel, The Street, Fornham St Genevieve IP28 6JQ

- 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 David Harris of M&D Developments against the decision of West Suffolk Council.
 - The application Ref DC/19/1700/FUL, dated 19 August 2019, was refused by notice dated 7 February 2020.
 - The development proposed is change of use of part of golf course to 37 caravan lodge holiday homes with new access from A1101; construction of access road, parking spaces & associated infrastructure
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the application the proposed number of holiday lodges was reduced by 2 to 35 and the application was determined on that basis.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the site and the surrounding area.

Reasons

4. The appeal site occupies a corner of an existing hotel/spa/golf course between the Mildenhall Road Employment Area, which lies on its south eastern boundary, and Pigeon Lane/Mildenhall Road, to the south west and west. Mildenhall Road is a Class A single carriageway County Road (the A1101), whilst Pigeon Lane, on the golf course frontage is a public right of way in the form of a metalled track bounded by mature hedges and scrub. Further public footpaths cross the golf course. Across Mildenhall Road lies a further area of employment land. Across Pigeon Lane lies arable land.
5. The site lies within the 'valley meadowlands' landscape character typology as defined in the Suffolk Landscape character assessment. It currently contains a large number of trees and it is bounded to the west and south by hedges and scrub planting.
6. The proposal would site 35 lodge style holiday homes within the site with a new access to these from Mildenhall Road, an internal access road, parking spaces and associated infrastructure, including a park for golf buggies.

7. There is no dispute between the parties that the proposal lies outside of any settlement boundary identified within the development plan and therefore lies within land designated countryside in planning policy terms. Policies DM5, DM13 and DM34 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document -2015- (the DMP) together seek, amongst other things, to protect the countryside from unsustainable development whilst supporting development which would contribute to the economic and social vitality of rural communities and preserve the openness, appearance and character of the countryside, particularly where the development is associated with existing facilities. These aspirations are supported by Objective 4 of the Rural Vision 2031 document -2014- (the Rural Vision).
8. Policy CS4 of the St Edmundsbury Core Strategy -2010- (the Core Strategy) seeks to protect the identity of settlements. This aspiration is reflected in the Bury St Edmunds Vision 2031 document -2014.
9. These policies are broadly consistent with the aims of those parts of the National Planning Policy Framework -2019- (the Framework) which seek to support a prosperous rural economy, conserve and enhance the natural environment and promote sustainable transport and so I consider that they carry significant weight.
10. Whilst exhibiting some features typifying the 'valley meadowlands' landscape character typology, the site has been extensively landscaped to form the golf course and the overall character and appearance of the site is parkland/golf course containing many mature trees, in groups and singly.
11. The application was accompanied by an Arboricultural Impact Assessment (AIA) and a Landscape Statement. The AIA identified that the proposal would result in the removal of a significant number of category B and C trees. Whilst these trees are not protected by a Tree Preservation Order, they nonetheless make a significant contribution to the parkland landscape.
12. Whilst generally well screened from the public realm by existing planting, the boundary of the site is relatively open where it fronts onto Mildenhall Road. This affords views into the site across the golf course which provide a rural setting to the settlements of Fornham St Genevieve and Fornham All Saints and separation between these built up areas and Bury St Edmunds.
13. Whilst retaining some of the existing trees, the proposal would remove and replace many within a new landscaping scheme. Further, the proposal would introduce a significant number of holiday lodges into these views.
14. Notwithstanding that the proposed holiday homes would be timber-clad, seeking to better integrate with the rural landscape, the introduction of the holiday homes would introduce a significant urbanising built form in the foreground of views across from Mildenhall Road, closing the visual gap between the employment land and existing development fronting Pigeon Lane. The loss of many of the existing mature trees would be very noticeable in the landscape and this would increase the perception of urbanisation of the site.
15. Replacement planting is proposed, including native species and rough grassland. Whilst such planting could be provided by planning condition, I am not satisfied that such measures would, of themselves, be adequate to mitigate

- the harm identified, as new planting would take time to establish itself and, even with the passage of time the matter of urbanisation and coalescence of development would not be addressed.
16. I note that housing development has been permitted across Mildenhall Road, further extending the built-up area. Given this, the separation provided by the site between the existing settlements and which provides a rural buffer has greater significance.
17. The site lies just outside the Fornham All Saints Conservation Area, which, in this location, provides a rural setting of the village of Fornham All Saints and its historic core. The site would be encompassed within limited views including the more urban development adjacent to it on Pigeon Lane and so, in context, the proposal would not result in harm to the setting of the CA. I note that this was also the conclusion of the Council.
18. I therefore find that the proposal would result in unacceptable harm to the character and appearance of the site and the surrounding area. The proposal would, therefore, be contrary to Policies DM2, DM13, DM34 of the DMP and Policy CS4 of the Core Strategy in as much as these seek to protect the intrinsic character and beauty of the countryside and prevent the coalescence of settlements. For similar reasons the proposal would also be contrary to the aims of Objective 4 of the Rural Vision.
19. The proposal would also be contrary to the aims of paragraphs 127 and 170 of the Framework which, amongst other things, seek to ensure that development is sympathetic to local character, including the surrounding built environment and landscape setting and should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Other Matters

20. The Scheduled Ancient Monument (SAM) 'Sites NW and SE of Fornham all Saints' associated with the Fornham St Genevieve battle of 1173 lies near to the application site. On the basis of the evidence before me I am satisfied that, were I minded to allow this appeal, any adverse effect upon the SAM and archaeology could be addressed by a suitably worded planning condition requiring investigation prior to the commencement of development.
21. The site is located within the Impact Risk Zones for the Breckland Special Protection Area, the Breckland Farmland Site of Special Scientific Interest and the Breckland Forest Site of Special Scientific Interest (the Habitats Sites), which are European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). The appellants have proposed the provision of mitigation to address the effects of the proposal on the Habitats Sites and the Council considers that these could be provided by imposition of a suitably worded planning condition.
22. 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

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

responsibility now falls to me within this appeal. Such an assessment is necessary regardless of the status of the policies of the development plan.

23. 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.
24. My attention has been drawn to an appeal decision² which the appellants consider has similarities to the case before me. However, this development is not within the immediate vicinity of the proposal and is not part of the site context of the appeal scheme. I have, in any case, determined this appeal on its own merits.
25. Many letters of support have been received for the proposal, however local support does not necessarily indicate the acceptability of the proposal in planning terms and I also note that a similar number of objections to the proposal were made.

Planning Balance

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material planning considerations indicate otherwise.
27. The development plan pre-dates the current Framework and so policies within it should be assessed and given weight in terms of their consistency with the aims of the Framework. I have identified that the policies within the development plan which I consider most relevant are broadly consistent with the aims and policies set out in the Framework and so significant weight can be applied to them.
28. The application would supplement and increase the range of accommodation within the hotel grounds. The proposal would, therefore, provide economic and social benefits, both in the shorter term within the construction industry, and in the longer term through increased support for local shops and businesses, including the hotel/spa/golf course complex, with increased employment and economic activity. Given the scale of the proposal these are benefits that would accrue from development to which I attribute moderate weight.
29. However, I have identified that the proposal would be contrary to the development plan and result in unacceptable harm to the character and appearance of the site and the surrounding area.
30. Whilst the issue of the effect of the site on Habitats Sites remains unresolved the effects could only be, at best, neutral in my considerations.

² App/E3525/W//17/3185630

31. In conclusion the identified harm would significantly and demonstrably outweigh the benefits provided by the scheme when assessed against the policies in the Framework taken as a whole.

Conclusion

32. For the reasons given above the appeal is dismissed.

I Dyer

INSPECTOR