



Appeal Decision

Site visit made on 20 August 2020

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2020

Appeal Ref: APP/X3540/W/20/3251113

Bridge Cottage (proposed), Little Beck Farm, Becks Green, Ilketshall St Andrew, Suffolk NR34 8NB

- 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 Adrian Sampson against the decision of East Suffolk Council.
 - The application Ref DC/19/2784/FUL, dated 10 July 2019, was refused by notice dated 18 October 2019.
 - The development proposed is new dwelling to replace boatshed (Class B1C) with a full back change of use B1C to C3.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address of the appeal site is set out in slightly different ways on the application form, appeal form and the Council's decision notice. I have used the address from the application form as this accurately describes the location of the proposed development.
3. The description of development in the banner heading above is that used on both the appeal form and the Council's decision notice. I have used this description as the description on the application form references 'A3' rather than 'C3'. It is clear from the evidence that this is an error and that a change of use to C3 (dwelling) is correct.
4. The appellant has indicated his willingness to make amendments to the appeal scheme, including by reducing the size of the proposed curtilage and by altering the design, including the overall size of the proposed dwelling, in order for the scheme to be deemed acceptable if necessary. He has suggested that amendments could be agreed by way of the imposition of conditions on a grant of planning permission. However, I am mindful that the appeal process should not be used to evolve a scheme to overcome the Council's reasons for refusal and instead a fresh planning application should usually be made.
5. Whilst, in certain circumstances, a proposal can be amended through revised plans during an appeal in line with the Wheatcroft principles¹, no amended plans have been provided. It is my view in this case that the appeal must be determined on the basis of the plans as originally submitted to the Council and upon which it based its decision. To do otherwise could prejudice the interests

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

of the Council, interested third parties and consultees. I have therefore proceeded to determine the appeal on the basis of the plans as originally submitted.

Main Issues

6. The main issues are whether the proposal would be an appropriate form of development in this location, with particular regard to whether it would provide satisfactory access to services and facilities and its effect on the character and appearance of the site and the surrounding area.

Reasons

7. 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; however, the appeal scheme does not meet the criteria for development supported by that policy. No other policy that supports residential development on the appeal site has been drawn to my attention.
8. In essence, LP Policies WLP1.2 and WLP8.7, 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.
9. The appeal site is situated to the east of an area of designated employment land, Becks Green Business Centre, and is within quite close proximity to a small number of residential properties. Given this grouping the proposed dwelling would not be truly isolated and paragraph 79 of the National Planning Policy Framework is not engaged in this instance. However, there are very few services within the nearby villages that would satisfy the day to day needs of future occupiers of the proposed development. They would need to travel further afield to settlements such as Halesworth, Bungay and Beccles to access a full range of services, facilities and employment opportunities.
10. Although I am advised that there are buses available connecting Bungay and Halesworth to the higher order settlements of Norwich and Ipswich, I have no evidence that the site itself would be served by reasonably accessible public transport. In addition, the surrounding roads are narrow, unlit and without footpaths. Accordingly, the opportunities to walk or cycle to access services and facilities would be neither convenient nor realistic. Future occupiers would, therefore, be very likely to be heavily reliant on private motorised transport to access services and facilities. Whilst dependence on private vehicles may be expected in rural locations, and future occupiers would be in the same situation as occupiers of nearby existing dwellings, the proposal would only exacerbate this level of reliance.

11. I therefore conclude that the proposal would not be an appropriate form of development in this location, in respect of satisfactory access to services and facilities. Thus, it would conflict with LP Policies WLP1.1, WLP1.2, WLP7.1 and WLP8.7, which together and amongst other matters, seek to ensure that developments are to be located where there is adequate access to services and facilities.

Character and appearance

12. The appeal site is the southern section of a larger parcel of land which is mainly set to grass and is bordered by a mix of semi-mature and mature trees and bushes. A public footpath runs outside the southern boundary of the site. There is an existing building on the site known as 'the boatshed' which would be demolished as part of the appeal proposal. This building has extant planning permission² under Class PA of Schedule 2 of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter the GPDO) for a change of use from Class B1(c) (light industrial) to Class C3 (dwellinghouses). It also has planning permission³ to carry out alterations to enable the conversion for the change of use. This includes change of use of an area of the surrounding land to residential curtilage. The appellant considers this to be a fallback position by which to justify the appeal scheme. I will return to this matter later in my decision.
13. The site is accessed by passing through the adjacent employment land and then via an existing track, that runs past a small pond leading to a bridge over a beck. In front of the boatshed and forming part of the area of the siting for the proposed dwelling, is a rectangular area of roughly surfaced ground, which currently appears to be used for parking of vehicles in conjunction with the boatshed. It is referred to in the appeal documents as a disused tennis court, but I have no other information in this respect.
14. The proposal would see the erection of a single storey dwelling and a double bay car port with enclosed storage area. There would be a significant increase in built form within this parcel of land, despite the removal of the boatshed. This, along with the associated domestic paraphernalia and activity at the site and the subdivision of the wider parcel of land by the proposed dwelling's necessary new boundary treatment, would fundamentally alter the character and appearance of the site.
15. Whilst the visual effect would be localised it would nevertheless amount to significant domestication of the appeal site as a whole. This would be to the detriment of the character and appearance of the site and the surrounding area.
16. Thus, the proposal would conflict with LP Policies WLP8.29 and WLP8.35 which together and amongst other matters, seeks high quality design, that protects, and where possible, enhances the special qualities and local distinctiveness of the area.

Other Matters

17. Little Beck Farmhouse to the west of the site is a Grade II listed building. Given the separation distance, intervening landscaping and screening, I consider that

² East Suffolk Council reference DC/18/2274/PN3

³ East Suffolk Council reference DC/19/4524/FUL

the appeal scheme would have a neutral material impact on the setting of the listed building. The setting would therefore be preserved.

18. The parties are in disagreement whether or not pre-application advice was sought from or provided by the Council. However, any such advice is not binding on the Council and would not therefore alter my conclusions on the main issues.

Fallback Position

19. I note that the Council, despite having granted permission for alterations to the boatshed to enable its conversion for its permitted change of use from Class B1(c) to C3, do not consider this a likely fallback position due to the quality of the building. In my view, and in line with case law⁴, I consider that there is a real prospect that that development could take place. There is extant permission that allows for the change of use and conversion of the boatshed to a dwelling, and it appears possible that the development could be completed within its required timeframe. While the appellant has expressed a preference for the appeal proposal, there nevertheless would appear to be a realistic prospect of the fallback scheme being undertaken if the appeal is dismissed. It is therefore an important material consideration.
20. Consequently, whether the appeal succeeds or fails, there could reasonably be a dwelling on the appeal site and thus the presence of the converted building, a curtilage and associated domestic paraphernalia. Whilst some of this carries weight in the context of the effect of the appeal scheme on the character and appearance of the site and the surrounding area, the fallback scheme would see the reuse of an existing building; the result of which would be a dwelling smaller in footprint and lower in height than the appeal proposal. The boatshed occupies a less prominent position in the site, nearer to the western boundary, and no outbuildings have been proposed.
21. In addition, the size of the curtilage of the appeal scheme would be significantly larger than that allowed under Class PA of the GPDO and potentially larger than that permitted under the planning permission granted for the alterations to the building. Although I have not been provided with that information, the appellant has stated that he could reduce the size of the curtilage proposed in the appeal scheme, as he has already done under the extant permission. This indicates that the appeal scheme curtilage is larger than that of the fallback scheme.
22. For these reasons I consider that the fallback scheme would be fundamentally different to the appeal scheme, which would lead to the harm I have described in my comments on the main issues. I acknowledge that future occupiers of the fallback position would need to travel to access services and facilities and therefore the situation would be similar, in this respect, if the appeal scheme were to be allowed. Nevertheless, with all of the above factors in mind, the weight I give to the fallback position is modest, such that it does not justify the appeal scheme as an acceptable alternative.

Habitats

23. The Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) requires a financial contribution from new housing development within

⁴ Mansell v Tonbridge and Malling BC & others [2017] EWCA Civ 1314 &

a defined 13km zone of influence around designated European habitats, in order to provide mitigation measures against increased recreational pressure. The site is within such a zone of influence. The Council advise that the contribution has not been made. However, the appellant indicates in his final comments that he has made the payment to Suffolk Coast RAMS during the course of the appeal process.

24. Notwithstanding this assertion, I have no substantive evidence to this effect, and I note that the Council's appeal statement RAMS explanatory note states that the contribution can be made by way of either a Section 106 obligation, a unilateral undertaking or a S111 upfront payment. I cannot therefore be certain that the payment will provide for mitigation as intended. Given that I have found the proposal to be harmful for other substantive reasons there is no need for me to consider this matter any further.

Planning Balance

25. The appellant has suggested that the dwelling would be for the new owner of the adjacent employment site, allowing them to have greater control over the whole site for running of its business use and for security. However, no substantive evidence has been provided to demonstrate that a dwelling in this location is essential for those purposes. This matter is therefore neutral in the planning balance.
26. The appellant considers the proposal would provide a sustainable form of development benefiting from a low pitch roof, solar energy panels, battery storage, a high degree of insulation, rainwater harvesting and a ground/air source heat pump. It would also endure the passing of time much longer than the fallback scheme. 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 conflicts with the development plan.

Conclusion

27. There are no material considerations that indicate that the proposal should be determined other than in accordance with the development plan. I therefore conclude that the proposal would not be an acceptable form of development in this location.
28. For the above reasons the appeal is dismissed.

S Tudhope
Inspector