
Appeal Decision

Site visit made on 4 August 2020

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th December 2020

Appeal Ref: APP/X3540/W/20/3249337

The Oaks, Playford Lane, Rushmere St Andrew IP5 1DW

- 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 John Wright against the decision of East Suffolk Council.
 - The application Ref DC/19/4851/OUT, dated 21 November 2019, was refused by notice dated 24 February 2020.
 - The development proposed is demolition of existing bungalow and erection of three new dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Outline planning permission is sought with all matters reserved. I have taken the submitted drawings to be illustrative.
3. The Suffolk Coastal Local Plan (LP) was adopted in September 2020. The Council's appeal statement lists the LP policies it considers to be relevant. Nevertheless, both main parties have been provided with an opportunity to comment on the implications of the LP's adoption. I have determined the appeal based on the development plan which is currently in place.
4. The parties have indicated that the development would have likely significant effects on European sites as designated by the Conservation of Habitats and Species Regulations 2017. The appellant made a payment to the Council during the appeal, which is intended to mitigate the effects.

Main Issue

5. The main issue is whether the proposal would be in an appropriate location, with particular regard to the spatial strategy in the development plan and the character and appearance of the area.

Reasons

6. The appeal site consists of a chalet bungalow with roof dormers that is set within a large garden at The Oaks. Another residential property named Jusalda, which features a single storey bungalow, is adjacent. The site is accessed from Playford Lane, which connects to the village of Rushmere St Andrew in one direction and a bridleway and allotments in the other.

7. Rushmere St Andrew is categorised as a Small Village by LP Policy SCLP3.2. The Oaks and Jusalda are near to but outside the settlement boundary and are thus in the countryside. LP Policy SCLP3.3 explains that proposals for housing outside settlement boundaries will be carefully managed in accordance with national planning policy guidance and the strategy for the countryside. It also says that such proposals will not be permitted except where specific policies indicate otherwise. LP Policy SCLP5.3 provides the circumstances in which housing in the countryside will be supported. One scenario is where a proposal accords with LP Policy SCLP5.4, which supports new housing in clusters in the countryside. The appellant contends that this is the case for this scheme. It has not been put forward that the proposal would comply with the spatial strategy in other respects.
8. The supporting text to LP Policy SCLP5.4 explains that clusters include those settlements that do not have the range or amount of facilities to be classed as a Major Centre, Town, Large Village or Small Village. The properties within Rushmere St Andrew therefore do not form part of a cluster in the countryside.
9. Playford Lane transitions in character away from Rushmere St Andrew as the number of properties reduce and the prominence of the undeveloped land surrounding the settlement increases along it, with Jusalda opposite a field. The nearest properties within the settlement are located on the other side of the lane to a very limited part of Jusalda's garden. The Oaks is situated beyond Jusalda and is otherwise surrounded by undeveloped land, with vegetation along the lane restricting intervisibility between it and the settlement. The site feels disconnected from the settlement despite their proximity. The illustrative site plan suggests that 3 detached dwellings could be provided within the site, with 2 further from the settlement than the existing dwelling.
10. Consequently, even if the properties within the settlement were included in a cluster with Jusalda and The Oaks, together they would not comprise a continuous line of existing dwellings or a close group of existing dwellings adjacent to the highway. The proposal thus conflicts with LP Policy SCLP5.4 criterion a). Moreover, it would not be in a clearly identifiable gap within an existing cluster, consist of infilling within a continuous built up frontage or be otherwise located adjacent to existing development on 2 sides. Instead, it would represent the extension of a built up area into the countryside beyond the existing extent of the built up area surrounding the site. Whilst outbuildings could be erected at The Oaks further from the settlement than the dwelling, they would not be comparable to new properties further along the lane. An alternate layout would not address all the concerns raised. The proposal thus conflicts with LP Policy SCLP5.4 criteria b) and c).
11. The Council raises no objection to the demolition of the existing dwelling. The illustrative site plan indicates that much of the vegetation enclosing the site could be retained. It suggests that gaps would be made in the hedge beside the lane in order to provide vehicular accesses to the proposed dwellings; however, the views created would be highly localised. Furthermore, the appellant suggests that the existing access could be retained for use for all 3 dwellings, with internal drives screened by vegetation. It is also advanced that single storey dwellings could come forward. The visibility of the development from the lane would be similar to that of the existing dwelling in such a scenario. Therefore, although the proposal would intensify development of the site, there would not be harm to the character and appearance of the area.

12. Glimpses of the upper parts of the dwellings may be seen above the vegetation at points along the public footpath to the south-east; however, Jusalda and some of the other properties in Playford Lane would also occupy these views. The proposed dwellings would not appear incongruous in the wider landscape as a result. In addition, a sensitively designed development could come forward which reflects its location along a lane in the countryside.
13. The lane is narrow and features no footpaths or street lighting. However, there are verges in places along it which provide opportunities for motor vehicles and cyclists or pedestrians to pass side-by-side. There is good forward visibility along the lane and vehicles are likely to travel slowly along it. The characteristics of the lane are unlikely to disincentivise the occupiers of the proposed dwellings from walking or cycling along it to Rushmere St Andrew. Whilst services and facilities in the immediate area appear limited, there is a reasonable prospect that the occupiers would walk or cycle to Ipswich on occasion given the distance and the presence of footpaths en route to it. The site is also close to a bus stop, albeit detailed information regarding the service times and destinations has not been provided.
14. In conclusion, the proposal would not have a harmful effect on the character and appearance of the area or lack accessibility to services, facilities or sustainable transport options. Nonetheless, the proposal would not be in an appropriate location as it would be at odds with and harmfully undermine the integrity of the spatial strategy, in conflict with LP Policies SCLP3.3, SCLP5.3 and SCLP5.4.

Other Matters

15. The site is not isolated having regard to the Braintree¹ judgement and its proximity to the settlement. Therefore, the proposal does not conflict with paragraph 79 of the Framework.
16. The occupiers would be able to contribute to the vitality of Rushmere St Andrew in accordance with paragraph 78 of the Framework. However, the benefits in this respect would be limited given the small amount of housing proposed. There would also be limited benefits associated with the construction of the development. In addition, the proposal would make a small contribution to housing supply and I recognise that small sites can make an important contribution to meeting the housing requirements of an area. However, compelling evidence has not been provided which indicates that the Council is failing to meet its housing requirement since the adoption of the LP.
17. The appellant contends that the proposal would make efficient and effective use of the land; however, I do not consider this would be the case given the harm identified. In addition, the appellant has indicated that a passing place could be created in Playford Lane using part of the site's frontage. Whilst this may improve accessibility along the lane, it would likely come at the expense of the hedge and the character and appearance of the area. The passing place would not result in a net benefit as a result.
18. If I were minded to grant planning permission, I would need to be satisfied that the proposal would have no adverse effects on the integrity of European sites.

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin), [2018] EWCA Civ 610.

However, even if the effects were not adverse, this would constitute a neutral matter rather than a benefit indicating in favour of the proposal.

Planning Balance and Conclusion

19. The development plan and the spatial strategy are up to date. The conflict with the strategy is a matter of considerable weight indicating against the proposal. There is nothing compelling before me which demonstrates that this matter should attract reduced weight. Furthermore, substantive evidence has not been provided which indicates that paragraph 11d) of the Framework is relevant following the adoption of the LP.
20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission is determined in accordance with the development plan, unless material considerations indicate otherwise. Furthermore, paragraph 12 of the Framework says that where a planning application conflicts with an up to date development plan, permission should not usually be granted.
21. I conclude that the proposal is contrary to the development plan taken as a whole. Whilst there are benefits indicating in favour of the development, material considerations do not outweigh the conflict with the development plan. I have not therefore considered the effect of the proposal on European sites, as this would not alter my findings.
22. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

Mark Philpott

INSPECTOR