
Appeal Decision

Site visit made on 22 September 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/20/3252328

Kersey Croft Kennels, Strugglers Lane, Winesham IP6 9HS

- 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 M Barnasuik against the decision of East Suffolk Council.
 - The application Ref DC/20/0107/OUT, dated 8 January 2020, was refused by notice dated 5 March 2020.
 - The development proposed is 3 new dwellings to replace existing kennel buildings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Outline planning permission is sought with all matters reserved. I have thus considered the drawings on an illustrative basis.
3. The Suffolk Coastal Local Plan (LP) was adopted on 23 September 2020. The Council's appeal statement lists the LP policies it considers to be relevant. Notwithstanding this, both main parties have had an opportunity to comment on the implications of the LP to the appeal. In accordance with planning law, I have considered the appeal based on the current development plan.
4. The evidence indicates that the development would have likely significant effects on European sites as designated by the Conservation of Habitats and Species Regulations 2017. The appellant has made a payment to the Council during the appeal, which seeks 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 accessibility to services, facilities and sustainable transport options.

Reasons

6. The site constitutes land and former kennel accommodation at Kersey Croft Kennels. The site is accessed via Strugglers Lane, which leads to a junction with The Street.
7. The site is located outside the settlement boundaries of Winesham (Bridge) and Winesham (Chapel) as shown on the LP Policies Map and thus it is within the countryside for the purposes of planning policy. LP Policy SCLP3.3 sets out that residential development 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 development will not be permitted except where specific policies indicate otherwise. LP Policy SCLP5.3 sets out the circumstances in which new residential development will be supported in the countryside. This includes where development complies with LP Policy SCLP5.4, which permits housing in clusters subject to criteria being addressed. The appellant puts forward that the proposal would accord with LP Policy SCLP5.4.

8. The Council states that the site is close to 5 residential properties which are outside the settlement boundary and the proposal may accord with criterion a) of LP Policy SCLP5.4. However, the properties are accessed from both Strugglers Lane and The Street and there is a very limited sense of connectivity between the site and the properties along the latter road. The site is located along a lane which does not have a built up frontage except for that at the adjacent property at Long Acre. It does not occupy a clear space or opening within a cluster. Consequently, the proposal would not constitute infilling within a continuous built up frontage or be in a clearly identifiable gap within an existing cluster for the purposes of criterion b) of LP Policy SCLP5.4.
9. In addition, when I visited the rectangular structure shown on the drawings as adjacent to one of the site's boundaries had been removed and the land grassed over. In the absence of substantive evidence indicating otherwise, I cannot conclude there would be existing development adjacent to the site that extends along the entirety of that boundary. Moreover, it has not been suggested that there is development adjacent to the south-eastern boundary of the site, where the land is similarly grassed over. LP Policy SCLP5.4 criterion b) supports development which is adjacent to existing development on 2 of its sides; however, the policy's supporting text explains that adjacent development must extend along the entirety of the site. It has thus not been demonstrated that the proposal would comply with criterion b) of the policy.
10. Furthermore, the illustrative drawings show that the development would be located beyond the dwellings at Kersey Croft and Long Acre, further along the lane and away from the settlement. The proposal would therefore represent an extension to the built up area into the surrounding countryside beyond the existing extent of the built up area adjacent to the site in conflict with LP Policy SCLP5.4 criterion c). The appellant contends that this criterion would be satisfied as the site has buildings on it and is previously developed land; however, the criterion refers to development in relation to a site's surroundings. Even taking the features of the site into consideration, built up areas are not synonymous with previously developed land and the grassed area between Shed 1 and Strugglers Lane is not a built up area. The development indicatively occupying that space would make it so.
11. Based on the evidence before me, I am not satisfied that an alternate layout would be able to address the issues identified. I acknowledge that there is an allocated housing site nearby, however, the issues identified would remain even if development at that site was forthcoming.
12. The scale of the development would not be disproportionate to the size of Witnesham. In addition, given the screening around the site, a scheme could come forward which does not cause undue harm to the character and appearance of the cluster or the wider landscape. Moreover, the Council did not object to the proposal on such grounds. The proposal would thus comply with

criterion d) of LP Policy SCLP5.4. However, the policy requires all its criteria to be satisfied and therefore the proposal nevertheless conflicts with it. It has not been advanced that the proposal accords with the spatial strategy in other respects. I therefore also find that the proposal conflicts with LP Policies SCLP3.3 and SCLP5.3.

13. Strugglers Lane is narrow and lacks a footpath and street lighting along it. While it is a small distance to The Street, which is wider and has a footpath on one of its sides, there is little space for motor vehicles to pass pedestrians or cyclists in the lane. Moreover, the verges beside the lane bank up steeply near to the junction, such that there would be no practicable refuge for pedestrians or cyclists to wait for vehicles to pass. I recognise that the evidence indicates that there have not been highway incidents in Strugglers Lane in the past 20 years; however, the characteristics of the lane are nonetheless likely to disincentivise the future occupiers from walking or cycling to Witnesham. Consequently, the site is not directly comparable with properties in the settlement in terms of accessibility.
14. Although Witnesham is categorised as a Small Village by LP Policy SCLP3.2, there are a limited number of services and facilities within walking distance. Whilst some of the occupiers may choose to cycle to services and facilities in the wider area on occasions, it is highly unlikely that small children would cycle to the primary school in Witnesham (Chapel). There are bus stops nearby; however, detailed information regarding the service times and destinations has not been provided.
15. It is likely that the occupiers of the proposed properties would be reliant on private motor vehicles to meet the requirements of day-to-day living. However, I consider that there is still some prospect that trips would be made by sustainable modes of transport. Electric vehicle charging points are proposed, which may incentivise the take up of electric vehicles by the future occupiers and temper the impacts arising from the dependency on private motor vehicles to a limited extent. I also recognise that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. On balance, the accessibility of the site does not indicate against the development.
16. In conclusion, the proposal conflicts with and harmfully undermines the integrity of the spatial strategy by locating housing in the countryside. The proposal is contrary to LP Policies SCLP3.3, SCLP5.3 and SCLP5.4.

Other Matters

17. The occupiers would be able to support the local community and services in nearby settlements in accordance with paragraph 78 of the Framework, even if they are likely to rely on private motor vehicles to do so in many cases. However, the benefits in this respect would be limited given the amount of housing proposed.
18. The proposal would not result in isolated housing because the properties would be near to the settlement. There would thus be no conflict with paragraph 79 of the Framework.
19. The appellant has put forward that the reuse of the kennels would be detrimental to living conditions of occupiers of the surroundings properties and that the proposed development would be more compatible with its

surroundings. It is clear that the buildings are underutilised. Although the site is not within a settlement and the extent to which the site is previously developed is contested between the parties, I nonetheless consider that significant weight should be attached to the proposed use of the site for housing. There would also be some small scale benefits from the construction of the development. The proposal would also provide a small benefit through increasing housing supply, albeit I have no reason to conclude that the Council is not meeting its housing requirements now that the LP has been adopted.

20. If I were to conclude that there would be no adverse effect on European sites, this would constitute a neutral consideration rather than a benefit weighing in favour of the proposal.

Planning Balance and Conclusion

21. I recognise that there would be notable benefits arising from the proposal as set out above. However, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Furthermore, paragraph 12 of the Framework says that where a proposal conflicts with an up to date development plan, permission should not usually be granted.
22. The LP is up to date and thus so too is the spatial strategy. Accordingly, the conflict with the spatial strategy is a matter of considerable weight against the appeal scheme. Moreover, compelling evidence has not been provided to demonstrate the spatial strategy should be afforded reduced weight or that Paragraph 11d) of the Framework is relevant following the adoption of the LP.
23. The proposal is contrary to the development plan taken as a whole. I do not consider that material considerations outweigh the proposal's conflict with the development plan. I have not therefore considered the effect of the proposal on European sites, as this would not have any bearing on my decision.
24. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

Mark Philpott

INSPECTOR