The Planning Inspectorate

Appeal Decision

Site visit made on 24 September 2020

by Martin H Seddon BSc MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2021

Appeal Ref: APP/X3540/W/20/3252717
Whitearch Park, Main Road, Benhall IP17 1NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr M Rowe against the decision of East Suffolk Council.
- The application Ref DC/18/3932/ROC, dated 13 August 2018, was refused by notice dated 25 February 2020.
- The application sought planning permission for a change of use from touring caravan park with permission for 21 residential units to holiday/residential village with 18 additional units, with improved access and entrance wall, without complying with conditions attached to planning permission Ref C/12/2521, dated 15 November 2013.
- The conditions in dispute are Nos.7 & 8 which state that:
  Condition No.7: "The Units numbered 12-17 on the approved plans shall be used for holiday letting accommodation and for no other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987). The duration of occupation by any one person, or persons, of any of the holiday units shall not exceed a period of 56 days in total in any one calendar year, unless the Local Planning Authority agrees in writing to any variation. The owners/operators of the holiday units hereby permitted shall maintain an up-to-date Register of all lettings, which shall include the names and addresses of all those persons occupying the units during each individual letting. The said Register shall be made available at all reasonable times to the Local Planning Authority.
  Condition No.8: "The Units numbered 1 - 11 on the approved plans, shall be used for holiday accommodation and for no other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987). The duration of occupation by any one person, or persons, of any of the holiday units shall not exceed a period of 10.5 months in total in any one calendar year and shall be vacant between 6th January and 14th February each year, unless the Local Planning Authority agrees in writing to any variation. The owners/operators of the holiday units hereby permitted shall maintain an up-to-date Register of all lettings, which shall include the names and addresses of all those persons occupying the units during each individual letting. The said Register shall be made available at all reasonable times to the Local Planning Authority".
- The reason given for both the conditions is: "To ensure that the development is occupied only as bona-fide holiday accommodation, having regard to the tourism objectives of the Local Plan and the fact that the site is outside any area where planning permission would normally be forthcoming for permanent residential development".

Decision

1. The appeal is dismissed.

Preliminary Matter

2. There are two parts to the Local Plan in East Suffolk: the Suffolk Coastal Local Plan and the Waveney Local Plan. The Suffolk Coastal Local Plan (2020) was adopted on 23 September 2020. The Council referred to several policies from its Development Management Policies Development Plan Document (2013) in its decision notice. The Suffolk Coastal Local Plan (2020) supersedes the Development Management Policies Document. I have determined this appeal on the basis of policies in the adopted Local Plan. The Council and the appellant have been given the opportunity to comment on relevant policies in the adopted Local Plan.

Main Issues

3. The main issues are:

- whether the proposal in this location would result in a sustainable form of development having regard to the spatial strategy in the development plan, access to services, facilities, and sustainable transport options;
- whether the holiday lets are no longer viable and whether the loss of tourist accommodation would be acceptable, and
- the effect on the living conditions of future occupants of the proposed units in respect of privacy and amenity space.

Reasons

Whether sustainable development having regard to the spatial strategy and access to services and facilities

4. The appeal site is a caravan park containing a number of lodges. It is located in the open countryside next to the junction of the A12 with the B1121 (Main Road) and outside the settlement boundary for the nearest village of Benhall. Accordingly, it is within the countryside for the purposes of planning policy. The lodges subject to this appeal have not all been constructed. Effectively, the proposal would enable the proposed units to be used for residential purposes, rather than as holiday lets.

5. Policy SCLP5.16 of the Suffolk Coastal Local Plan advises that the principle of development of permanent residential caravans and mobile homes will be considered under relevant policies for housing.

6. Policy SCLP3.3 indicates that proposals for new residential development outside settlement boundaries and outside land allocated for development will be carefully managed in accordance with national planning policy and the strategy for the countryside. It also indicates that such development will not be permitted in the countryside except where specific policies indicate otherwise.

7. The appeal site is outside a settlement boundary and is not allocated for residential use in the Local Plan. Furthermore, it is within the countryside where development is generally restrained.

8. Policy SCLP5.3 relates to housing development in the countryside and indicates the circumstances in which new residential development in the countryside will be supported. The appeal proposal does not constitute development which would meet any of these circumstances. Having regard to the above therefore,

the proposal would fail to accord with policies SCLP5.16, SCLP3.3 and SCLP5.3 of the Suffolk Coastal Local Plan.

9. The appellant indicates that the Council granted permission for 9 houses on adjacent land in the vicinity of the appeal site and suggests that this is a material consideration in this appeal. The appellant suggests that in granting planning permission the Council must have concluded that the locality is in a sustainable location. This appears to be a reasonable assumption having regard to the particular circumstances of that site because it was next to the settlement boundary for Benhall and identified for housing in the draft version of the Site Allocations and Area Specific Policies Development Plan Document when granted outline planning permission. The appeal site differs as it is separated from the settlement boundary for Benhall by a railway line and is not allocated for housing in the Local Plan or any draft plan.

10. The appellant has also drawn my attention to the Local Plan housing allocation at land south of Forge Close between Main Road and Ayden, Benhall. The allocation is located between the appeal site and the edge of development at Benhall and separated by the railway line.

11. The accompanying text to the allocation advises that Benhall is identified as a Small Village in the settlement hierarchy, having a range of facilities including a primary school, convenience store and village hall. It adds that the allocation is located close to the A12, and "some additional development within the village will therefore help to support the Local Plan strategy which recognises the A12 corridor as a focus for growth". The allocation is for 50 houses and will provide a significant amount of residential development for Benhall as a Small Village. The appeal site differs as it is neither a new housing allocation, nor small group of new housing and infill within a settlement boundary, as required by the settlement hierarchy for Small Villages in the Local Plan.

12. There is a footway along Main Road from the appeal site which gives access to the centre of Benhall. There are bus stops around 225 m from the site which has services to the surrounding towns and railway stations. These include Saxmundham, which is only around a distance of 2 km away. Accordingly, the appeal site has a reasonable degree of access to local services, facilities, and public transport options and this does not indicate against the development.

13. The occupants of the lodges, be they tourists or residents, would help sustain the viability of existing services and facilities in Benhall and Saxmundham as the nearest town. Therefore, any social and economic benefits would be limited in this respect.

14. In conclusion, the proposal would by locating housing in the countryside conflict with and harmfully undermine the integrity of the spatial strategy of the development plan. As such it would not result in a sustainable form of development. It fails to accord with policies SCLP5.16, SCLP3.3 and SCLP5.3 of the Suffolk Coastal Local Plan. It also conflicts with policies in the National Planning Policy Framework (the Framework) for residential development in the countryside.

Whether the holiday lets are no longer viable

15. Local Plan policy SCLP6.6 indicates that existing tourist accommodation will be protected. Change of use will only be considered in exceptional circumstances

where it can be fully and satisfactorily demonstrated that there is no current or future demand for the tourist accommodation. The policy adds that marketing evidence must be provided which demonstrates the premises have been marketed for a sustained period of a minimum of 12 months in accordance with the requirements set out in the Commercial Property Marketing information which is set out in Appendix E of the Local Plan.

16. No marketing evidence has been submitted to demonstrate that exceptional circumstances exist. I find no evidence that the holiday lets are no longer viable, or that there is no current or future demand. Accordingly, the loss of tourist accommodation would be unacceptable. The proposal therefore conflicts with the requirements of Local Plan policy SCLP6.6.

Effect on living conditions

17. The appellant advises that the siting of the units would comply with, and in some instances exceed the spacing requirements for permanent residential caravans. Reference is made by the appellant to *Model Standards for Caravan Sites in England 2008 – Section 5*. No quantitative data to allow comparison with the standards has been submitted with the appeal. However, the units would be well spaced and located in a pleasant position close to a lake and could be constructed in a way to avoid opposing windows and any potential privacy problems through overlooking between units. I note that the Council allowed the variation of condition No.2 of permission ref: C/12/2521 to enable any of the units at the site to meet the definition of a caravan rather than being restricted to particular specification of cabin. Overall, I consider there would be no conflict with development plan policies which seek to protect the amenities of occupants of residential units.

Other Matters

18. The appellant considers that the proposal would enable the provision of low-cost family homes. However, it is possible that the proposed units could be purchased/let as holiday homes, rather than providing affordable family homes or homes for retired people. In such circumstances the social benefit from providing affordable accommodation would be reduced. Moreover, the Council can demonstrate that it has a 5 year housing land supply. The appellant contends that there is a need for elderly persons' accommodation in the area, but even so, there is no guarantee that all the units would be taken up by elderly residents if the appeal were allowed.

19. I note that of the 39 units approved at the site, 21 can be occupied throughout the year. Approval for the erection of 12 log cabins and nine static caravans at the site received permission in July 2009 with no conditions controlling occupancy. In view of this the appellant contends that the removal of conditions 7 and 8 would not result in a significant number of additional vehicular trips to and from the site. Although this may be the case, I consider that no particular benefit would arise.

20. Use of the units for tourism or residential purposes would both assist the local economy through expenditure on facilities and services in Benhall and the general area. No evidence has been submitted to clearly demonstrate that residential use, rather than tourism use, would be of greater benefit to the local economy.

21. Although there are other caravan sites within 15 km of the appeal site no information has been submitted to demonstrate that the tourist accommodation is not viable at the appeal site, or detailed evidence to show that the loss of the units to tourism in the District would not be harmful because of over-supply and no future demand.

22. The appellant has referred to appeal ref: APP/W3520/W/18/3211466 in which it was concluded that the occupancy conditions imposed on 42 holiday units in the countryside were neither reasonable nor necessary and could be removed. However, I consider that the decision does not form a precedent sufficient to allow the appeal before me. That is because the site was in Mid Suffolk and the particular site circumstances would have been different.

23. The appellant considers that there would be environmental benefits from the proposal. However, the land already has permission for tourism development and although the site may not be prominent in the wider landscape that is a matter of lack of harm, rather than benefit.

Conclusion

24. The proposed units could be developed to avoid harm to the living conditions of the occupants of neighbouring units and to have sufficient amenity space. The units would also have reasonable access to services, facilities, and sustainable transport options. However, the proposal in this location would not result in a sustainable form of development having regard to the spatial strategy in the development plan. No information has been submitted to demonstrate that the proposed tourist accommodation would not be viable. Consequently, the removal of the occupancy conditions Nos. 7 & 8 of permission ref: C/12/2521 would conflict with Local Plan policies SCLP3.3, SCLP5.3, SCLP5.16, SCLP6.6 and with policies in the Framework for residential development in the countryside.

25. Whilst there would be limited social and economic benefits, there are no other benefits or material considerations, so, either separately or together, they would not be sufficient to outweigh the resultant harm from the proposal.

26. I consider that conditions 7 and 8 attached to planning permission Ref C/12/2521 satisfy the purpose of being reasonable and necessary, and meet the other tests for conditions, as set out in paragraph 55 of the Framework.

27. I have taken all other matters raised into account. For the reasons given above the appeal is dismissed.

Martin H Seddon

INSPECTOR