



Appeal Decision

Site Visit made on 9 November 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2021

Appeal Ref: APP/X3540/W/21/3274709

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 Mark Barnasuik against the decision of East Suffolk Council.
 - The application Ref DC/21/0781/OUT, dated 17 February 2021, was refused by notice dated 13 April 2021.
 - The development proposed is described as an "outline planning application (all matters reserved) for the erection of one dwelling at Kersey Croft Kennels, Strugglers Lane, Winesham IP6 9HS".
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Decision

1. The appeal is allowed and outline planning permission is granted for an outline planning application (all matters reserved) for the erection of one dwelling at Kersey Croft Kennels, Strugglers Lane, Winesham IP6 9HS in accordance with the terms of the application, Ref DC/21/0781/OUT, dated 17 February 2021, subject to the conditions on the attached schedule.

Preliminary Matters

2. The planning application was submitted in outline form with all matters reserved for future consideration. The appellant has provided an indicative layout which I have treated as illustrative for the purposes of this appeal.
3. The site has been the subject of a previous appeal (the previous appeal) decision¹ for a development of three dwellings on the land. I have had regard to this decision insofar as it is relevant to the development before me.
4. Since the submission of the appellant's appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this I sought the views of the main parties in writing and I have taken any subsequent responses into account in reaching my decision.

Main Issue

5. The main issue in this appeal is whether the appeal site is an appropriate location for the development having regard to the development plan and accessibility to services, facilities and sustainable transport options.

Reasons

6. The appeal site contains buildings that were formerly used as kennels, which are to be demolished so that a single dwelling can be erected. Policy SCLP3.2 of the Suffolk Coastal Local Plan 2020 (LP) defines Winesham as a small village, with the

¹ APP/X3540/W/20/3252328

appeal site positioned beyond its identified settlement boundary, and therefore located within the countryside. Policy SCLP3.3 of the LP states that new residential development will not be permitted in the countryside except where specific policies of the development plan indicate otherwise.

7. Policy SCLP5.3 of the LP states that new dwellings in the countryside will be permitted where it accords with the limited situations listed therein. One such situation is where the proposal represents limited development as detailed under Policy SCLP5.4 of the LP. This states that proposals for new dwellings within 'clusters' in the countryside, where the development is for up to three dwellings within a cluster of five or more dwellings and meets the criterion as set out at b), c) and d), will be supported.
8. Paragraph 5.21 of the LP states that clusters can vary in size and can include those settlements in the countryside which do not have the range or number of facilities to be classed as a major centre, town, large or small village. However, such clusters are not identified in the LP and are without defined settlement boundaries. Thus, it is necessary to consider whether the development proposes housing in a cluster in the countryside which, in the context of Policy SCLP5.4, is defined as a continuous line of existing dwellings or a close group of existing dwellings adjacent to an existing highway.
9. The Council refer to the previous appeal, arguing that the Inspector stated at paragraph 8 that the five properties do not constitute a cluster as they are accessed from Strugglers Lane and The Street, and that there is a very limited sense of connectivity between the site and the properties along The Street. However, the Inspector does not state unequivocally that the group of properties did not form a cluster and notwithstanding the limited sense of connectivity stated within the previous appeal, it is evident that the group of properties identified by the appellant adjoin one another by its respective garden area. Thus, having regard to paragraph 5.25 of the LP, as such garden areas are an accepted form of space between dwellings, the properties are considered to be adjacent to one another.
10. Consequently, notwithstanding that the cluster of properties identified adjoins the settlement boundary of Witnesham, the proposal is for up to three dwellings within a cluster of five or more dwellings that are all beyond its settlement boundary and therefore, are located within the countryside. Furthermore, there is nothing before me to suggest that the properties all need to form a cluster in their own right or that they need to be sited along the same highway, rather that they are a close group of existing dwellings adjacent to an existing highway and contains five or more dwellings. Therefore, I am satisfied that the appeal site is within a cluster as required by Policy SCLP5.4 a).
11. Criterion b) of Policy SCLP5.4 requires the development to represent infilling as detailed therein, or otherwise located adjacent to existing development on two sides. I have no information before me to demonstrate what is considered to represent "development" so have taken it on face value. Given that development exists to the north in the form of Long Acre and to the east in the form of Kersey Croft, I find that the development satisfies criterion b).
12. Turning to criterion c) of Policy SCLP5.4, the development would largely replace existing buildings and would not, unlike the previous appeal proposal of three dwellings at the site, extend beyond the existing built up area into the surrounding countryside. Moreover, although not a matter raised by the Council, given the presence of landscaping at the site, the development would not cause significant

harm to the character and appearance of the area. Thus, the proposal would also comply with criterion d) of Policy SCLP5.4.

13. I acknowledge that Strugglers Lane is not ideal for pedestrians and cyclists, given the banking on one side and the lack of refuge areas for those with low mobility, those with children, and cyclists. However, there are bus stops in the vicinity and a footpath on The Street into Witnesham which one could reasonably walk to. Furthermore, although as a small village it does not offer a broad range of services and facilities, there are nonetheless opportunities to walk to those that do exist and opportunities to maximise sustainable transport options to access areas where such facilities do exist.
14. Thus, the appeals site is an appropriate location for the development without undermining the spatial strategy by locating housing in clusters in the countryside. It would not be in conflict with Policy SCLP3.1, SCLP5.3 and SCLP5.4 of the LP, and the Framework which seek, amongst other things, to support limited new development in clusters in the countryside.

Other Matters

15. The appeal decision referred to by the Council at Rosemary Lane² found that the properties adjacent to the site all fell within the settlement boundary of Kelsale and therefore did not form a cluster covered by Policy SCLP5.4 of the LP. That is not the case before me.
16. Although there was a previous appeal at the site for residential development, it sought permission for three dwellings which was considered to fail the criterion as set out in Policy SCLP5.4 of the LP. Again, for the reasons as set out above, that is not the case before me. Moreover, there is nothing to suggest that the "*alternate layout*" considered by the previous appeal Inspector included the development of a single dwelling as proposed.

Conditions and Conclusion

17. The Council has suggested a number of conditions that I have considered in accordance with the Framework and the national Planning Practice Guidance. Along with the standard time conditions for outline planning permission (1, 2 and 3) the approved plans (4) should also be specified to provide certainty.
18. In the interest of the visual amenity of the area, a landscaping scheme (5) and its implementation (6) shall be agreed with the Council. In the interest of highway safety, the access shall be surfaced with a bound material (7) and the siting of refuse bins (8) and vehicle and cycle parking (9) shall be agreed with the Council.
19. In the interest of human health and the future occupiers of the dwelling, a site investigation for contamination (10) and any required remediation (11) and its implementation (12) shall be agreed with the Council and a validation report (13) shall be provided to the Council before the dwelling is occupied. Any unexpected contamination (14) not identified through condition 10 shall be notified to the Council in writing.
20. Thus, having regard to the development plan when read as a whole, the appeal is allowed.

Graham Wyatt **INSPECTOR**

² APP/X3540/W/20/3252036

Schedule of Conditions

1. Approval of the details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of reserved matters shall be made not later than the expiration of three years beginning with the date of this permission.
3. The development hereby permitted shall be begun on or before the expiration of two years from the final approval of the reserved matters, or, in the case of approval on different dates, the final approval of the last such reserved matter to be approved.
4. The development hereby approved shall be carried out in complete accordance with the following plans, insofar as they relate to the development hereby approved: Sheet 1 (Site Location Plan) and Sheet 2 (Existing Block Plan).
5. Within 3 month(s) of commencement of development, precise details of a scheme of landscape works (which term shall include tree and shrub planting, grass, earthworks, driveway construction, parking areas patios, hard surfaces etc, and other operations as appropriate) at a scale not less than 1:200 shall be submitted to and approved in writing by the local planning authority.
6. The approved landscaping scheme shall be implemented not later than the first planting season following commencement of the development (or within such extended period as the local planning authority may allow) and shall thereafter be retained and maintained for a period of 5 years. Any plant material removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season and shall be retained and maintained.
7. Prior to the dwelling hereby permitted being first occupied, the vehicular access onto the highway shall be properly surfaced with a bound material for a minimum distance of 5 metres from the edge of the metalled carriageway, in accordance with details previously submitted to and approved in writing by the local planning authority and retained thereafter.
8. Before the development is commenced details of the areas to be provided for storage of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.
9. Before the development is commenced details of the areas to be provided for the manoeuvring and parking of vehicles including secure cycle storage and electric vehicle infrastructure shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.
10. No development (including any construction, demolition, site clearance or removal of underground tanks and relic structures) approved by this planning permission,

shall take place until a site investigation consisting of the following components has been submitted to, and approved in writing by, the local planning authority:

- a) A desk study and site reconnaissance, including:
 - a detailed appraisal of the history of the site;
 - an inspection and assessment of current site conditions;
 - an assessment of the potential types, quantities and locations of hazardous materials and contaminants considered to potentially exist on site;
 - a conceptual site model indicating sources, pathways and receptors; and
 - a preliminary assessment of the risks posed from contamination at the site to relevant receptors, including: human health, ground waters, surface waters, ecological systems and property (both existing and proposed).
- b) Where deemed necessary following the desk study and site reconnaissance an intrusive investigation(s), including:
 - the locations and nature of sampling points (including logs with descriptions of the materials encountered) and justification for the sampling strategy;
 - an explanation and justification for the analytical strategy;
 - a revised conceptual site model; and
 - a revised assessment of the risks posed from contamination at the site to relevant receptors, including: human health, ground waters, surface waters, ecological systems and property (both existing and proposed).

All site investigations must be undertaken by a competent person and conform with current guidance and best practice, including: BS 10175:2011+A1:2013 and CLR11.

11. No development (including any construction, demolition, site clearance or removal of underground tanks and relic structures) approved by this planning permission, shall take place until a detailed remediation method statement (RMS) has been submitted to, and approved in writing by, the LPA. The RMS must include, but is not limited to:
 - details of all works to be undertaken including proposed methodologies, drawings and plans, materials, specifications and site management procedures;
 - an explanation, including justification, for the selection of the proposed remediation methodology(ies);
 - proposed remediation objectives and remediation criteria; and
 - proposals for validating the remediation and, where appropriate, for future maintenance and monitoring.

The RMS must be prepared by a competent person and conform to current guidance and best practice, including CLR11.

12. Prior to any occupation or use of the approved development the RMS approved under condition 2 must be completed in its entirety. The LPA must be given two weeks written notification prior to the commencement of the remedial works.

13. A validation report must be submitted to and approved in writing by the LPA prior to any occupation or use of the approved development. The validation report must include, but is not limited to:
- results of sampling and monitoring carried out to demonstrate that the site remediation criteria have been met;
 - evidence that any RMS approved in pursuance of conditions appended to this consent has been carried out competently, effectively and in its entirety; and
 - evidence that remediation has been effective and that, as a minimum, the site will not qualify as contaminated land as defined by Part 2A of the Environmental Protection Act 1990.
14. In the event that contamination which has not already been identified to the Local Planning Authority (LPA) is found or suspected on the site it must be reported in writing immediately to the Local Planning Authority. No further development (including any construction, demolition, site clearance, removal of underground tanks and relic structures) shall take place until this condition has been complied with in its entirety. An investigation and risk assessment must be completed in accordance with a scheme which is subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and conform with prevailing guidance (including BS 10175:2011+A1:2013 and CLR11) and a written report of the findings must be produced.

The written report is subject to the approval in writing of the Local Planning Authority. Where remediation is necessary a detailed remediation method statement (RMS) must be prepared, and is subject to the approval in writing of the Local Planning Authority. The RMS must include detailed methodologies for all works to be undertaken, site management procedures, proposed remediation objectives and remediation criteria. The approved RMS must be carried out in its entirety and the Local Planning Authority must be given two weeks written notification prior to the commencement of the remedial works. Following completion of the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation must be submitted to and approved in writing by the LPA.

End.