



Appeal Decision

Site visit made on 30 November 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th January 2022

Appeal Ref: APP/X3540/W/21/3270208

Land adjacent Newstead, The Street, Pettistree IP13 0HP

- 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 and Mrs Fleming-Brown against the decision of East Suffolk Council.
 - The application Ref DC/20/4000/OUT, dated 6 October 2020, was refused by notice dated 22 January 2021.
 - The development proposed is described as "outline planning permission for 1no. dwelling and vehicular access".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline form with only access for consideration. Matters relating to appearance, landscaping, layout and scale are reserved for future determination. The appellant has provided an indicative layout which I have treated as illustrative for the purposes of this appeal.
3. 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 have taken any subsequent responses into account in reaching my decision.

Main Issues

4. The main issues in this appeal are:
 - whether the appeal site is an appropriate location for the development having regard to the development plan, and,
 - the effect of the development on European designated sites.

Reasons

Location

5. The appeal site lies to the east of Newstead and forms an area of land that is mainly laid to grass, containing several fruit and other trees. The area is generally rural in character, with a variety of size and type of dwelling in the vicinity of the appeal site. The proposal seeks to erect a detached dwelling on the land with a new vehicular access off The Street into the site.

6. Policy SCLP3.2 of the Suffolk Coastal Local Plan 2020 (LP) sets out the settlement hierarchy for the district and defines Pettistree as a Small Village. Policy SCLP3.3 of the LP states that land which is outside of a settlement boundary and is not allocated for development is defined as countryside. In addition, Policy SCLP3.3 states that new development outside of defined settlement boundaries will be carefully managed in accordance with the national planning policy guidance and the strategy for the countryside. Notwithstanding the presence of other properties in close proximity to the appeal site, for the purposes of planning policy, as the appeal site lies beyond the settlement boundary of Pettistree, it is within the countryside.
7. Policy SCLP5.3 of the LP considers housing development in the countryside and states that it will be limited to those scenarios as listed therein. Such a scenario includes limited development within an existing cluster of dwellings, in accordance with Policy SCLP5.4 of the LP, which defines a 'cluster' as a continuous line of existing dwellings or a close group of existing dwellings adjacent to a highway and contains five or more dwellings. The appellant argues that as the development is for up to three dwellings and the appeal site is within a cluster of five or more dwellings, there is support for the development under Policy SCLP5.4.
8. The supporting text to Policy SCLP5.4 explains that clusters can vary in size and can include those settlements that do not have the range or number of facilities to be classed as a Major Centre, Town, Large Village or Small Village. Although clusters themselves are not identified within the LP, it is evident that Policy SCLP5.4 supports proposals for new dwellings that are within clusters in the countryside.
9. The majority of properties that surround the appeal site are within the settlement boundary of Pettistree and thus, are not within the countryside as defined by Policy SCLP3.3. Consequently, the appeal site is not within a cluster of properties in the countryside. Furthermore, the properties identified by the appellant at Figure 1¹ to the east of the appeal site are dispersed and separated by fields and open areas. Thus, having regard to paragraph 5.25 of the LP, I am not persuaded that the properties identified constitute a close group of dwellings as required by Policy SCLP5.4 of the LP.
10. Consequently, the proposal would be contrary to Policy SCLP5.4 a) of the LP. Furthermore, as I have found that the development is not within a cluster in the countryside, there is no requirement to consider whether the proposal complies with the remaining criterion, as set out at Policy SCLP5.4 b), c) and d) such as whether the development represents an infill development or would represent an extension of the built environment into the surrounding countryside.
11. Additionally, although I acknowledge the range of services and facilities in the area as identified by the appellant, as a single dwelling the development would only make a very limited contribution towards enhancing and maintaining the vitality of services in Pettistree or indeed other rural communities in the area, such as Wickham Market. Moreover, I am not persuaded that there is tension or a conflict between the policies of the LP identified by the Council which sets out those circumstances whereby development may be permitted within the countryside.

¹ Figure 1, Appellant's Final Comments

12. Consequently, the scenarios under Policy SCLP5.3 b) and SCLP5.4 a) are not met. Moreover, having regard to Policy SCLP12.34 c) and paragraph 79 of the Framework, there is nothing persuasive before me to demonstrate that the development would contribute towards providing a mix of housing in order to sustain the rural community of Pettistree.
13. Thus, the development would not be an appropriate location for the development. It would be in conflict with Policies SCLP3.2, SCLP5.3 and SCLP5.4 of the LP, the specific requirements of which are specified above.

Protected European Sites

14. The development falls within the recreational disturbance Zone of Influence of European designated habitats, such as the Alde-Ore Estuary Special Protection Area (SPA), the Sandling SPA and the Deben Estuary SPA identified within the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS). To ensure the requirements of the Conservation of Habitats and Species Regulations 2017 are met, the Council requires the collection of payments from relevant developments towards the mitigation measures set out in the RAMS.
15. As the appeal is being dismissed on other substantive issues, it is not necessary to look at this matter in detail. Moreover, had I been minded to allow the appeal, I would have explored the necessity for undertaking an Appropriate Assessment and whether the payment provided by the appellant would off-set the impact of the development on European Designated Sites.

Other Matters

16. Although the proposal at Kelsale² is different in that the site was not located between existing properties, it was nonetheless sited beyond its defined settlement boundary and relied upon dwellings within the settlement boundary to form a cluster, which is the case before me.
17. The appellant also refers to an appeal at Horstead³ which concluded that developments beyond settlement boundaries can still be compliant with the Framework. Whilst I accept that can be the case, I am not aware of the circumstances and evidence that was submitted for consideration, which was within a different local authority considered against different development plan policies. In any event, I have considered this appeal on its own merits which is a fundamental principle that underpins the planning system.
18. I acknowledge that as a small windfall site, the development could be built-out relatively quickly. I also recognise that the development would contribute towards the overall housing supply in the area. However, given that the development seeks a single dwelling, the weight I afford these benefits is limited.
19. The appellant also refers to positive pre-application advice received from the Council. Notwithstanding this, I am not bound by the advice given by the Council prior to the submission of the planning application and it does not alter or outweigh my conclusion on the main issues.

² APP/X3540/W/20/3252036

³ APP/K2610/W/20/3251549

20. I note that representations were made by local residents, some of whom raise additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

Conclusion

21. Thus, I conclude that there are no material considerations of such weight as to indicate that a decision be taken other than in accordance with the development plan. Therefore, the appeal is dismissed.

Graham Wyatt

INSPECTOR