



Appeal Decision

Site visit made on 14 December 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th January 2022

Appeal Ref: APP/F3545/W/21/3275184

Delph Lodge, The Common, Beck Row IP28 8BU

- 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 Ms Michelle Smith against the decision of West Suffolk Council.
 - The application Ref DC/20/2099/OUT, dated 26 November 2020, was refused by notice dated 26 April 2021.
 - The development proposed is described as "outline planning application (all matters reserved) proposing the erection of a self build dwelling on garden amenity land serving Delph Lodge, The Common, Beck Row, Bury St Edmunds, IP28 8BU".
-

Decision

1. The appeal is dismissed.

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. 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 this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

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;
 - the effect of the development on the character and appearance of the area, and
 - the effect of the development on protected species.

Reasons

Location

5. The appeal site forms a parcel of land that lies adjacent to Delph Lodge. The area is rural in character with the existing dwelling forming part of a small cluster of dwellings that lie beyond the settlement boundary of Beck Row,

identified as a Primary Village under Policy CS1 of the St Edmundsbury Core Strategy 2010 (CS). It is evident that the appeal site is located some distance from the settlement of Beck Row and is within the countryside where development is restricted to certain types and for certain purposes.

6. Policy DM5 of the Joint Development Management Policies Document 2015 (DMPD) states that areas designated as countryside will be protected from unsustainable development and new building will be restricted to a number of exceptions, such as that for agricultural or forestry purposes. However, Policy DM27 of the DMPD permits dwellings in the countryside if they fall within a small cluster of 10 dwellings adjacent to an existing highway, or it results in the infilling of a small undeveloped plot within an otherwise continuous built up frontage by one dwelling or a pair of semi-detached dwellings.
7. The proposal does not fall within any of the categories of building that are deemed permissible in the countryside under Policy DM5 of the DMPD. Furthermore, the appeal site does not fall within an existing cluster of 10 or more dwellings and I do not find that it constitutes an infill of a small undeveloped plot in an otherwise continuous built-up frontage as required by Policy DM27 of the DMPD.
8. Furthermore, the appeal site is far removed from any services and facilities and I have not been provided with any details of public transport that operates close to the site. Moreover, the highway between the appeal site and Beck Row is largely unlit, does not have a footpath and is the subject of a 60mph speed limit. Therefore, it is highly probable that the future occupiers of the proposed dwelling would rely heavily on the private car to access services and facilities required for day to day living.
9. Additionally, due to the distance and remoteness of the connecting route, the proposed dwelling would not be part of the rural community at Becks Row. Furthermore, although the site is within the proximity of other dwellings, the term isolated, as stated at paragraph 80 of the Framework, relates to dwellings that are remote or isolated from a settlement. Therefore, in this instance I have not been presented with any compelling evidence to demonstrate that the small cluster of properties that are within the immediate vicinity of the appeal site represent a settlement.
10. Consequently, the development would result in an isolated dwelling in the countryside and paragraph 80 of the Framework would apply, with the proposal failing to meet any of the circumstances listed therein. Nonetheless, the appellant argues that Policy CS10 of the CS does not state that development beyond settlement boundaries of Primary Villages, such as Beck Row, will not be permitted. However, spatially the appeal location is not a "smaller settlement" or "village" at which the Framework envisages at paragraph 79 may be considered sustainable development by supporting the services in a village nearby. Therefore, I am not persuaded that Policy CS10 of the CS lends support for the development in this regard.
11. Thus, the site would not be an appropriate location for the development. It would be contrary to Policies CS1 and CS10 of the CS and Policies DM5 and DM27 of the DMPD, the requirements of which are specified above.

Character and Appearance

12. The appeal site is mainly laid to grass and bound to the roadside by trees and shrubs. However, views into the site from the public highway are possible. The surrounding area is generally rural in character with agricultural land and open fields surrounding the appeal site, which as a large amenity space, contributes towards the openness of the area. Although the appeal site is close to the host property, it nonetheless relates better to its rural surroundings to which it makes a positive contribution.
13. The proposal seeks to erect a single, detached dwelling on the site. Whatever its final form, the proposed dwelling would appear contrived through the suburbanisation of the site in a visually prominent position when viewing the site from the public highway. Notwithstanding the existing dwelling to the side of the site, the development would extend the built environment into a visibly undeveloped area, the effect of which would be the detrimentally harmful erosion of the intrinsic landscape character of the site. It would erode the rural qualities and openness of the site and the area, resulting in harm to its character and appearance.
14. Thus, the development would result in harm to the character and appearance of the area. It would be in conflict with Policy DM2 of the DMPD which seeks, amongst other things, to ensure that developments recognise local distinctiveness and the qualities of an area.

Protected Species

15. The Council argue that as the site is close to a pond and has a number of trees and other vegetation within its vicinity, the appellant should have provided a survey to demonstrate that protected species are not present or would be harmed by the development.
16. I am mindful that Circular 06/2005 ¹states that the presence of a protected species is a material consideration. However, it goes on to state that, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species or supporting habitats being present and affected by the development. Furthermore, the national Planning Practice Guidance establishes that an ecological survey will be necessary in advance of a planning application, but only if the type and location of development could have a significant impact on biodiversity². As with other supporting information, local planning authorities should require ecological surveys only where clearly justified.
17. In this context, there is no evidence before me demonstrating there is a reasonable likelihood of species or supporting habitats being present, or that the proposed development would generate a significant impact on biodiversity therein. For example, the site would appear as open amenity land associated with the host property with no obvious biodiversity value. Moreover, there is no indication that the development proposes the removal of trees or shrubs and will utilise the existing access into the site. Furthermore, it is not clear what habitat connectivity exists within the pond which lies on the other side of the

¹ Biodiversity and geological conservation – statutory obligations and their impact within the planning system

² Paragraph:018 Reference ID: 8-018-20190721 Revision Date: 21 07 2019

road or an explanation as to what species or habitats might inhabit the pond to substantiate the request for an ecological survey.

18. Furthermore, although I recognise the rural nature of the appeal site, there is no cogent evidence put forward by the Council to substantiate their contention that habitats or species are likely to be present or inhabit the site or that it is important for wider connectivity. Ecological surveys do not appear to have been required by the Council during the application's validation nor is there any evidence of consultation responses from relevant Council departments or technical consultees, advising that such surveys were central to deciding the application.
19. Consequently, without substantive evidence I cannot conclude that the proposal would have a harmful effect on biodiversity or conflict with Policies DM10, DM11 and DM12 of the DMPD, which seek, amongst other things, to conserve and enhance the natural environment.

Other Matters

20. The appellant argues that the policies of the development plan impose a blanket restriction on housing in the countryside and fails to account for the more nuanced and refined approach advocated within the Framework which states that the intrinsic beauty of the countryside should be recognised, while allowing development that would enhance or maintain the vitality of rural communities. The appellant quotes paragraphs from two appeal decisions³ to reflect this position.
21. Although the DMPD and CS are of some age, paragraph 219 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted, or made prior to the publication of the Framework, and that due weight should be given to them according to their degree of consistency with the Framework.
22. Policy CS1 of the CS is broadly consistent with the principles of sustainable development as set out in the Framework, insofar as it requires new development to be concentrated in the larger urban areas and villages, where there are a wider range of services and facilities. Whilst the use of settlement boundaries can act as a constraint on the growth of rural settlements, I note that both Policies DM5 and DM27 of the DMPD do not impose a strict blanket restriction on development in the countryside and allow for a range of appropriate proposals subject to a wide range of flexible criteria. As a consequence, taking these policies as a whole, I find them to be generally consistent with the Framework.
23. I acknowledge that for personal reasons the appellant wishes to live on the site and that the dwelling would reduce trips for child care. I also note that the development would employ renewable energy technologies, provide electric car charging point and that an annexe erected within the site may not be required to reduce carbon emissions. While noting the benefits that would ensue in these respects, I do not consider that they outweigh the harm I have identified above. Furthermore, electric vehicles would not promote the healthy benefits that can be gained from walking and cycling.

³ APP/W3520/W/18/3194926 and APP/W3520/W/18/3217448

24. The appellant has also referred to the fallback position of erecting an annexe at the site. Nevertheless, I have no evidence that such a scheme would be developed in the event of this appeal being dismissed. As such, it is a matter of negligible weight. I have also carefully considered the provision of a self-build dwelling, which would make a contribution towards the Council's deficit in identifying such sites and plots. However, although as a self-build development, it does not alter the status of the development plan and the Framework in seeking to deliver homes that realise genuine opportunities to promote walking, cycling and public transport.
25. I accept that the development would add to the overall housing supply in the District and that limited social and economic benefits would also flow from the development. Thus, even if the tilted balance advocated at paragraph 11 of the Framework was applied, the suggested benefits do not significantly and demonstrably outweigh the harm identified above as a result of the conflict with adopted policy, the harm to the character and appearance of the area, and the aims of sustainable development in the Framework.

Conclusion

26. 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