



Appeal Decision

Site visit made on 18 January 2022

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2022

Appeal Ref: APP/X3540/W/21/3280779

Land North of Snipe Farm Road, Clopton IP13 6SQ

- 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 Bellvue Properties Limited against the decision of East Suffolk Council.
 - The application Ref DC/20/5052/OUT, dated 9 December 2020, was refused by notice dated 12 February 2021.
 - The development proposed is for the erection of 2no. dwellings with cart lodges.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal before me has been made in outline with all matters, namely access, layout, appearance, landscaping and scale, reserved for a subsequent application. The information before me is illustrative and I have dealt with it as such.
3. The appeal site is within the recreational disturbance zone of influence of a number of Designated Sites. The Conservation of Species and Habitats Regulations 2017 (as amended) requires the decision maker to consider whether or not the proposal could adversely affect the integrity of such sites.

Main Issue

4. The main issues in this case are (i) whether the appeal site is suitable for new housing; and, (ii) the effect of the development on wildlife and biodiversity.

Reasons

Whether Suitable Location

5. Policies SCLP3.2 and SCLP3.3 of the Suffolk Coastal Local Plan (the LP, September 2020) set out the settlement hierarchy and that outside settlement boundaries development, including new residential development, is restricted other than in specific exceptions. It is clear from the evidence before me that the appeal site is outside of any settlement boundary and therefore would be contrary to the above policies unless it meets an exception. The appellant submits that the proposal would meet with an exception within LP Policies SCLP5.3 and SCLP5.4, namely that the proposed dwelling would be within a cluster of five or more dwellings and, as such, would comply with the locational strategy of the development plan.

6. Whilst not directly mentioning it, the appellant's case also suggests that it would meet exception (g) of LP Policy SCLP5.3 which allows residential development consistent with the National Planning Policy Framework (the Framework) in regard to housing in the countryside. There is no dispute between the parties that the proposal would not meet the other exceptions listed under Policy SCLP5.3.
7. There are a number of buildings nearby to the appeal site, including some residential dwellings. However, these are predominantly separated from each other, and from the appeal site, by fields or otherwise open land. In particular, the appeal site is separated by what appears to be an equestrian paddock from the closest dwelling on Snipe Farm Road. There are two dwellings on the opposite side of Manor Road which are close to the appeal site, and I consider their proximity close enough to contribute towards a cluster. However, as they comprise only two dwellings, they cannot be considered a cluster for the purposes of Policy SCLP5.4 of the LP.
8. As such, the appeal site is not within a cluster of dwellings and does not meet exception (b) of Policy SCLP5.3. Therefore, even if the proposal were to meet the requirements set out in points (b) to (d) of Policy SCLP5.4 it would still not be an exception as Policy SCLP5.4 requires that all points are met. Given this I do not find it to be necessary to consider these points.
9. With regard to the second exception relevant to this case, that under point (g) of Policy SCLP5.3, the Framework supports rural housing where it would enhance or maintain the vitality of rural communities. The appellant has brought my attention to the nearby village of Clopton and the Clopton Business Park. Both are some distance away and are separated from the site by roads without streetlights or pavements. As such it is likely that traveling to either by foot or bicycle would be potentially unsafe and unappealing for future occupiers, especially during the hours of darkness, during inclement weather or for vulnerable occupiers.
10. Although the appellant has referred to a number of services and facilities, I find that these are limited and would be unlikely to meet the daily needs of future occupiers. In particular, no shops have been brought to my attention which could be suitable for a family's weekly shop. Given the level of services and facilities near the site I find it likely that future occupiers would typically travel further afield to meet their needs and, as a result, the development would be unlikely to support or enhance the vitality of the rural community other than in a modest way.
11. I note that the appellant has identified the existence of bus stops nearby, but no details of their services have been provided. I have not therefore been provided with any substantive evidence to suggest that the buses would be suitable for necessary trips to support employment, community visits or shopping trips. I find that as a result, future occupiers would not be provided with alternative modes of travel and would be under pressure to rely on private motor vehicles to satisfy their daily needs.
12. Given the appeal site's location and that it would not meet any exception within the development plan, I conclude that it is not within a suitable location for a new dwelling and future occupants would not support the local community. The proposal is contrary to the locational strategy set out in policies SCLP3.2, SCLP 3.3, SCLP 5.3 and SCLP5.4 of the LP. It would also be in conflict with the

housing strategy set out under Section 5, including Paragraph 79, of the Framework.

13. In reaching this decision I have been mindful of the examples raised by the appellant of planning permissions where the current, or a previous, cluster policy was relevant to the granting of permission¹. However, from the limited information available to me regarding these permissions, it appears that the locational context of each were different to that before me. In particular, these examples were either close to settlement boundaries or within clear clusters of dwellings with some meeting both of these points. Therefore, given the differing circumstances between the proposal and these examples, they were not determinative in my consideration of the appeal and nevertheless, all proposals must be considered on their own merit.

Wildlife and Biodiversity

14. The appeal site is a small overgrown paddock set at the junction between Snipe Farm Road and Manor Road. At the end closest to the junction is a sizeable pond while the remainder of the site is covered by various vegetation including, tall grasses, bushes and trees. It adjoins a number of larger fields with long linear hedgerows connecting them. From the appellant's submissions and my observations, I find that this results in the appeal site having a good potential of providing habitats for wildlife.
15. The appellant's Preliminary Ecological Assessment (PEA) identifies a number of species – including bats, nesting birds, reptiles and great crested newts – which could make use of the site to varying degrees. Such species are protected by the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations) and the Wildlife and Countryside Act 1981. Whilst the PEA submits that the likelihood of great crested newts using the site is low, it is clear that there is still a possibility of these and the other aforementioned species using the site. The PEA also recommends further surveys in order to determine the presence of any protected species.
16. I am statutorily required to have regard to the purposes of conserving biodiversity by Section 40 of the Natural Environment and Rural Communities Act 2006. As these species are protected it is essential that their presence, or lack of, and the extent to which they may be affected by the proposal is established prior to the granting of planning permission. The PEA before me does not suitably establish whether any of the four groups outlined above are present on the site and therefore cannot definitively set out the potential harm which could result from the development. As the extent of the potential harm is unknown it is not possible to definitively weigh the scheme's benefits against it.
17. Whilst the appellant suggests that further surveys and mitigation could be provided through a condition in the event of the appeal being allowed, this would result in permission being granted before it is established that either significant harm to wildlife and biodiversity would not occur or an appropriate level of mitigation would be possible.
18. The appellant has raised two previous decisions² on the appeal site where concerns over protected species were not raised as a reason for refusal. However, I do not know the circumstances around these decisions. I also note

¹ DC/18/1636/FUL, DC/20/3227/OUT, DC/20/3320/FUL, DC/20/4175/OUT, DC/21/0572/FUL and DC/21/0893/FUL

² DC/18/4081/PIP and DC/18/4163/OUT

that the Council may not have responded to requests for advice during the planning application. Whilst these matters may be unhelpful, they do not preclude the findings from the PEA or my consideration of the evidence before me.

19. Therefore, and given the above, the proposal would have the potential to unacceptably affect wildlife and biodiversity, including protected species and their habitats. The proposal would therefore conflict with LP Policy SCLP10.1 which requires that development maintains, restores or enhances existing green infrastructure or, where harm is found, the benefits outweigh the biodiversity loss. The proposal would also conflict with Section 15, including Paragraph 174, of the Framework which, amongst other matters, seeks to protect and enhance the natural environment.

Other Matters

20. I have found harm resulting from the proposed development. As such the appeal must fail and any potential harm to the Designated Sites would not occur and I therefore do not need to consider this matter further.

Planning Balance

21. The government's objective is to significantly boost the supply of housing and the proposal would provide two new dwellings. The scheme would also lead to a small and time-limited economic benefit during the construction phase. Given the small scale of the proposal, these benefits attract modest weight.
22. Conversely, the location of the proposal outside of a settlement or cluster would undermine the Council's plan-led approach to the delivery of housing. The proposal would also lead to an unacceptable risk to protected species. These matters attract significant weight and even if I were to conclude there is a shortfall in the five-year housing land supply on the scale suggested by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits outlined above.
23. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

24. For the reasons outlined above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR