



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: 28 March 2022

Appeal Ref: APP/X3540/W/21/3281480

Grange Nurseries, Jackson Road, Newbourne IP12 4NR

- 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 A Mann and S Gould against the decision of East Suffolk Council.
 - The application Ref DC/21/0113/OUT, dated 11 January 2020, was refused by notice dated 16 March 2021.
 - The development proposed is a dwelling (all matters reserved).
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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 the site.

Main Issues

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 the designated sites.

Reasons

Principle of Development

5. Policy SCLP3.2 of the Suffolk Coastal Local Plan (the LP, September 2020) sets out the Settlement Hierarchy while Policy SCLP3.3 states that outside settlement boundaries development, including new residential development, is restricted except in specific circumstances. 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. Policies SCLP5.3 and SCLP5.4 set out a number of exceptions for when residential development in the countryside would be supported. Including that the proposal is limited infilling development within an existing cluster.
6. For the purposes of LP Policies SCLP5.3 and SCLP5.4 a cluster is five or more dwellings within the countryside that are either in a continuous line or close group adjacent to a highway. From my observations on site and the evidence

before me it is clear that there are a large number of dwellings along Jackson Road. I found that close to the site there were at least five dwellings that were separated only by either areas of garden or the carriageway of Jackson Road. As such for the purposes of these policies they form a cluster.

7. The appeal site itself is within a space on the frontage of Jackson Road with built development surrounding it on three sides in the form of the glass houses to the rear and a residential property on the opposite side of the road. As it would be located within a pocket of open space, the erection of a dwelling here would not result in the extension of the built-up area into the surrounding countryside. Given the above I find that the proposal would therefore meet with points (a), (b) and (c) of LP Policy SCLP5.4.
8. As all matters are reserved it is not possible for me to make a full assessment of the requirements under point (d) of the policy, regarding character and appearance and visual intrusion, beyond my finding above that the location of the appeal site is acceptable.
9. The proposal would also affect part a former Land Settlement Association Holding. These sites are covered by Policy SCLP11.9 of the LP which allows for new residential development where it would protect its character and appearance. In this case the proposal would be an infill development on the frontage of the holding, given the location of the site and the glass houses that surround it on two sides. In this way the proposal would comply with point (f) of Policy SCLP11.9. As the scale and design of the dwelling is a reserved matter the requirement under point (e) of the policy would need to be dealt with under a subsequent application.
10. The proposal would therefore result in a dwelling that clearly aligns with the locational hierarchy and strategy for residential development as set out within the local development plan. I have not been provided with any substantive reason to depart from the development plan and as such, the proposal would comply with LP Policies SCLP3.2, SCLP3.3, SCLP5.3, SCLP5.4, SCLP5.5, SCLP5.6, SCLP5.11 and SCLP11.9. These policies collectively, and amongst other matters, set the locational strategy for residential development, suitable exceptions to this strategy, and sets out protection for former Land Settlement Association Holdings.

Designated Sites

11. As outlined above, the appeal site is within the recreational disturbance zone of influence for a number of designated sites, these include Special Protection Areas and Ramsars within the Adle-Ore, Sour and Orwell, and Deben estuaries, and the Sandlings. These are at risk of a number of harms stemming from residential development, including disturbance to wintering and breeding birds, the trampling of vegetated shingle and wooded habitats, and nutrient enrichment, along with other various smaller risks. These risks, along with a strategy for mitigation and compensation are set out within the RAMS document¹, which was created alongside Natural England.
12. It is clear from the evidence before me, including an assessment carried out by the Council, that both parties were aware of the potential for harm to stem from the proposed scheme, and the process for compensation. In this case the

¹ Habitats Regulations Assessment: Recreational Disturbance Avoidance and Mitigation Strategy for Ipswich Borough, Babergh District, Mid Suffolk District and East Suffolk Councils – Technical Report

RAM sets out the requirement for monetary payment to be secured. However, no such payment has been made or secured, by way of a legal agreement, by either party. Whilst the appellant has suggested such a payment could be secured through a condition, it is not within the powers of planning conditions to require financial contributions other than in exceptional circumstances. As it has not been put to me that this case is such a circumstance, I find it would therefore not be appropriate to impose such a condition.

13. Although I am mindful of the agricultural workers dwelling that was previously granted on the site, this previous permission does not preclude me from considering the potential impact of the proposal before me.
14. In light of the above, as both main parties have agreed that there is a likely significant effect on the designated sites, and as no mitigation or compensation has been secured, I find that there would be an unacceptable impact on the designated sites to their detriment. The proposal therefore conflicts with Policy SCLP10.1 of the LP, which requires development to contribute positively towards biodiversity and protect designated sites. The proposal would also conflict with natural environment aims of Chapter 15 of the National Planning Policy Framework (the Framework), and the Habitats Regulations and therefore, must fail.

Planning Balance

15. The Government's objective is to significantly boost the supply of housing and the proposal would provide one new dwelling. The scheme would also lead to a small and time-limited economic benefit during the construction phase, as well as potentially some very limited economic and social benefits resulting from future occupiers. However, given the small scale of the proposal, these benefits collectively attract modest weight.
16. Conversely, the adverse effects of the proposal on the integrity of the above identified designated sites would be unacceptable and contrary to both local and national policy as well as legislation. This matter attracts significant weight and outweighs the benefits associated with the proposed development.
17. The proposal would conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

18. Therefore, for the reasons outlined above, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR