



Appeal Decision

Site visit made on 23 February 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th June 2022

Appeal Ref: APP/X3540/W/21/3277322

Land between the entrance to The Sandlings Caravan Park and Rondebosch, Lodge Road, Hollesley IP12 3RR

- 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 Anthony Wood against the decision of East Suffolk Council.
 - The application Ref DC/20/4151/OUT, dated 16 October 2020, was refused by notice dated 18 December 2020.
 - The development proposed is erection of up to three dwellings with all matters reserved.
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Decision

1. The appeal is allowed and planning permission is granted for erection of up to three dwellings at Land between the entrance to The Sandlings Caravan Park and Rondebosch, Lodge Road, Hollesley IP12 3RR, in accordance with the terms of the application, Ref DC/20/4151/OUT, dated 16 October 2020, subject to the attached schedule of conditions.

Procedural Matters

2. I have omitted superfluous information from the description of development set out above. The development proposed is therefore for 'erection of up to three dwellings'.
3. The planning application was submitted in outline with all matters reserved. I have had regard to Drawing Reference: L01-01A and the site layout plan shown in the Design and Access Statement, but I have treated these as indicative when considering the likely impact of the proposal on the matters set out in the main issues below. Moreover, drawing reference L01-01A shows trees that are potentially to be removed to facilitate access to the site, but the details of access constitute one of the 'Reserved Matters'.
4. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') transpose the Habitats Directive and the Birds Directive into English law. The aim of the Directives is to conserve key habitats and species across the European Union by creating and maintaining a network of sites known as the Natura 2000 network. They require competent authorities before granting consent for a plan or project, to carry out an appropriate assessment (AA) in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in-combination with other plans or projects.
5. The Officer Report identifies that the Council has carried out its own assessment in this regard but my determination of the appeal means I also have to undertake the same statutory duty. I have therefore dealt with this

matter as a main issue and engaged with the main parties and Natural England accordingly as part of the appeal proceedings.

6. The Officer Report identifies concerns with regard to the potential landscape and visual effects of the proposal, including to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty. Section 85 of the Countryside and Rights of Way Act 2000 (as amended) (the Act) requires all relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of these areas when performing their functions. I have therefore had regard to these matters in the appeal, including my statutory duty.
7. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). I have had regard to the Framework in my decision and I am satisfied that this has not prejudiced any party, particularly as the revisions do not alter the policies upon which this appeal turns.

Main Issues

8. The main issues are:

- whether the proposal is consistent with policies relating to housing in rural areas, with regard to its location, accessibility to services and facilities, and effect on the character and appearance of the site and its surroundings, including the landscape and scenic beauty of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty;
- the effect of the proposal on the integrity of the features of European nature conservation sites situated along the Suffolk coast; and
- the effect of the proposal on protected species within the site and its surroundings.

Reasons

Rural housing

9. While the general approach of the Suffolk Coastal Local Plan (Adopted September 2020) (LP) to housing in the countryside is one of restraint, it exhibits a great deal of flexibility in respect of the approach to development within small clusters of housing that do not form a settlement in their own right and therefore reflects the principles outlined in the Framework of supporting some housing in rural areas. The Framework is also important, as the site is located within the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) and it requires that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues.
10. The appeal site concerns an undeveloped area of land to the eastern side of Lodge Road. There are dwellings immediately to the north (Rondebosch) and west (Holstow Lodge). The Council has identified that the dwellings west of the road form a 'close group of existing dwellings adjacent to an existing highway', but exclude Rondebosch. There is nothing within LP Policy SCLP5.4 to suggest that dwellings opposite one another are not able to form a group. Furthermore, its supporting text suggests that 'adjacent development on two sides can include circumstances where the site is separated from existing development by the highway'. It would therefore be contradictory for the policy itself to be

based on an opposing view for what constitutes a close group. Rondebosch could therefore be said to fall within the group, as its southern boundary aligns closely with the northern edge of the group and fronts the same highway.

11. In light of the above, the appeal site would be adjacent to the group on two sides and fall within a cluster of dwellings. This means that the proposal meets the initial trigger in LP Policy SCLP5.4(a). As such, the proposal does not need to meet the requirement for housing to be well related to a Major Centre, Town, Large Village or Small Village, and thereby accessible to services and facilities. The policy is clear that it only needs to be for up to three dwellings within a cluster of five or more dwellings. While the Council's policies were formed in the context of previous iterations of the Framework, the approach to housing in the countryside has only changed in relation to isolated housing, and the appeal site could not be said to be so.
12. The enclosure of the frontages to either side of Lodge Road vary from planting to fence enclosures. The site boundaries and its backdrop are marked by hedgerows and mature trees, which give it verdant and sylvan qualities that contribute positively to the AONB.
13. Mature planting may need to be removed to facilitate access, but there are no formal details before me of any other part of the scheme, including access or the scale of the proposed dwellings. Indeed, the Council accepts that further assessment would be required to determine such impacts, which is likely to include consideration of vehicle speeds in Lodge Road to derive the visibility required from the access. Nevertheless, given the extent of existing planting and the indicative proposed planting, the information before me demonstrates that the provision of access into the site and potential loss of some tree planting would be unlikely to have an adverse effect on the character and appearance of the site and its surroundings.
14. The Council also accepts that the proposal would be adjacent to existing development to the north and west. As there are also buildings to the east and south, the proposal could not be said to extend the built-up area into the surrounding countryside. Given the extent of existing planting around the site and its relationship with other in situ development, the appearance, layout, and scale of a scheme at 'Reserved Matters' could be sensitively designed to assimilate within its verdant and sylvan context, the existing qualities of which are important to the wider landscape and scenic beauty of the AONB. In particular, the scale and resultant space between and around the dwellings would be important to maintaining the presence of a backdrop of planting.
15. For the above reasons, I conclude that the proposal is consistent with policies relating to housing in rural areas, with regard to its location. Moreover, the proposal would introduce additional built development within the locality, but it would amount to an appropriate form of infilling with existing development. This would be unlikely to have a harmful effect on the character and appearance of the site and its surroundings, including the landscape and scenic beauty of the AONB, which I must give great weight. Hence, the proposal would accord with LP Policy SCLP5.4, the aims of the Act, and paragraph 176 of the Framework. Compliance with Policy SCLP5.4 means that the proposal would not conflict with LP Policies SCLP3.1, SCLP3.2, SCLP3.3, SCLP5.3 and SCLP7.1. In any event, I am mindful that the Framework suggests that opportunities to

maximise sustainable transport solutions will vary between urban and rural areas, so a greater dependency on car use is expected in rural locations.

European nature conservation sites

16. The appeal site falls within the recreational disturbance Zone of Influence for a number of European nature conservation sites situated along the Suffolk coast¹. The Habitats Regulations Assessment Recreational Disturbance Avoidance and Mitigation Strategy for Ipswich Borough, Babergh District, Mid Suffolk District and East Suffolk Councils – Technical Report (May 2019) (RAMS) explains that the sites have been designated because they include habitats that support rare and colony nesting bird species, including Avocet, Grey Plover, Little Tern, European Nightjar, Redshank and Woodlark. Many of the species affected nest on or near the ground and are therefore very susceptible to disturbance from informal recreational use, including walking.
17. When following a precautionary approach, in combination with other plans and projects, the proposal would be likely to have a significant adverse effect on these protected areas due to the additional recreational disturbance that could result given the location of the proposed development within the Zone of Influence. I am therefore required to undertake an 'Appropriate Assessment' of the effects of the development on the identified European sites.
18. The RAMS provides strategic measures to off-set the increased recreational disturbance on the European sites arising from residential growth in East Suffolk. It therefore sets out a tariff for financial contributions from new developments to fund strategic mitigation, including access management and monitoring at the European sites. This approach is also reiterated in the Council's own Supplementary Planning Document² (SPD).
19. The appellant has completed a form provided by the Council which refers to Section 111 of the Local Government Act 1972, which provides for an upfront contribution of £963.66. This has already been paid to the Council towards the mitigation measures outlined in RAMS. Natural England confirm that this is a suitable arrangement, and it accords with the Council's SPD.
20. The Council has confirmed that each contribution is recorded on its Planning Obligations monitoring database and is ringfenced for the projects listed in RAMS. The Council also produces an Infrastructure Funding Statement prior to each year end, which details all contributions held, and project spend is allocated to specific contributions. With these points in mind, I am satisfied that there would be sufficient procedures in place to secure appropriate mitigation and ensure that it would be provided in a timely manner to accord with RAMS.
21. Consequently, I am satisfied that the proposed development, in combination with other projects and plans, would not result in the likelihood of any adverse effects upon the integrity of European sites protected under the Habitats Regulations. For this reason, the proposal would accord with the habitats and species protection criteria set out in LP Policy SCLP10.1.

¹ Alde-Ore Estuary SPA and Ramsar Site, Deben Estuary SPA and Ramsar Site, Stour and Orwell Estuaries SPA and Ramsar Site, Sandlings SPA, Alde-Ore and Butley Estuaries SAC, and Orfordness-Shingle Street SAC.

² Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (May 2021).

Protected species within the site and its surroundings

22. The Council's second reason for refusal refers to unresolved concerns that the proposal could harm protected species, namely Great Crested Newts, Reptiles and Bats. The appellants have provided a second report in support of their original Preliminary Ecological Appraisal which specifically seeks to address those concerns. It does not appear that the Council has had regard to this report and it maintains concerns outlined in the reason for refusal.
23. Having considered the content of both reports together, I find them to be well reasoned and there is no substantive evidence to lead me to doubt their conclusions, the recommendations made, or requirements for mitigation and enhancement, including the implications on any other species. Furthermore, all aspects of the survey work appear to have been undertaken at appropriate times of the year for the identified species.
24. The assessment of nearby ponds dismisses their suitability as habitat for great crested newts. A tree within the site also serves as a Summer roost for bats and it could be removed for access to the site but, until details of access are refined, it is unclear whether that tree would be affected by the proposal. Nevertheless, the report takes a precautionary approach and sets out mitigation should tree removal be necessary. I consider that such matters should be controlled, through the use of planning conditions, to ensure that the scheme for the site has regard to the recommendations and ecological enhancements in the reports.
25. In light of the above, I conclude that the proposed development would not adversely affect protected species within the site or its surroundings. Hence, the proposal would be compliant with LP Policy SCLP10.1 and paragraphs 174, 180 and 182 of the Framework. I have not found against paragraph 179 of the Framework, as it relates to policy principles for the formation of plans.

Other Matters

26. There is concern from third parties that the proposal would set a precedent for other houses rear of the appeal site and elsewhere adjacent to Lodge Road. However, the Council's policy position is clear in relation to the approach to clusters of development and each application and appeal must be determined on its individual merits. There is also no firm evidence to suggest that the proposal would adversely affect the supply of mains water. Generalised concerns of this nature do not therefore justify withholding permission in this case.
27. Although Lodge Road is a single carriageway, it is typical of many roads in the locality and there is no substantive evidence that the volume of traffic associated with the proposal would be likely to be so significant that it would be harmful to the safety of other users of the highway, including pedestrians and other vulnerable users. Furthermore, whilst other vehicles would be needed to serve the development, during construction and following its occupation, these would either be short term or would almost certainly already take place for other dwellings nearby. I note that neither the Highway Authority nor the Council raise objections on these grounds.

Conditions

28. I have assessed the list of conditions supplied to me by the Council against the tests set out in paragraph 56 of the Framework. This states that they should only be imposed where they are necessary, relevant to planning and the development to be permitted, enforceable, precise, and reasonable in all other respects. I have made amendments to the wording of suggested conditions, where necessary, in the interests of clarity and precision.
29. As the appeal is in outline, I have attached the standard suite of conditions in respect of approval of reserved matters and implementation. However, I have indicated that the scheme should be based on the recommendations and enhancements referred to in the appellants ecological reports, including in relation to nesting birds.
30. Given the evidence before me, the risks to human health would necessitate that planning conditions are required to address the risks associated with any land contamination within the site, including pre-commencement site investigation.
31. I have omitted the condition suggested by the Council which refers to the site plan, as it is only for identification purposes and does not refer to any aspects of the proposal. I have also not included further conditions relating to the details of the proposed access and drainage from it, parking and manoeuvring of vehicles, and storage of refuse bins within the site, as these relate to access and layout of the proposal, which are both matters reserved for future consideration.

Conclusion

32. The proposed development would be in accordance with the development plan and there are no other considerations which outweigh this finding, including the Framework. Accordingly, for the reasons given, I conclude that the appeal should be allowed.

Paul Thompson

INSPECTOR

Schedule of Conditions

1. 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 the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The applications for reserved matters shall incorporate the recommendations and enhancements referred to in Section 5.2 of the Great Crested Newt, Reptile

and Bat Survey (July 2021, Ref: 202102) and Sections 5.2 and 5.3 of the Preliminary Ecological Appraisal (January 2020).

5. No development (including any construction, demolition, site clearance or removal of underground tanks and relic structures) hereby approved, 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.

6. 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 local planning authority. 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, and timings for their implementation;
- 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.

7. Before occupation or use of the approved development the RMS approved under Condition No 6 shall be implemented in its entirety. The local planning authority shall be given two weeks written notification prior to the commencement of the remedial works.
8. A validation report must be submitted to and approved in writing by the local planning authority 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.
9. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.

END OF SCHEDULE