



Appeal Decision

Site visit made on 2 May 2023

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 31 May 2023

Appeal Ref: APP/F3545/W/22/3307074

Site adjacent to The Greenover, The Park, Great Barton, Bury St Edmunds, Suffolk S89055, 267002

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr D Simsek against West Suffolk Council.
 - The application Ref DC/22/0556/FUL, is dated 28 March 2022.
 - The development proposed is erection of detached dwelling and cartlodge outbuilding with all associated siteworks (alternative scheme to that approved 15/0700/FUL on appeal).
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Decision

1. The appeal is dismissed and planning permission for erection of detached dwelling and cartlodge outbuilding with all associated siteworks (alternative scheme to that approved 15/0700/FUL on appeal) is refused.

Preliminary Matters

2. Planning permission was granted at appeal¹ (the 2015 appeal) for a similar development (the previous scheme²). Whilst that permission has lapsed, that decision is, nonetheless, a material consideration.
3. After the appeal was lodged the Council has said that it would have refused the proposal if it had been in a position to determine the application and has set out two reasons for refusal encompassing their principal concerns regarding the impacts of the proposal. These relate to the effect of the proposal on the character and appearance of the site and the surrounding area and biodiversity. I have had regard to these in the determination of this appeal.

Main Issues

4. The main issues in this appeal are the effects of the proposal on: -
 - The biodiversity of the site and the surrounding area, with particular reference to priority species and European Protected Species; and
 - The character and appearance of the site and the area.

¹ PINS REF: APP/E3525/W/15/3141032

² Council Ref: DC/15/0700/FUL

Reasons

Biodiversity

5. The previous scheme was accompanied by an extended phase 1 Habitat Survey and this enabled evaluation of the site's habitats and the likely use of the site by protected species. This information was used to inform further survey work deemed to be necessary for certain species.
6. The site is heavily wooded and has potential to provide roosts and foraging opportunities for bats. In regard to reptiles and Great Crested Newts, that phase 1 Habitat Survey found that the site was too small in itself to support a population but that it may be used for foraging. The site remains an area of managed woodlands and I have no reason to believe that the likelihood of the presence of reptiles and Great Crested Newts has diminished. However, the data for the extended phase 1 Habitat Survey submitted with the previous scheme would not be up to date and would require updating to establish any appropriate mitigation measures.
7. I am mindful of the advice provided in paragraph 99 of Circular 06/2005 that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted. The circular further advises that the need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances.
8. The Inspector in the 2015 appeal concluded that "Given the detail contained within the submitted Ecological Management Plan (EMP), it is evident that if the proposal is carried out in accordance with the plan, and appropriate controls over lighting are exerted, biodiversity would not only be preserved but would be enhanced". However, no EMP was submitted to accompany this appeal and I have no substantial evidence before me to demonstrate the current use of the site by European Protected Species or how they could be managed.
9. Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 states that: "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity."
10. Great Crested Newts and bats are European Protected Species and I must be satisfied that the impact upon them is suitably addressed.
11. Bringing these matters together, it has not been demonstrated that a satisfactory strategy to protect the European Protected Species could be delivered. Under such circumstances the imposition of a planning condition requiring further investigation and/or mitigation, would not be reasonable.
12. I therefore find that the proposal would result in harm to the biodiversity of the site and the surrounding area. This would be contrary to the aims of Policy DM11 of the West Suffolk Joint Development Management Policies Document - 2015- (the DMPD) and those parts of the Framework that seek to protect habitats and biodiversity.

Character and appearance

Trees

13. The appeal site (the site) is an undeveloped plot, lying within an area characterised by large detached houses of varying design set within spacious plots. It is located on a corner formed by the junction of narrow unmade lanes. The site is covered by an area Tree Preservation Order (TPO). The Council introduced the TPO because it considered that much of the fine character of Great Barton was due to the numbers of mature trees standing within The Park.
14. The site is also identified as being within the area covered by the Great Barton Neighbourhood Plan (GBNP), which is the designated Neighbourhood Plan. This identifies the site as lying within 'The Park Special Character Area' and that the TPO trees are also designated as an 'Important Woodland'. The characteristics of The Park Special Character Area include "The Park's narrow, unadopted road, large plots and abundant tree cover which provides a secluded, rural character". The GBNP also states that the Park has relatively low density compared to newer parts of the village, which is due to the plot sizes and parkland setting, but also recognises that "individually designed homes predominate" the character area.
15. The overall character and appearance of the area is that of a peaceful, verdant setting to the dwellings and the site makes a significant contribution to this.
16. The Tree Survey, Arboricultural Impact Assessment Preliminary Arboricultural Method Statement & Tree Protection Plan (the tree survey) carried out in accordance with BS 5837:2012³ has identified that, in addition to nine trees which require felling irrespective of development, it is necessary to fell four low quality or poor longevity individual trees and one B category tree in order to achieve the proposed layout. Additionally, seven trees require tree surgery to permit construction space or access. The assessment of trees in the survey has not been challenged by the Council. On the basis of the evidence before me, and my observations on site, I have no reason to disagree with the survey's findings.
17. The trees that would be removed are located in four areas within the site: -
 - along the western boundary of the site north of the proposed access, close to the proposed site access;
 - to the south-west corner of the site, close to the western boundary and south of the proposed access;
 - the south-east corner of the site; and: -
 - the centre of the site.
18. The trees on the western boundary and in the south-west corner grow closely together, forming a canopy over the lane. When approaching the site from either direction the reduction in the density of trees would not be apparent except when close to the site. Thus, the wider verdancy of the site that these closely set trees make to the area would not be materially diminished.

³ BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations

19. The trees towards the south eastern corner of the site are set well back from the surrounding lanes among other trees and are screened, to a great degree. Thus, whilst apparent in some views from neighbouring properties, the loss of these trees would not be readily apparent in public views.
20. Similarly, the trees in the centre of the site are located further away from the lanes, within a close group. Their loss would not be readily apparent from the lanes or from neighbouring properties, particularly as the proposed building would become more of a focal point in these limited views.
21. For these reasons, I therefore find that the felling of the trees proposed would not adversely affect the value of this area of trees as a whole or the contribution that they make to the character and appearance of the surrounding area.
22. The 2015 appeal also involved the loss of trees. My findings in regard to the trees on the western boundary and south-east corner of the site are similar to those of the Inspector in that case. Further, I note that the Council are in similar agreement.
23. Whilst the proposed dwelling would co-exist within its wooded setting, the surrounding trees may give rise to a desire by future occupiers to manage or 'domesticate' the woodland, undermining its contribution to the character and appearance of the area.
24. Given that the main habitable rooms would mainly face towards the lane, where trees are set further apart and the aspect is more open, any pressure to remove further trees to open this outlook, or others on the other sides of the buildings should not be difficult to resist, given the protection afforded by the TPO.
25. This, together with a Woodland Management Plan proposed within the Tree Survey, in a similar approach to that taken by the previous scheme, would ensure the appropriate management and safeguarding of the site and the contribution that it makes to the area.
26. I have had full regard to the fact that the appeal site is protected by an area Tree Preservation Order and that the proposal would result in an overall loss of fourteen of the eighty-five trees within the site. However, this includes nine trees that would be lost in any case. It will be seen from my reasoning above that this would result in limited harm to the character and appearance of the site and surrounding area and that the proposal would result in a woodland management plan, which could be secured by a suitably worded planning condition, that would be likely to improve the contribution that trees on the site make to the character and appearance of the area.
27. Taking all these matters into account, I do not find that the effects of the proposal on the trees on the site would materially harm the character and appearance of the area.

Buildings

28. The proposed dwelling would be located within a small clearing set back from the lanes that bound the site on two sides. It would have a modest footprint compared to the overall site area and retain most of its screening planting. Thus, the dwelling would retain, and be in keeping with, the general verdancy

and the generous plot sizes that characterise the area, as I have identified above. The screening provided by existing planting would limit public views of the house.

29. The GBNP recognises that “individually designed homes predominate” the character area. The dwelling is of an individual design. Given the variance of design in the vicinity of the proposal, and mix of design features and materials, I do not consider that the proposal, whilst different from its neighbours would be jarring, or incongruous with them.
30. The cart lodge would be positioned close to a boundary with one of the lanes, and this would be a substantial building of 1.5 storeys. Its proximity to that boundary, notwithstanding the treed appearance of the edge of the site, would make it more visible from the lane, when compared to the main dwelling and introduce residential paraphernalia and activity to the immediate vicinity of the lane.
31. However, whilst the area is dominated by its verdancy, built form also makes a contribution to the overall character and appearance of the area. During my site visit I observed other buildings, of varying scale, set close to the lanes, together with fences, walls and other urbanising features which were highly visible within the street scene.
32. Thus, when viewed as a whole, the proposed cart lodge would not be out of keeping in its context and the general paraphernalia it would be likely to generate would be insufficient to harm the character and appearance of the area. Further, I note that the proposal shows new tree planting between the cart lodge and the lane. This would have the effect of softening the effects of the development and providing additional verdancy to the lane following development.
33. My attention has been drawn to a recent appeal decision close to the site⁴. Whilst nearby, the proposal site in that appeal does not form part of the immediate setting of the proposal. I have, in any case, determined this appeal on its own merits.
34. I do not, therefore, consider that, subject to the imposition of planning conditions to control the detailed design of the development and provide landscaping mitigation, the proposed buildings would result in significant harm to the character and appearance of the area.
35. For similar reasons the proposal would accord with the aims of those parts of the National Planning Policy Framework (the Framework) which seek to ensure that developments are sympathetic to local character, including the surrounding built environment and landscape setting.

Conclusion in regard to character and appearance

36. Bringing these matters together, the proposal would not materially harm the character and appearance of the area and would, therefore, accord with the aims of Policies DM2 and DM13 of the DMPD, Policy CS3 of the St Edmundsbury Core Strategy – 2010- The Core Strategy and Policies GB10 and GB12 of the Great Barton Neighbourhood Plan 2019-2041 -2021- (the Neighbourhood Plan) in as much as these seek to protect the character and appearance of a locality

⁴ PINS Ref: APP/F3545/W/21/3287225

and its local distinctiveness through high quality design that respects local design features.

Other Matters

37. The development would provide benefits in terms of delivering an additional home to boost local housing supply. Whilst the Council is able to demonstrate in excess of a five year supply of housing land, this is not a maximum figure and there is no evidence to suggest that a small development of one dwelling would result in a significant oversupply of housing in the area. The Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.
38. There would be benefits to the local economy in terms of short-term employment in the construction industry and longer term support for local shops and businesses. Given the scale of the development, the benefits of the proposal would be of limited weight overall.
39. The proposal would result in material harm to local biodiversity, and this is a significant factor weighing against the scheme which, in this instance, is not outweighed by the benefits.

Conclusion

40. For the reasons set out above, the proposal would conflict with the development plan when read as a whole. There are no material considerations, including the Framework, that indicate that a decision should be made other than in accordance with the development plan and I therefore conclude that the appeal should be dismissed.

I A Dyer

INSPECTOR