



Appeal Decision

Site visit made on 27 July 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2023

Appeal Ref: APP/V0510/W/22/3312783

Cara Lodge, Dullingham Ley, Dullingham, Cambridgeshire CB8 9XG

- 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 Nigel Milsom against the decision of East Cambridgeshire District Council.
 - The application Ref 22/01097/OUT, dated 16 September 2022, was refused by notice dated 18 November 2022.
 - The development proposed is erection of dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline with access to be considered at this stage. All other matters are reserved for future consideration. I have assessed the appeal on this basis.
3. An illustrative layout accompanies the application. I have paid regard to it in so far as assessing the principle of development in land use terms.

Main Issues

4. The main issues are:
 - Whether the proposed development would be an appropriate location for new housing having regard to local and national planning policies;
 - The effect of the proposed development upon the character and appearance of the area;
 - The effect of the proposed development upon the living conditions of the occupiers of Cara Lodge with regard to outlook; and
 - Whether the proposal would impact upon biodiversity.

Reasons

Appropriate location

5. Policy GROWTH2 of the East Cambridgeshire Local Plan (2015) (LP) outlines the locational strategy for the district. For development beyond defined development envelopes, development will be strictly controlled to those specifically permitted by other LP policies. The policy does not support the provision of market housing in countryside locations.

6. The site neighbours existing residential development but as it sits outside the development boundary of Dullingham, for the purposes of planning policy, it is located within open countryside. This proposal has not been presented on the basis of any need for a countryside location.
7. Whilst the LP predates the current version of the National Planning Policy Framework (the Framework) existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of it. Due weight should be given to them, according to their degree of consistency with the Framework.
8. Whilst the Framework does not preclude new residential development from taking place in the countryside, it does seek to direct housing to the most appropriate locations in respect of access to infrastructure and facilities. In my view LP Policy GROWTH2 is broadly consistent with the sustainable development principles and objectives set out in the Framework.
9. I acknowledge that the Framework sets out that transport solutions will vary between urban and rural areas. However, the site is some distance from local services in nearby settlements. The surrounding roads are devoid of footpaths and street lighting and there are no cycle routes linking the site. Walking and cycling to and from the site to local services would be extremely difficult and would be especially difficult for the young, the elderly and those with mobility issues. This would be particularly so during the hours of darkness and inclement weather. In these circumstances the use of a private motor vehicle is the only practical means for residents to access the services they require. This combination of factors demonstrates that the appeal site is not in a location where a new dwelling would be considered acceptable.
10. I acknowledge that the proposal would add to the general availability of local housing. However, I have not been made aware of any pressing housing need for smaller units that would justify a dwelling in this location.
11. Whilst future occupiers may well support the rural community and existing services in nearby settlements, given the modest scale of the development the benefits would be very modest indeed.
12. Despite the presence of housing nearby the development would not be located within a settlement envelope and therefore it would not be an appropriate location for new housing. As such, it would be contrary to LP Policy GROWTH2.

Character and appearance

13. The site comprises part of the garden area of Cara Lodge. The site sits within a short run of dwellings along the northern side of the road, but otherwise development is more sporadic. The site is located within a largely agrarian landscape and the character of the site, and the sporadic nature of the existing built form contribute to the verdant and rural character of the area.
14. Notwithstanding the presence of dwellings either side, the garden due to its open nature contributes to the character of the area and a sense of spaciousness. Whilst the position of the proposed dwelling is illustrative, I find that the introduction of the built form through a new dwelling and the urbanisation of the site and associated residential paraphernalia would result in an uncharacteristic concentration of built form. It would fail to integrate with the pattern of development in the surrounding area.

15. The proposed development would significantly erode the verdant nature of the site and the contribution it makes to the character and appearance of the area through this urbanisation.
16. I acknowledge that the proposal has been submitted in outline form, however, based on the evidence before me, I am not satisfied that a scheme appropriate to its context could be secured at reserved matters stage.
17. As such, the proposed development would adversely affect the character and appearance of the area contrary to LP Policies ENV1 and ENV2 which, amongst other things, require development proposals to demonstrate a complementary relationship with existing development and that are sympathetic to the surrounding area.

Living conditions for existing occupiers

18. I acknowledge that the site is constrained in terms of width and a residential development would most likely sit close to the boundaries with neighbouring dwellings. However, the final scale and layout of the proposed development are reserved matters and there is no reason to suggest that a scheme that takes into account the relationship with nearby buildings could not be achieved.
19. As such, in this regard I am satisfied that the proposed development would likely maintain satisfactory outlook and living conditions for the existing occupiers of Cara Lodge. It would accord with LP Policy ENV2 which, amongst other things, requires development proposals to ensure that there is no significant detrimental effect on the residential amenity of nearby occupiers.

Impact upon biodiversity

20. The Council has stated that the site is located within the Amber Risk Zone for Great Crested Newts, which is a protected species. Whilst this not disputed by the appellant no ecological surveys have been provided.
21. From the evidence before me there is the possible presence of protected species in the area. The appellant is willing to accept appropriately worded planning conditions post-decision. However, Circular 06/2005: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system, states 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 planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. In this case I see no reason to depart from the guidance set out in the circular and the advice of the Council.
22. The potential for Great Crested Newts and other protected species on the site carries statutory duties and is a matter of considerable weight particularly given its rural setting. I am not satisfied that this matter has been investigated to demonstrate that there would be no harm to protected species.
23. Furthermore, in the absence of information that the proposed development could achieve a net gain in biodiversity I am not satisfied that the potential impacts of the development could be mitigated.
24. Therefore, the proposal would be contrary to LP Policies ENV1, ENV2, ENV7 and the Natural Environment Supplementary Planning Document (2020), which

amongst other things, require development proposals to respect the biodiversity of the surrounding area and maximise opportunities for creation, restoration and enhancement of natural habitats.

Planning Balance

25. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
26. There is no dispute between the parties that the Council can demonstrate a deliverable five-year supply of housing land. However, the appellant contends that the most relevant policy for determining the application is inconsistent with the Framework.
27. The construction of a dwelling would make a small contribution towards the district's housing supply and the development would generate some limited economic benefits, mainly during the construction phase.
28. On the other hand, I have found that the appeal site is not a suitable location for a dwelling due to the lack of access to services and facilities and the proposal would be harmful to the character and appearance of the area. In addition, it fails to demonstrate that there would be no adverse impact upon biodiversity.
29. Whilst the proposed development would not likely affect the living conditions of neighbouring occupiers, this is a matter of neutral consequence in the overall balance.
30. Therefore, even if I accepted that the most relevant development policies were out of date the adverse effects of the proposal would significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development therefore does not apply in this case.
31. I conclude that the proposal conflicts with the development plan, when read as a whole. There are no other considerations that outweigh that harm. The appeal is therefore dismissed.

Conclusion

32. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR