



Appeal Decision

Site visit made on 17 August 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2023

Appeal Ref: APP/W3520/W/22/3303880

Honey Pot Farm Caravan Park, Bury Road, Wortham IP22 1PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr C Feeney against the decision of Mid Suffolk District Council.
 - The application Ref DC/21/05477, dated 10 March 2022, was refused by notice dated 15 July 2022.
 - The development proposed is use of land for the stationing of 23 holiday lodges and 1 lodge for site manager.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs has been made by Mr C Feeney against Mid Suffolk District Council. This is the subject of a separate decision.

Preliminary Matter

3. I have omitted reference in the description of the proposal to it being a renewal of an earlier planning permission, as this is not in itself an act of development.

Background and Main Issue

4. The appeal site is an area of land located behind residential development on Bury Road (A143) and Mellis Road in the village of Wortham. The site has a long history of use as a caravan and camping site, albeit not in recent years, with the only indicators now being a dilapidated toilet block and what appeared to be covered electricity connection points for caravans dotted around the site.
5. The site itself is overwhelmingly natural in appearance, with mature copses of trees, bushes and other plants populating the space, which includes a pond towards the southern end. A second pond within the grounds of the adjacent Honey Pot Farm house is directly adjacent to the site and forms an attractive feature of the surroundings.
6. Planning permission has twice been granted, in October 2015 and November 2018¹, for development of the site for the same type and quantum of development. The evidence indicates neither permission has been implemented and both have therefore lapsed. A separate proposal for five detached dwellings was allowed on appeal in 2023².

¹ Council Refs 2689/15 and DC/18/04377

² APP/W3520/W/22/3310967

7. The Council has refused permission on the basis that the proposal would not represent a suitable location for the development, based on the potential for the lodges to be occupied as permanent dwellings, but also referring to the density of the scheme, the character of the area and the living conditions of neighbouring residents. A further reason for refusal relates to the potential effect on protected species, specifically bats.
8. Therefore, the main issue is whether the proposal would represent an appropriate location for the development, having regard to i) relevant local and national policy on development in the countryside, ii) the effect on the character and appearance of the area, iii) the living conditions of neighbouring occupants and iv) the effect of the proposal on protected species.

Reasons

Policy Context

9. The appeal site is indicated to lie partially adjacent to, but outside, the settlement boundary for Wortham and in the countryside for planning purposes. Policy CS2 of the Mid Suffolk Core Strategy (September 2008) (the MSCS) restricts development in the countryside to defined categories which accord with other policies. This includes recreation and tourism.
10. Saved Policy RT19 of the Mid Suffolk Local Plan (September 1998) (the MSLP) sets out that static caravans and holiday chalets will only be permitted where there are no adverse effects on, among other things, the character and appearance of the landscape, existing residential amenity, highway safety, wildlife conservation and where essential services can be provided. It adds that in countryside locations where permanent residential use would not be permitted but holiday use is acceptable, conditions will be imposed limiting the period of occupancy to ensure that the accommodation remains available for holiday use. Despite its age, the policy remains broadly consistent with the approach of the National Planning Policy Framework (the Framework) to promoting sustainable rural tourism, and still merits significant weight.
11. Despite this clear statement of policy, the Council has taken the view that the proposal should be considered against policies for permanent residential development, on the basis that some occupancy conditions on tourism developments have subsequently been removed, either by the Council or on appeal. However, the appeal³ cited by the Council is in a different location and I have little information before me to establish if the two schemes are comparable. In any event, each application must be considered on its own merits, and the proposal is for holiday accommodation, not permanent residential development. Were the appeal to be allowed and such a condition imposed, it would be for the Council to determine any subsequent application to remove said condition at the time, again on its merits and the specific circumstances of the case.
12. Moreover, there is no evidence before me to suggest conditions limiting the occupation of the lodges to holiday accommodation would not accord with the relevant tests for conditions set out in the Framework, were I to allow the appeal.

³ APP/W3520/W/18/3211466

13. Therefore, I cannot agree with the Council's application of policies related to permanent residential development in the countryside, such as saved Policy H7 of the MSLP. The proposal is for holiday lodges of a type which are common to tourism developments across the country. The Council's position also contrasts with its two previous approvals of similar development on the site under the same policy context, where it found the proposals would accord with saved Policy RT19, a material consideration it has not substantively addressed in its evidence.
14. For the reasons set out, therefore, I find that the holiday lodges are supported in principle under Policy CS2, with their overall acceptability dependent on their accordance with the relevant criteria of saved Policy RT19, to which I turn.

Character and Appearance

15. The lodges would be dispersed across the whole of the site between the natural features, including trees and the pond. The layout is the same as previously approved by the Council in 2015 and 2018.
16. The site is enclosed by boundary trees and hedgerows on its perimeter, such that there would be limited views of the lodges from most points outside of the site. However, there would be views from Honeypot Farm house across the pond within its grounds, where the lodges would introduce built form into the presently natural character of the site. However, I recognise that similar effects would have occurred as part of the past use for caravanning and the proposals previously accepted by the Council. The lodges themselves would be low profile, timber clad structures with shallow pitched roofs and timber verandas. They would be typical of the design of holiday lodges and the style, size and materiality would be appropriate to a countryside location and the natural surroundings of the site.
17. The proposal would involve the removal of several trees to accommodate the lodges, particularly corses to the eastern side and south-western corner of the pond. This would be unfortunate but they would be located within the interior, with limited effect on views from outside the site. Therefore, their removal would not materially harm the rural character of the wider surroundings.
18. The Council acknowledges the planning history but points to strengthened emphasis on the protection of the environment in the Framework and duties to conserve and enhance biodiversity under the Natural Environment and Rural Communities Act 2006. I address matters related to biodiversity below, but in respect of the character and appearance, the proposal would have limited effect outside of the site itself and would be a form of development supported in principle in such a location. I am also mindful that the site has a long history of tourism-related use and has recently been approved for development of permanent housing, a decision which is extant and capable of implementation.
19. Therefore, I find that the proposal would preserve the character and appearance of the area, in accordance with Policies CS5 of the MSCS and saved Policy GP1 of the MSLP, which together require development to maintain or enhance the character and appearance of their surroundings, including protecting and conserving landscape qualities and taking into account the natural environment. By extension, the proposal would also meet with relevant requirement of saved Policy RT19 to avoid adverse effects on the character and appearance of the landscape.

Neighbours' Living Conditions

20. The Council's concerns in this respect are made in very general terms, referring simply to the density of the development and the proximity of the lodges to neighbouring dwellings. Interested parties have raised concerns relating to noise, fumes and disturbance from additional traffic using the access road, and from light pollution generated by the use of the lodges.
21. The nearest dwellings to the west would be separated by the established treeline that would largely screen visibility of the proposed lodges. Residents to the north on Cobbold Close would be further from the lodges and similarly screened by trees. Activity by visitors may be audible at neighbouring properties, but this would be expected to predominantly be low level noise of a domestic nature, albeit at peak times the cumulative level may increase. A noise management plan has been recommended to be secured by condition, which would enable procedures to be put in place to prevent unacceptable noise from occurring and means to deal with it if it does. Such a plan should be enforceable given the proposal includes a site manager's lodge which would give a full-time presence on the site to oversee noise management. Subject to such a condition, I find that the proposed lodges would not give rise to unacceptable levels of noise or disturbance to the nearest neighbours.
22. The access route to the site is along a narrow, single track lane from the A143 which continues between two dwellings, Byron House and Greens Farmhouse. I note the Council's conclusions in 2015 that the use as 23 lodges would be less intensive in terms of traffic movements compared to the previous caravan use. The circumstances now differ in so far as the last use of the site for caravans is now several years ago and the site has returned to an inactive and tranquil state. In that respect, re-use of the site would reintroduce traffic, but given the size of the site and nature of the proposed use, comings and goings would be intermittent and the overall level of noise would be comparable, if not less than, the previous caravan use, such that there would not be a significant adverse effect in terms of disturbance to neighbouring occupants.
23. Overall, I find that the proposal would not lead to significant harm to the living conditions of neighbouring occupants. No conflict therefore arises with saved Policy H16 of the MSLP, which requires development to protect the existing amenity and character of primarily residential areas. The proposal would also accord with the relevant criterion of saved Policy RT19.

Effect on protected species

24. All species of bats are protected by law under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981. Circular 06/2005⁴ states that the presence of a protected species is a material consideration when a development is being considered which would be likely to result in harm to the species or its habitat. It adds at Paragraph 99 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* planning permission is granted.
25. The applicant's Preliminary Ecological Survey (PES) identified existing buildings on site as being unsuitable for bat roosts but stated that various trees within

⁴ Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System

the site provide potential nesting and roosting areas for birds and bats, and that any felling would require future survey work. However, the PEA does not identify the location of the named trees within the site. An initial response of no objection by the Council's biodiversity officer was later changed to a holding objection on the basis that several trees are proposed to be removed to facilitate the development, and that the information provided in the appellant's PES was insufficient to establish whether the proposal would affect bats.

26. The proposed locations of the lodges would necessitate removal of a considerable number of trees and other vegetation, particularly around the pond. I recognise that the same layout has been granted permission on the site, albeit it appears ecological impacts were not considered previously. I am also not aware of the information considered in the recently allowed appeal for five dwellings and cannot be sure that the same ecological information was presented, but I note from the approved plan that this scheme occupies a smaller site area and does not include the tree removal around the southern pond. Notwithstanding the planning history, the protection afforded to bats in legislation means I must make my own assessment of the potential effect of the proposed development on the species.
27. The appellant's PES acknowledges the potential effect on bats roosts from tree felling, but the survey is not sufficiently detailed to establish the actual presence or absence of bats on the site. Both the PES and the Council's ecologist state that further surveys would be required to establish this. Without this additional survey work, it is not known to what extent bats are currently using the site for roosting and it is not possible to identify suitable mitigation measures to minimise the potential impacts on this protected species. Full details of any mitigation measures would need to be provided in order to apply for a licence from Natural England. However, in the absence of these details, I cannot be certain that an application for a licence would be successful.
28. Circular 06/2005 advises that surveys should only be required by condition in exceptional circumstances. No exceptional circumstances have been advanced by the appellant and given the lack of information available in relation to the appeal site, use of a pre-commencement condition would not be an appropriate course of action in this case.
29. The absence of sufficient information means that I cannot rule out potentially significant harm to protected species. I conclude that the scheme would be contrary to saved Policy CL8 of the MSLP, which sets out that permission will be refused for development which, among other things, brings about the threat to rare or vulnerable species, especially those protected by law. The proposal would also conflict with saved Policy RT19 in respect of wildlife conservation. Moreover, the proposal would be contrary to the Framework which states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Conclusions on Main Issue

30. For the reasons set out, the Council's assessment of the proposal on the basis that the lodges could be used as permanent accommodation is speculative and does not assess the proposal for which permission is sought.

31. On the specific impacts of the proposal, I have not identified harm in respect of the character and appearance of the area or the living conditions of neighbouring occupants. However, I am unable to rule out harm to protected species. Therefore, drawing matters together, I conclude that the proposal would not meet with all of the requirements of saved Policy RT19 and so would not represent a suitable location for holiday accommodation. Given this, the proposal would not represent a sustainable form of development and would not gain support under Policies FC1 and FC1.1 of the Mid Suffolk Core Strategy Focused Review (the CSFR) or Policy CS2 of the MSCS.

Other Matters

32. The Council did not refuse permission with respect to a specific risk to highway safety. I noted the busy nature of the A143 at my visit. However, I do not have substantive evidence that the volume of traffic arising from the development would pose an unacceptable risk to highway safety or cause severe cumulative impact on the operation of the highway network, having regard to the relevant tests of the Framework. Therefore, this is not a matter weighing against the proposal.
33. Greens Farmhouse is a Grade II listed building dating from the 17th century. It would be separated from the nearest lodges by an area of open ground to the north of the site and a dominant line of trees that would screen the development. Having observed the site and the immediate surroundings of the listed building, I am satisfied that the proposed lodges would not adversely affect its setting or its overall heritage significance.
34. I have already referred to other planning permissions on the site where they may form material considerations. However, the schemes from 2015 and 2018 do not represent realistic fall-back positions as they have lapsed and can no longer be implemented. Moreover, the permission for five dwellings is a fall-back position, but it is not a factor meriting positive weight towards granting the proposal as it does not present an equivalent or greater degree of harm than the proposal before me, specifically with respect to protected species.

Planning Balance and Conclusion

35. There would be some economic benefits arising from the implementation of the development, and subsequently from the operation of the lodges and spending by tourists in the local area. However, given the scale of the proposal and the limited services in Wortham, such benefits would be modest in scale.
36. Overall, the material considerations in this case, including the planning history of the site and appellant's fall-back position, do not cumulatively outweigh the development plan conflict so as to justify a decision other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

K Savage

INSPECTOR