
Appeal Decision

Site visit made on 22 January 2024

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th March 2024

Appeal Ref: APP/X3540/W/23/3321569

The Orchard, Holly Lane, Little Bealings IP13 6PW

- 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 & Mrs Lyon against the decision of East Suffolk Council.
 - The application Ref DC/22/0566/OUT, dated 8 February 2022, was refused by notice dated 30 January 2023.
 - The development proposed is outline planning application proposing the erection of a detached dwelling and garage.
-

Decision

1. The appeal is allowed. Planning permission is granted for outline planning application proposing the erection of a detached dwelling and garage at The Orchard, Holly Lane, Little Bealings IP13 6PW in accordance with the terms of the application Ref DC/22/0566/OUT dated 8 February 2022 subject to the conditions set out in the attached schedule.

Procedural Matters

2. The description of the proposal in the banner heading above has been amended from that on the application form to omit wording that is not a description of development and that sought to address suggested merits of the scheme.
3. The application is made in outline with all matters reserved. Matters of access, appearance, landscaping, layout, and scale are reserved for future consideration. Only some plans form the basis of the planning permission¹.
4. The Council indicate that the potential to impact on protected habitat sites identified within the Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy, which related to the second reason for refusal is no longer considered a matter upon which the planning application should have been refused.

Main Issue

5. The main issue is whether the proposal is an acceptable location for housing with regard to the Suffolk Coastal Local Plan (2020) (SCLP) requirements for housing within such areas and the effect of the proposal on the character and appearance of the area.

¹ Site Location Plan 0846 01 REV 3.

Reasons

6. The appeal site is located adjacent to Holly Close which runs in a south westerly direction away from Holly Lane to the north-east. Holly Close forms the focus for a number of dwellings and those dwellings and their surrounding garden land are viewed entirely separately and distinctly from the substantial tracts of arable land that is characteristic of this part of Suffolk.
7. Policy SCLP5.4 relates to housing clusters within the Countryside and states that proposals for new dwellings within clusters will be supported in certain circumstances.
8. Firstly, the Council appear to accept that the site is within a cluster and I consider this to be the case. The proposal therefore meets criteria a). Secondly, the appeal site is located adjacent to existing development on at least two sides with housing located to the north-west on the other side of Holly Close and The Orchard and its garden located to the north-east. The proposal therefore meets criteria b). Further, due to the previously described setting of the site, the proposal meets criteria c).
9. I acknowledge that the proposal would introduce built development to the south-eastern side of Holly Close. Dwellings are more familiar to the opposite side which is much more developed. However, the introduction of an additional dwelling on the appeal site would overall be very much in keeping with the character and appearance of Holly Close which is primarily residential in nature.
10. I acknowledge that some hedging and trees may have to be removed to build out the development and provide access to Holly Close, however, this would just replicate the arrangement of existing dwellings across Holly Close and any harm to the character and appearance of the cluster would be very limited in extent. It would not cause undue harm and the proposal would therefore accord with criteria d).
11. The proposal would therefore meet the criteria for a house located within a cluster within the Countryside and would result in no significant adverse impact on the character or appearance of the area.
12. There would subsequently be no conflict with policies SCLP5.4, SCLP3.3, SCLP5.3, SCLP5.7, SCLP10.4 and SCLP11.1 of the SCLP. Amongst other things these policies require residential development to be appropriately located and to protect landscape character and the character and appearance of an area.

Other Matters

13. The Council confirms that the Preliminary Ecological Appraisal provides satisfactory conclusions in terms of the proposals potential to impact on biodiversity. They state that subject to the implementation of mitigation measures, it is not considered that the application will result in any significant adverse ecological impacts and I have no reason to disagree. I have not therefore identified conflict with Policy SCLP10.1 relating to Biodiversity and Geodiversity.
14. The site is located within the 13km protection zone of European Designated Sites which include a range of SPA, SAC and Ramsar's. Those sites support a range of habitats which in turn support a range of species.

15. The proposal would involve new residential accommodation within proximity to the sites and could therefore result in impacts on the designated sites arising from increased recreational disturbance. An impact pathway is therefore present.
16. Therefore, adopting the precautionary principle, and in the absence of any evidence to the contrary, I consider that as a result of the proposal, likely significant effects on the protected habitats sites cannot be ruled out.
17. I am therefore required to carry out an Appropriate Assessment. Increases in recreational pressure would be likely to have a detrimental impact on wildlife populations present as a result of disturbance to habitat. As such, the favourable conservation status of the species present would not be likely to be maintained. The development would be likely to have a detrimental impact on the delivery of the sites objectives, adversely affecting their integrity.
18. However, there is a tariff system in place to pay into a mitigation scheme relating to such potential impacts. The Council have confirmed that the relevant payment has been made and given that this has been secured, any potential impacts would be adequately mitigated. The proposal therefore draws no conflict with the SCLP with regard to this matter.
19. My attention has been drawn to a previous appeal decision APP/J3530/W/17/3191232. The Inspector relating to that previous appeal dismissed an appeal against a refusal of Suffolk Coastal District Council to grant planning permission for a detached dwelling and garage and formation of vehicular access to Holly Close. Given the characteristics of Holly Close that I have identified above I afford less importance to the role of the appeal site in sustaining the low-density and semi-rural charm of Holly Close than the previous Inspector.
20. In any event, regardless of that, the previous appeal was determined in 2018 under a different local plan which had different requirements relating to proposals such as that before me. This being the case, this leads me to afford limited weight to that previous appeal decision.
21. There is no evidence before me to indicate that the provision of a dwelling in this location would lead to any significant adverse impacts relating to highway safety. Disturbance during construction is an inevitable consequence of any development and is time limited in duration and I cannot afford significant weight to this matter.
22. There is nothing to indicate that any dwelling on the site would inevitably cause any significant harm to the privacy of occupiers of nearby dwellings as a result of overlooking or any significant adverse impact through loss of outlook.
23. My attention has been drawn to a recent appeal decision in respect of Homeleigh in The Street (APP/X3540/W/21/3282178). However, no further details relating to this site are provided to me and I can therefore only afford this matter limited weight. However, in any event the SCLP, in terms of the policy provisions it offers, accepts that some development may be provided in less sustainable locations.

Conditions

24. The standard conditions are required in relation to the outline consent and its time limits to define the permission. Condition 5 necessary in the interest of character and appearance of the area. Conditions 6, 7, 12, 14 and 15 are necessary to ensure that the site is suitability remediated if required. Condition 9 is necessary to ensure proper and sustainable drainage of site. Conditions 10, 13 and 16 are necessary in the interests of highway safety. Condition 11 is necessary in the interests of living conditions of future occupiers. Conditions 8, 17, 18 and 19 are necessary in the interests of biodiversity at the site.

Planning Balance and Conclusion

25. The proposal would accord with the development plan and there are no material considerations which indicate a decision should be made otherwise than in accordance with it. The appeal is therefore allowed.

T Burnham

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 3 years from the date of this permission.

3)The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

4)The development hereby approved shall be carried out in accordance with the following approved plan: -Site Location Plan.

5) No development shall commence nor any materials, plant or machinery brought on to the site until a full arboricultural impact assessment, tree survey and method statement (completed to British Standard 5837:2012) have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in full accordance with the agreed details.

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 site investigation consisting of the following components has been submitted to, and approved in writing by, the Local Planning Authority:

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: BS10175:2011+A2:2017 and the Land Contamination Risk Management (LCRM).

7) 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;
- 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 the LCRM.

8) No development shall take place (including any demolition, ground works, site clearance) until a method statement for reptiles and amphibians (herpetofauna) has been submitted to and approved by the Local Planning Authority. The content of the method statement shall include the:

- a) purpose and objectives for the proposed works;
- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) extent and location of proposed works shown on appropriate scale maps and plans;
- d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) persons responsible for implementing the works;

- f) initial aftercare and long-term maintenance (where relevant);
- g) disposal of any wastes arising from works. The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.
- 9) Prior to the first occupation of the dwelling details shall be submitted to and approved by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway including any system to dispose of the water. The approved scheme shall be carried out in its entirety before the first occupation of the dwelling and shall be retained thereafter in its approved form for the lifetime of the development.
- 10) Prior to the first occupation of the dwelling details of the areas to be provided for the manoeuvring and parking of vehicles including secure cycle storage shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the first occupation of the dwelling and shall be retained thereafter for its intended purpose for the lifetime of the development.
- 11) Prior to the first occupation of the dwelling details of the areas to be provided for the storage presentation of Refuse/Recycling bins shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be provided in its entirety before the first occupation of the dwelling and shall be retained thereafter for its intended purpose for the lifetime of the development.
- 12) Prior to the first occupation of the dwelling the RMS approved under condition 7 must be completed in its entirety. The Local Planning Authority must be given two weeks written notification prior to the commencement of the remedial works.
- 13) Prior to the dwelling hereby permitted being first occupied, the access onto the highway shall be properly surfaced with a bound material for a minimum distance of 5 metres measured from the nearside edge of the metalled carriageway, in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority.
- 14) A validation report must be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the dwelling. 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.

15) In the event that contamination which has not already been identified to the Local Planning Authority is found or suspected on the site it must be reported in writing immediately to the Local Planning Authority. Unless agreed in writing by the Local Planning Authority no further development (including any construction, demolition, site clearance, removal of underground tanks and relic structures) shall take place until this condition has been complied with in its entirety.

An investigation and risk assessment must be completed in accordance with a scheme which is subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and conform with prevailing guidance (including BS 10175:2011+A1:2013 and CLR11) and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

Where remediation is necessary a detailed remediation method statement (RMS) must be prepared and is subject to the approval in writing of the Local Planning Authority. The RMS must include detailed methodologies for all works to be undertaken, site management procedures, proposed remediation objectives and remediation criteria. The approved RMS must be carried out in its entirety and the Local Planning Authority must be given two weeks written notification prior to the commencement of the remedial works. Following completion of the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation must be submitted to and approved in writing by the Local Planning Authority.

16) Gates/bollard/chain/other means of obstruction to the access shall be set back a minimum distance of 5 metres from the public highway and shall not open towards the highway.

17) Development must be undertaken in accordance with the ecological avoidance, mitigation, compensation and enhancement measures identified within the Preliminary Ecological Appraisal Greenlight Environmental Consultancy, August 2022, REV 1.

18) No removal of hedgerows, trees, shrubs, brambles, ivy and other climbing plants shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority.

19) Commensurate with the Reserved Matters Application an Ecological Enhancement Strategy, addressing how ecological enhancements will be achieved on site, will be submitted to, and approved by the Local Planning Authority. Ecological enhancement measures will be delivered and retained in accordance with the approved Strategy.