



Appeal Decision

Site visit made on 27 February 2024

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2024

Appeal Ref: APP/X3540/W/23/3325305

Little Kyson Barn, Broomheath, Woodbridge IP12 4DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Dan & Deana Radice and Mr & Mrs James & Marian Radice against the decision of East Suffolk Council.
 - The application Ref is DC/21/4557/FUL.
 - The development proposed is conversion of barn to dwellinghouse, installation of package sewage treatment plant and associated landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for conversion of barn to dwellinghouse, installation of package sewage treatment plant and associated landscaping at Little Kyson Barn, Broomheath, Woodbridge IP12 4DN in accordance with the terms of the application, Ref DC/21/4557/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2023, during the course of this appeal. However, insofar as the contents are relevant to this appeal, the Framework has not changed. Therefore, I am satisfied no party would be disadvantaged by not having the opportunity to comment on the revised Framework.
3. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONB) in England became 'National Landscapes' (NL). However, the legal designation and policy status of AONBs are unchanged, so the considerations relevant to this appeal are unaffected. I have generally referred to NLs in my decision but, as the revised Framework refers to AONBs, I have also used this term where relevant.
4. The appellant has submitted a Landscape Appraisal (LA) and Landscape Enhancement Plan (LEP), which were not available to the Council when it made its decision. These documents provide additional information about the development proposal but do not materially change its design. They were available for comment as part of this appeal, so no party would be prejudiced by me taking account of them in my decision.

Background and Main Issues

5. In its decision report, the Council found a conflict with sections b), c) and g) of Policy SCLP5.5 of the Suffolk Coastal Local Plan 2020 (SCLP). In its statement

of case, the Council also identifies a conflict with section d) of this Policy. The appellant has had an opportunity to comment on this additional point, so I have taken it into account. Therefore, the main issues in this appeal are:

- whether the barn in a countryside location is suitable for conversion to a dwellinghouse, having regard to the extent of alteration required; the effect of the proposal on the form and character of the barn; the barn's contribution to the landscape; and the effect of the proposal on the immediate setting of the area, including the landscape and scenic beauty of the Suffolk Coast and Heaths NL; and
- the effect of the proposal on the integrity of protected European sites.

Reasons

Suitability for conversion to a dwellinghouse

6. The appeal site is on a ridge of high land between the Deben Estuary and Martlesham Creek within the Suffolk Coast and Heaths NL (the NL). The existing barn is single storey with timber facing and a tiled pitched roof, windows and doors at varying heights and side additions. It is on a relatively elevated part of the site, which falls away towards Martlesham Creek below. There is a caravan next to the barn. The rest of the site largely comprises meadow in a semi-natural state. Established foliage and mature trees surround much of the site, largely screening views of the barn from most perspectives including nearby public footpaths and the Creekside.
7. The appeal site is outside a defined settlement boundary so is within the countryside for the purposes of Policy SCLP3.3 of the SCLP. This Policy resists new residential development in the countryside except where specific development plan policies indicate otherwise. Policy SCLP5.5 of the SCLP covers conversions of buildings in the countryside for housing, which are permitted where all of eight criteria are met.
8. Criterion c) of Policy SCLP3.3 supports residential use where the conversion does not require significant alteration. Criterion d) requires that the design of the conversion maintains or enhances the structure, form and character of the rural building.
9. The appellant's Structural Appraisal Report dated August 2021 (SAR) concludes that it should be possible to undertake the proposed conversion works with little interference to the existing structure of the barn. This is notwithstanding the barn's "fairly crude construction". According to the SAR, repair, reinforcement, and renewal of structural elements would be necessary and a temporary propping system would help ensure the barn remains intact during construction. Nevertheless, there is no compelling evidence before me to demonstrate that a significant rebuild of the barn would be required, that a substantial amount of the existing structure would be removed or that the development would result in the building's *de facto* replacement.
10. The development would not materially alter the footprint, elevation, or roofline of the existing building. In addition, the proposed use of timber cladding and pantiles would reflect the barn's current appearance and could be secured by condition.

11. I am therefore satisfied the proposal would not involve significant alteration of the building, and that the structure, form and character of the rural building would be maintained, in accordance with criteria c) and d) of Policy SCLP3.3.
12. Criterion b) of Policy SCLP3.3 requires that the building provides a positive contribution to the landscape, and criterion g) requires that a conversion enhances the immediate setting of the area. The Council's Historic Environment Supplementary Planning Document (HESPD) provides further guidance on criterion b) and states an assessment should be made of the importance of the building in relation to the landscape and how much the building adds to its visual attraction, with reference to the AONB/NL Management Plan and Landscape Character Assessments.
13. The appellant's LA has regard to the AONB/NL Management Plan, which identifies its features of value and scenic qualities including semi-natural and cultural landscapes and built heritage features; elevated vantage points providing impressive views over low lying coastal marshes; varied habitats and land cover in intricate mosaic; juxtaposition of colours and textures further enhanced by seasonal changes; and sensory stimuli enhanced by quality of light/space, areas with dark skies and sound.
14. The LA also cites the Suffolk Coastal Landscape Character Assessment 2018 (SCLA), which describes the visual experience in the Deben Estuary as highly scenic with distinctive and dynamic vistas of water, mud and sky fringed by unspoilt wooded and farmed valley sides. The SCLA also states settlements in the Deben Estuary are largely hidden from view and perceptions of tranquillity and remoteness are strong.
15. There is no suggestion that, as a building, the barn has intrinsic architectural or historic merit. There is also no dispute that its use as a barn is redundant. Nevertheless, although of relatively recent construction, the building provides a link to the former agricultural use of the land, and thereby contributes to the intricate mosaic of habitats and land cover in the NL. Although the barn is unobtrusive and largely hidden amongst woodland, this is usual on the valley sides of the Deben Estuary. Consequently, the building in this context does not need to be visible to make a positive contribution to the landscape.
16. By maintaining the footprint, height, roofline and form of the barn, the proposed development would not materially alter the building's relationship with the landscape. By giving the redundant building a use, the development would extend its life and reinforce this relationship, which would otherwise be eroded through the eventual decay of the barn. Removal of the caravan and landscape and ecological enhancements such as those proposed in the LEP would enhance the immediate setting of the building and the landscape and scenic beauty of the NL.
17. Landscape and ecological enhancements could be agreed and secured by condition. Conditions to mitigate adverse effects of the development on trees and biodiversity, including external lighting, would help conserve the NL's characteristic woodland, dark skies, tranquillity, and soundscape.
18. Taking all this together, I find the existing building provides a modest positive contribution to the landscape. The development would also enhance the immediate setting of the area and the landscape and scenic beauty of the NL for the reasons given. Consequently, the proposed conversion would satisfy

criteria b) and g) of Policy SCLP5.5. It would also be consistent with the HESPD, insofar as it is relevant to the appeal.

19. I have considered the appeal decision brought to my attention by the Council¹. The Inspector found the modest dimensions and form of the redundant cart shed in that appeal to be a neutral feature in the landscape, rather than making a positive contribution as I have found in this case; and that the proposed extension and alterations would be of very limited scale so would have a neutral rather than enhancing effect on the immediate setting. Moreover, the site was in a different part of East Suffolk so not within the landscape context that is an important consideration here. Therefore, the circumstances in that appeal are not sufficiently closely related to be comparable to those before me. In any event, I am required to determine this appeal on its own merits.
20. For the above reasons, I conclude the barn in a countryside location would be suitable for conversion to a dwellinghouse, having regard to the extent of alteration required; the effect of the proposal on the form and character of the barn; the barn's contribution to the landscape; and the effect of the proposal on the immediate setting of the area, including the landscape and scenic beauty of the Suffolk Coast and Heaths NL.
21. Accordingly, I find no conflict with Policies SCLP3.3 and SCLP5.5 of the SCLP. I also find no conflict with Policy SCLP10.4 of the SCLP, which requires proposals for development to be informed by, and sympathetic to, the special qualities and features described in the SCLA and to avoid and mitigate significant adverse impacts on the natural beauty and special qualities of the NL. I also find no conflict with Policy SCLP11.1 of the SCLP, which supports locally distinctive and high-quality design that seeks to enhance key features of local character, taking account of important landscape features.
22. I also find no conflict with the Framework, which supports the development of isolated homes in the countryside if the development would re-use redundant or disused buildings and enhance its immediate setting; gives great weight to conserving and enhancing landscape and scenic beauty in AONBs; and seeks good design that takes into account local design guidance.

Integrity of protected European sites

23. The appeal site lies within the Zone of Influence of the Deben Estuary, Stour and Orwell Estuaries, Sandlings and Alde-Ore Estuary Special Protection Areas (the SPAs); and the Alde-Ore and Butley Estuaries and Orfordness-Shingle Street Special Areas of Conservation (the SACs). The SPAs and SACs are European sites protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).
24. Together, the SPAs and SACs comprise an extensive system of intertidal mudflats and sandflats, saltmarsh, low-lying grazing marsh, freshwater pools, saline lagoons, salt meadows, vegetated shingle, scrub, reedswamp and unimproved neutral grassland, with nearby heathland and acid grassland. The SACs support estuarine species and flora and fauna associated with lagoons and shingle banks, such as the sea beet, orache, cockle and starlet sea anemone. Between them, the SPAs support nationally and internationally

¹ Appeal Ref APP/X3540/W/23/3316154

important populations of breeding and migratory bird species, such as the dark-bellied brent goose, avocet, redshank, black-tailed godwit, knot, dunlin, curlew, marsh harrier, European nightjar and woodlark.

25. As a group, the SPAs and SACs provide an important recreational and economic resource. On the evidence before me, the proposal, particularly when combined with other development in the area, would be likely to have a significant effect on these protected European sites. Consequently, under the Habitats Regulations, an appropriate assessment is required in relation to the effect of the development on the integrity of the sites. This responsibility falls to me as competent authority in the context of this appeal.

Appropriate Assessment

26. The conservation objectives of the SPAs and SACs aim to ensure the integrity of the sites is maintained or restored. This includes maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats; and the population and distribution of each of the qualifying features within the sites. There is a threat to their integrity from public access and disturbance, including from recreational activities such as walking, dog walking and water sports.
27. It is likely the occupants of the proposed dwelling could visit the SPAs and SACs, resulting in increased recreational activity that could disturb the protected habitats and birds within the sites. Therefore, the development, alone and in combination with other development, would be likely to have significant adverse effects on the integrity and conservation objectives of the SPAs and SACs.
28. The parties have agreed a financial sum in accordance with the Suffolk Coast European Sites Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (Suffolk Coast RAMS). The sum would be put towards a programme of strategic mitigation measures. Natural England has been consulted as part of this appropriate assessment and has confirmed that the Suffolk Coast RAMS measures are sufficient to avoid an adverse impact on the integrity of the SPAs and SACs.
29. Although not contained within a legal agreement, I am satisfied on the evidence before me that the appropriate tariff has been received by the Council for the purposes of contributing to the strategic mitigation measures in the Suffolk Coast RAMS. I therefore find there would be no adverse effect from the proposed development on the integrity of the SPAs and SACs as designated European sites. Therefore, the proposal would accord with SCLP Policies SCLP10.1 and SCLP10.2, which reflect the requirements of the Habitat Regulations. It would also be consistent with the Framework, which requires adequate mitigation if significant harm to sites protected under the Habitats Regulations cannot be avoided.

Conclusion

30. For the reasons set out above, I conclude the proposed development would not have an adverse effect on the integrity of protected European sites.

Other Matters

31. There is little evidence to substantiate the concern within the Council's appeal statement that the site is distant from facilities and services. This consideration did not form part of the reason for refusal, which I have dealt with above. The site is within reasonable walking distance of Woodbridge train station and town centre, so I am satisfied there would be a genuine choice of transport modes, taking account of the site's rural location.
32. Concerns have been raised about access to the site, traffic generation and safety on the highway, bridge, private road and public footpath. The Council has raised no concern about these matters and, on the evidence before me, I see no reason to disagree. Construction would cause some disruption, but this would be temporary and would be mitigated by a method of construction statement, which could be the subject of a condition.
33. I have considered the information brought to my attention about the history of the site and previous proposals for conversion of the barn. These proposals pre-date the Policies in the SCLP against which I have determined this appeal. There is also no compelling evidence to substantiate the suggestion that the barn was not originally intended for agricultural use or that later alterations were made to make it resemble a residential building.
34. Any proposal for development on other land owned by the appellant would need to be considered on its own merits through a separate planning application and has had no material bearing on my conclusion in this appeal. Other land ownership issues are a private matter between the relevant parties and not within my jurisdiction.
35. It has been suggested the development, if allowed, would set a precedent for similar proposals. The particular circumstances relating to the appeal proposal would be unlikely to be repeated elsewhere. Each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.

Conditions

36. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. I sought the views of the parties on the conditions, including the appellant's agreement to pre-commencement conditions. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.
37. A condition securing a method of construction statement is necessary for highway safety and to protect the living conditions of neighbouring occupiers. It is a pre-commencement condition because details of the statement need to be agreed before the start of work on site.
38. The conditions relating to contaminated land are necessary to mitigate the risks of contamination to construction workers, future users of the land, and offsite receptors including neighbouring occupiers and water and ecological systems. This includes pre-commencement conditions to secure the necessary measures before works start.

39. Conditions relating to ecology, biodiversity and external lighting are necessary to secure adequate protection for nesting birds, bats and other wildlife on and around the site and for the enhancement of biodiversity. This includes a pre-commencement condition securing a Construction Environmental Management Plan to ensure adequate mitigation prior to the start of demolition and site clearance. The external lighting condition is also necessary to conserve dark skies in the NL.
40. Conditions securing arboricultural protection measures are necessary to mitigate risks to retained trees and hedges during construction. This includes pre-commencement conditions requiring details of excavation works and construction of the drive to the converted barn, so these can be agreed before construction begins.
41. Conditions relating to materials and landscaping are necessary to secure the satisfactory appearance of the converted barn and the enhancement of the immediate setting and landscape. The condition relating to space for vehicles is necessary for highway safety.

Conclusion

42. For the above reasons the proposal accords with the development plan, read as a whole. Material considerations, including the Framework, do not indicate that a decision should be taken otherwise than in accordance with it. I therefore conclude the appeal should be allowed.

C Carpenter

INSPECTOR

Schedule of conditions

Time limits and drawings

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20-476 Rev B Location Plan; 02-476 Rev A Existing Site Plan; 15-476 Rev A Existing Barn; 16-476 Rev G Proposed Barn Plans; 17-476 Rev G Proposed Barn Elevations; 18-476 Rev F Proposed Barn Site Plan; 19-476 Rev D Proposed Roof Block Plan Barn; Amended Barn View.

Pre-commencement

- 3) No development shall take place until a detailed method of construction statement has been submitted to and approved in writing by the local planning authority. The details in the statement shall include:
hours of construction/activity on site;
the location of parking areas for construction vehicles; and
delivery hours for materials and equipment to the site before and during construction.

The approved method of construction statement shall be adhered to throughout the construction of the development hereby permitted.

- 4) No development (including construction, demolition, site clearance or removal of underground tanks and relic structures) shall take place until a site intrusive investigation as recommended in the submitted Phase 1 Desk Study and Preliminary Risk Assessment (Report No. 6330,DS,DESK,FW,TP,21-03-22,V1 by GEO Geosphere Environmental, dated 21 March 2022) has been submitted to and approved in writing by the local planning authority. The investigation shall include:
- 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 suitably qualified contaminated land practitioner in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice, and Environment Agency guidance on Land Contamination Risk Management (LCRM) (or equivalent British Standard and guidance if replaced). The site investigations shall assess any contamination on the site, whether or not it originates on the site.
- 5) No development (including construction, demolition, site clearance or removal of underground tanks and relic structures) 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 shall include:
- 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 shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved RMS shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.

- 6) No development (including demolition, ground works, site and vegetation clearance) shall take place until a construction environmental management plan (CEMP Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP Biodiversity shall include:

identification of biodiversity protection zones;

a risk assessment of construction activities that could potentially damage these biodiversity protection zones;

practical measures (both physical measures and sensitive working practices) to avoid or reduce adverse impacts during construction (this may be provided as a set of method statements);

use of protective fences, exclusion barriers and warning signs;

the location and timing of construction activities to avoid harm to biodiversity features and protection zones;

responsible persons and lines of communication;

the role and responsibilities of an ecological clerk of works or similarly competent person; and

the times during construction when specialist ecologists will need to be present to oversee works.

The approved CEMP Biodiversity shall be adhered to and implemented throughout construction of the development hereby permitted.

- 7) No development shall take place until details of all excavations, including for house and deck foundations, have been submitted to and approved in writing by the local planning authority. The details shall include the location and depth of excavations, methods of excavation and methods of tree protection during excavation. Development shall be carried out in accordance with the approved details.
- 8) No development shall take place until details of the 'reduced dig' construction of the drive to the barn have been submitted to and approved in writing by the local planning authority. The details shall include existing and finished levels, drive build-up, means of edge restraint and methods of tree protection during excavation. Development shall be carried out in accordance with the approved details.

Construction

- 9) The development hereby permitted shall be carried out in accordance with the ecological avoidance, mitigation, compensation and enhancement measures identified in the Preliminary Ecological Appraisal Report by Practical Ecology, dated 23 July 2021, and the Bat Survey Report by Practical Ecology, dated 19 July 2021, submitted with the planning application.

- 10) The development hereby permitted shall be carried out in accordance with the recommendations in the Arboricultural Impact Assessment, by Arborterra Ltd, dated 6 August 2021. No services, including but not limited to mains water, electricity, gas, telecoms, surface water drainage and foul water drainage, shall be located within the root protection areas of trees to be retained. No tree or hedge shown to be retained shall be lopped, topped, pruned, uprooted, felled, wilfully damaged or in any other way destroyed or removed without the prior written consent of the local planning authority. Any retained trees or hedges which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species previously agreed in writing by the local planning authority.
- 11) No removal of hedgerows, trees, shrubs, brambles, ivy or other climbing plants or works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1 March and 31 August inclusive unless a suitably qualified ecologist has undertaken a careful and detailed check for active birds' nests immediately before the work takes place and has provided written confirmation to the local planning authority that no birds will be harmed and/or that appropriate measures are in place to protect nesting birds on site. Works, including clearance of vegetation, shall take place in accordance with any such protection measures.
- 12) 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. The local planning authority must be notified in writing two weeks before the commencement of remedial works. The approved remediation and verification schemes shall be carried out before the development is resumed or continued.
- 13) The materials and finishes to be used in the external surfaces of the development hereby permitted shall be as specified within the submitted application form and shall thereafter be retained as such.
- 14) No external lighting shall be installed unless a 'lighting design strategy for biodiversity' has been submitted to and approved in writing by the local planning authority. The strategy shall:

identify sensitive biodiversity areas/features and species on site likely to be adversely affected by lighting through disturbance on or around breeding sites, resting places and/or routes used to access key areas of territory such as foraging locations; and

show how and where external lighting will be installed, through the provision of lighting contour plans and technical specifications, so that it can be clearly demonstrated these will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the approved specifications and locations and shall be maintained thereafter in accordance with the approved lighting strategy.

Within 3 months of commencement of development

- 15) Within 3 months of commencement of development, a scheme of landscape works at a scale of not less than 1:200 shall be submitted to and approved in writing by the local planning authority. The scheme of landscape works shall include details of tree and shrub planting, grass, earthworks, driveway and parking area construction, patios, hard surfaces and all other landscaping operations, and an implementation programme.

The approved scheme of landscape works shall be implemented in accordance with the approved implementation programme and shall thereafter be retained and maintained. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and shall thereafter be retained and maintained.

Pre-occupation

- 16) The dwelling shall not be occupied until space has been laid out within the site for the loading, unloading, manoeuvring, and parking of vehicles in accordance with drawing No. 18-476 Rev F and that space shall thereafter be kept available at all times for those purposes.

End of schedule