



Appeal Decision

Site visit made on 21 September 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2024

Appeal Ref: APP/X3540/W/22/3307970

6 Dorking Road, Lound, Suffolk NR31 9AZ

- 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 Richard Moore against the decision of East Suffolk Council.
 - The application Ref is DC/22/0506/OUT.
 - The development proposed is demolition of existing buildings on site and erection of single dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings on site and erection of single dwelling at 6 Dorking Road, Lound, Suffolk NR31 9AZ in accordance with the terms of the application, Ref DC/22/0506/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the banner heading and my decision above has been amended from that provided on the planning application form. The development was originally described as "proposed dwelling". However, the main parties have confirmed that the proposal includes the demolition of existing buildings on site in addition to the erection of a new dwelling. Therefore, in the interests of clarity, and with the agreement of the main parties, I have amended the description to reflect this.
3. Outline planning permission is sought with all matters reserved for future consideration. Therefore, I have treated the submitted plans as illustrative.
4. The Council has confirmed that it is concerned that, in the absence of mitigation, the scheme would adversely affect the integrity of the Benacre to Easton Bavents Special Protection Area, which is a 'habitats site' in the terms of the National Planning Policy Framework (the Framework). A payment has been made to the Council which is intended for use in mitigating the potential impacts of the development on the integrity of the habitats site. Nevertheless, I must be certain that there would be no adverse effect on the integrity of this habitats site and consultation with Natural England has been undertaken accordingly.
5. Since the Council made its decision, the Housing in Clusters and Small Scale Residential Development in the Countryside Supplementary Planning Document (SPD) has been adopted. Furthermore, in December 2023, a revised version of the Framework was published. I am satisfied that both parties have had the opportunity to comment on both the Framework and the SPD. I have had regard to both documents in my decision.

Main Issues

6. The main issues are:

- Whether the appeal site provides a suitable location for the dwelling proposed having regard to the pattern of development in the area and the effects of the proposal upon the character and appearance of the countryside; and
- The effects of the proposal on the integrity of the Benacre to Easton Bavents Special Protection Area.

Reasons

Location and character and appearance

7. The appeal site is a roughly triangular parcel of land. Towards its edges there is undeveloped grassland but the central area contains storage and workshop type buildings. Existing boundary hedgerows provide a strong sense of enclosure to the site. The site is accessed via Linen Post Lane. Close by, and lining Linen Post Lane and the nearby Dorking Road, are a number of residential properties. These comprise of 2 storey houses and bungalows. The appeal site and the nearby buildings are located within the countryside.
8. However, given the number of buildings lining Linen Post Lane and Dorking Road, and that most of these are residential properties and are situated close to one another, this group of buildings constitutes a settlement. To one side of the appeal site there is garden land behind a row of terraced houses. Therefore, there is residential property to this side of the appeal site even though the terraced houses themselves are around 30 metres away. This garden land and the terraced row extends for a quite considerable distance to the south-west of the appeal site. On the opposite side of Linen Post Lane there is a bungalow and its associated plot with further residential properties either side of it.
9. Therefore, although there is countryside to the south, there is existing residential property on two sides of the site and the proposed development would not extend further into the undeveloped countryside than the existing extent of the built-up area surrounding the site. Furthermore, with existing residential properties close by in different directions, the existing settlement pattern is quite close-knit. The appeal site is not disconnected from this, and it is situated amongst the settlement, forming an identifiable gap within it.
10. Although some of the neighbouring detached houses have quite a large footprint this is not the case with the terraced houses. Garden sizes vary too. I find that the appeal site is of a size that is commensurate with existing residential plots nearby. Therefore, whilst all detailed matters are reserved, a dwelling could be provided on the site with a footprint and an associated garden which would be similar to some of the other neighbouring properties.
11. As existing buildings are already on the site, their replacement with a dwelling would result in no significant increase in built development on the site. The appeal site is next to a road and so, like the other houses in the settlement, the proposed dwelling would line one of the roads running through it. The proposed plans show a 1½ storey property. At this outline stage this is indicative, but with both bungalows and 2 storey houses nearby, there is a

variety of house sizes in the area already. Terraced and detached properties are within the settlement and there is some variance in their design and use of building materials. For these reasons, I am satisfied that there is sufficient scope for the proposed dwelling to be designed such that it would be sympathetic to the character and pattern of existing development in the area.

12. Jay Lane is situated a quite considerable distance to the south of the appeal site. It has hedgerows running alongside it. There is a further hedgerow dividing the fields between the appeal site and Jay Lane. There is also a hedgerow running along the southern boundary of the site. Given the distances involved and the intervening hedgerows, the proposed dwelling would not feature prominently in the landscape in views from Jay Lane.
13. In closer vantage points to the south and west, including along the nearby public right of way, the upper parts of existing buildings within the settlement are seen above and between hedgerows and trees. I have no reason to conclude that much of the site's existing boundary hedgerows could not be retained. Therefore, the proposed dwelling would only be partly seen above and beside landscape features. The dwelling would sit appropriately within the landscape.
14. Consequently, being situated within a settlement in the countryside and being well related to the existing pattern of built development in the area, the appeal site provides a suitable location for the dwelling proposed whilst the character and appearance of the countryside would not be harmed. In finding that the proposed development would constitute an appropriate addition to the built form of an existing settlement, near to other properties, it follows that it would not represent an isolated dwelling in the countryside with no conflict with the advice at paragraph 84 of the Framework.
15. The proposed development would comply with Policies WLP8.7 and WLP8.29 of the East Suffolk Council Waveney Local Plan (LP) and the content of the SPD. These policies and provisions set out that small scale residential development in the countryside will be permitted provided that certain criteria are met. This includes that development should respect and reflect the character of the settlement whilst all development should be of a high quality of design which responds to local context. Additionally, I find no conflict with the Framework in respect of this main issue which, at paragraph 135, sets out that development should be sympathetic to local character including landscape setting.

The Benacre to Easton Bavents Special Protection Area

16. The coast, heaths and estuaries of Suffolk are internationally recognised wildlife assets and include habitats sites which are afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). This includes the Benacre to Easton Bavents Special Protection Area (SPA).
17. The qualifying features of the SPA are its Great bittern, Eurasian marsh harrier and Little tern breeding bird populations. The site also supports important assemblages of other breeding and wintering birds. The SPA's conservation objectives are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate and that the site contributes to achieving the aims of the Wild Birds Directive. This is to be achieved through

the maintenance and restoration of the population and distribution of its qualifying features and their habitats.

18. The SPA is underpinned by the Pakefield to Easton Bavents Site of Special Scientific Interest (SSSI) and the Benacre National Nature Reserve (NNR). The vegetated shingle, saline lagoons, flood-plain fens and scarce vascular plants within the SSSI are nationally important habitats. The SSSI supports nationally important breeding and wintering bird populations including those which are the qualifying features of the SPA. The features of interest of the NNR again include breeding bird species but also East Anglian shingle flora and reedbed plants.
19. Recreational activities undertaken by residents and visitors to the area can harm breeding birds, for instance, by increasing their stress and causing displacement and avoidance of habitat suitable to them. The Little tern, which nest on the Suffolk beaches and are mobile along the coastline, are particularly sensitive to this form of recreational pressure. The proposed development would deliver a single additional dwelling and would contribute to the recreational activities and consequential effects. This contribution would be limited by itself, however, in combination with other development in the area, it is likely to have significant effects on the SPA by contributing to the overall level of recreational activity which takes place. These activities would impede upon the favourable conservation status of the qualifying features of the SPA being achieved and adversely affect the integrity of the site.
20. The Habitats Regulations Assessment Recreational Disturbance Avoidance and Mitigation Strategy for Ipswich Borough, Babergh District, Mid Suffolk District and East Suffolk Councils (RAMS document) identifies a programme of mitigation measures the purpose of which is to prevent such adverse effects. Although these measures are geared toward the protection of the integrity of the SPA and other habitats sites, they would also serve to protect the SSSI and NNR as well, given some of their particular interest features are shared. Amongst other actions, the measures include the provision of a delivery officer whose role is to manage and oversee the implementation of the mitigation, a team of rangers to provide a presence within the protected sites and to educate visitors, together with infrastructure works such as car park, path and signage rationalisation. Natural England is content that should a financial contribution towards these measures be secured, the proposed development would not have an adverse effect on the integrity of habitats sites in the area.
21. In this case the appellant has already paid the Council £321.22. This was made under Section 111 of the Local Government Act 1972 and the figure aligns with the advice of the RAMS document. The submitted Section 111 form states that the purpose of the financial contribution is to mitigate the recreational impacts of the development. Amongst the submissions made, I note that the Council have relayed to me some of the measures and requirements in place to ensure the transparency of the Council in relation to its use of the payment received.
22. Given all that is before me, I am satisfied that the Section 111 contribution would be utilised towards the RAMS mitigation measures and, in turn, that the effects of any recreational activities which would emerge from the proposed development would not have an adverse effect upon the integrity of the SPA.
23. The proposed development would therefore comply with Policy WLP8.34 of the LP. Amongst other matters, this policy seeks to ensure that development

maintains, restores or enhances the existing green infrastructure network and positively contributes towards biodiversity. The policy further sets out that, as applicable, development should be supported by information to inform a habitat regulations assessment and commits to the formation of a strategy to mitigate the effects of recreational activities upon SPAs.

Other Matters

24. The settlement the appeal site is within is not served by services and facilities. The future occupiers of the dwelling would be required to travel to other settlements to access such services and facilities. Given this, I expect that the dwelling's occupiers would be heavily reliant on a private car.
25. However, in providing only a single dwelling, the proposed development is a modest one, and the private vehicular trips which would be derived from it would be quite limited. I am mindful of the advice within the Framework that the opportunities to maximise sustainable transport solutions vary between urban and rural areas. Furthermore, the supporting text to policy WLP8.7 of the LP sets out that appropriate small scale residential development in the countryside can provide the opportunity for people to remain in rural communities whilst providing social and economic benefits too. I find the appeal proposals to constitute an appropriate small scale residential development referred to within policy WLP8.7 despite the site's accessibility credentials being somewhat compromised.
26. The contribution to housing supply made by the development would be very limited, but some modest benefit would be derived from this nevertheless.

Conditions

27. In imposing my conditions, I have had particular regard to the suggested conditions of the Council and the advice of the Framework and the Planning Practice Guidance. I have imposed standard outline planning permission conditions in respect of the submission of the reserved matters and time limitation. In the interests of certainty, I have imposed a condition which sets out that only a single dwelling is permitted and that it must be built within the bounds of the site.
28. Conditions 5, 6, 7 and 8 are applied in order to minimise the pollution and health risks which could arise from site contamination. In the interests of highway safety, and to clarify the requirements of the access submissions at the reserved matters stage, Condition 9 is necessary. A condition is necessary so as to ensure water efficiency and to limit stress upon water resources in the area.
29. I have not imposed the suggested conditions requiring the submission and approval of a landscaping scheme, waste and recycling, or details relating to access enclosures and access surfacing. With all detailed matters reserved for future consideration, I see no reason so fundamental that requires additional control of these matters at this outline stage.
30. In my first main issue, I have referred to the presence of bungalows and 2 storey houses near the appeal site whilst the plans indicate a 1½ storey dwelling. At this outline stage, I see no reason why only a single storey dwelling would be acceptable at the site. Given scale is a reserved matter, the

Council will have future control over the dwelling's size. For these reasons, a condition limiting the dwelling to a single storey is not necessary.

31. Building Regulations place energy efficiency requirements upon new homes. Planning should not duplicate the functions of other regulatory bodies or controls without good reason. I have no compelling evidence before me that compliance with Building Regulation home energy efficiency requirements would be insufficient in this case or the particular reasons why a planning condition would be necessary. Therefore, unlike the Council's suggested suite of conditions, the conditions I have imposed make no specific reference to energy efficiency.
32. Finally, where necessary, and in the interests of precision or clarity, I have made some general amendments to the wording of the conditions from that suggested by the Council.

Conclusion

33. 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. Therefore, I conclude that the appeal should be allowed.

H Jones

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 must be begun not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be limited to no more than 1 dwelling on the land bound red on the Site Location Plan.
- 5) No development (including demolition and site clearance works) shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority.
- 6) If any contamination is found, no development shall take place until a report specifying the measures to be taken, including the timescales, to remediate the site to render it suitable for the approved development has been submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescales.
- 7) If, during the course of development, any contamination is found which has not been previously identified, it shall be reported immediately to the local planning authority, work 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, updated remediation measures, including timescales of their implementation, shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescales.
- 8) The dwelling hereby approved shall not be occupied until a verification report demonstrating that all of the remediation scheme(s) and measures have been carried out and that, as a minimum, the site will not qualify as contaminated land as defined by Part 2A of the Environmental Protection Act 1990 has been submitted to and approved in writing by the local planning authority.
- 9) No other development and no access or egress by vehicles between the highway and the application site shall take place until the vehicular access to serve the development has been completed in accordance with details which shall have been submitted to and approved by the local planning authority at the reserved matters stage. Those access details for approval and completion shall ensure visibility splays which provide clear

visibility at a height of 0.6 metres above the carriageway level in the area between the nearside edge of the carriageway and a line 2.4 metres from the nearside edge of the carriageway at the centre line of the access point and a distance of 43 metres in each direction along the edge of the carriageway from the centre of the access (or tangential to the nearside edge of the carriageway, whichever is the more onerous).

Once provided, and notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no obstruction to visibility shall be erected, constructed, planted or permitted to grow over 0.6 metres high within the areas of the visibility splays.

- 10) The dwelling hereby approved shall not be occupied until details have been submitted to and approved in writing by the local planning authority which demonstrate compliance with the Building Regulation Optional Water Efficiency Standard of 110 litres per person per day.