



Appeal Decision

Site visit made on 25 June 2024

by **E Grierson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Appeal Ref: APP/X3540/W/23/3330857

Fenlands, Leiston Road, Aldeburgh, Suffolk IP15 5PL

- 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 Stephen Salter against the decision of East Suffolk Council.
 - The application Ref is DC/23/1554/FUL.
 - The development proposed is the erection of a self-build dwelling on garden amenity land.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a self-build dwelling on garden amenity land at Fenlands, Leiston Road, Aldeburgh, Suffolk IP15 5PL in accordance with the terms of the application, Ref DC/23/1554/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matter

2. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became 'National Landscapes'. Nevertheless, the Framework still refers to AONBs and their legal designation and policy status remain unchanged. Therefore, I will still refer to the Suffolk Coast and Heaths AONB within this decision.

Main Issues

3. The main issues are:
 - whether the proposed development would be in a suitable location for new housing with regard to the local development strategy and accessibility to services and facilities; and
 - the effect of the proposed development on the character and appearance of the area and the Suffolk Coast and Heaths AONB.

Reasons

Location

4. The appeal site forms part of the garden belonging to the dwelling known as Fenlands. It is a long narrow plot located between the host dwelling and Leiston Road and is currently open grassland with trees and hedging along the boundaries with gated access onto the adjacent road. The site is located outside of any defined settlement boundary, within the countryside, and is also within the Suffolk Coast and Heaths AONB.

5. Policy SCLP5.3 of the East Suffolk (Suffolk Coastal) Local Plan 2020 (the LP) limits new residential development located outside of the defined settlement boundaries to a number of exceptions. This includes limited development within existing clusters (in accordance with Policy SCLP5.4). Policy SCLP5.4 (a) of the LP supports proposals for new dwellings within 'clusters' in the countryside where the proposal is for up to three dwellings within a cluster of five or more dwellings. Within the context of this policy a 'cluster' consists of a continuous line of existing dwellings or a close group of existing dwellings adjacent to an existing highway and contains five or more dwellings.
6. The Housing in Clusters and Small Scale Residential Development Supplementary Planning Document (SPD) 2022 provides further guidance on the matter, stating that the dwellings in a cluster as a whole must be closely related and extensive areas of open land should not exist between the dwellings. Dwellings can be separated by some other features, such as gardens and accesses, and do not need to conjoin, with dwellings separated by open fields or other extensive open spaces highly unlikely to form a cluster. However, it does not define a specific size of space(s) that would or would not be acceptable in determining whether dwellings are close as this will depend on the character of the area. The SPD also highlights that a highway is defined as any route in which the public has a right of way and that roads such as private driveways will not be considered as highways.
7. Whilst the surrounding residential development does not follow a particular pattern, the host dwelling and the surrounding properties could be considered to form a close group of existing dwellings adjacent to an existing highway. This would include the host dwelling and Sunnyside, Fairmead, Compass Rose, Kimberlay, Blueberry Hill, Pine Lodge and La Remise to the south of the appeal site. Although these properties are all located on spacious plots, they are not separated by open fields or extensive open spaces, taking into account the loose knit character of the area. Birch Tree Lodge to the north of the appeal site is a slightly greater distance from other dwellings within the cluster, but this is separated by residential garden space, albeit one that is substantial in size, rather than an open field. Therefore, it also forms part of the cluster.
8. Furthermore, whilst some of these properties are set back from the existing highway, with access from it via long driveways, as a group they are all located adjacent to it. Therefore, within the context of Policy SCLP5.3 of the LP, these group of dwellings form a 'cluster' of five or more dwellings, where a proposal for up to three dwellings would be supported, subject to further criteria considered below.
9. Policy SCLP5.4 goes on to stipulate that the proposal would be supported where (b) the development consists of infilling within a continuous built up frontage, is in a clearly identifiable gap within an existing cluster, or is otherwise located adjacent to existing development on two sides; (c) the development does not represent an extension of the built up area into the surrounding countryside beyond the existing extent of the built up area surrounding, or adjacent to, the site; and (d) it would not cause undue harm to the character and appearance of the cluster or, result in any harmful visual intrusion into the surrounding landscape.
10. The appeal site is located between the properties Sunnyside to the south and Birch Tree Lodge to the north and whilst it is currently open grassland, it forms

part of the garden of Fenlands and is located within a rural but residential setting. Therefore, the development is located adjacent to existing development on two sides and does not represent an extension of the built up area into the surrounding countryside in accordance with stipulations (b) and (c). The requirements of section (d) relating to the character and appearance of the cluster and the surrounding landscape will be considered later in my decision alongside matters relating to the AONB.

11. Policy SCLP7.1 of the LP states that development proposals should be designed from the outset to incorporate measures that will encourage people to travel using non-car modes to access home, school, employment, services and facilities and all available opportunities to enable and support travel on foot, by cycle or public transport have been considered and taken.
12. There are no services or facilities in close proximity to the appeal site and therefore the future occupiers of the proposed dwelling would be required to travel into the nearby towns of Aldeburgh and Leiston for the majority of their day to day needs. There is no footpath alongside the B1122 and therefore, due to this and the distances involved, these services and facilities would not be accessible from the appeal site by foot. Similarly, there is no dedicated cycle lane or streetlighting along this road and therefore cycling, particularly during the hours of darkness would not likely be an option for future occupiers of the proposed dwelling.
13. However, there is a bus stop in close proximity to the appeal site which is easily accessible on foot along a grass verge. This provides regular bus services to both Aldeburgh and Leiston as well as the larger town of Ipswich, where a full array of services and facilities can be found. This service would provide the future occupiers of the proposed dwelling with a reliable alternative means of transport to access home, school, employment and the services and facilities required. They would therefore not be wholly reliant on the use of a private vehicle.
14. Therefore, for the reasons above, the proposed dwelling would be in a suitable location for new housing with regard to the local development strategy and accessibility to services and facilities. It would therefore comply with Policies SCLP5.4(a-c), SCLP7.1 and SCLP5.3 of the LP as outlined above. It would also accord with the relevant sections of the National Planning Policy Framework which seeks to locate new development close to services which can be safely accessed by walking, cycling or use of public transport.

Character and Appearance

15. The site's surroundings are open and rural in nature, characterised by sporadic residential development on large plots along the western side of Leiston Road, many with large front gardens and long driveways. The open and verdant nature of the appeal site sits comfortably within the rural AONB surroundings, with views from the public realm largely obscured by hedging along the front boundary.
16. Whilst forward of the host dwelling at Fenlands, due to the size of the site, the proposed dwelling would still be well set back from the road, with a large garden space located between the proposed building and front boundary. Vehicular access would be via the existing private driveway to Fenlands, which limits the amount of hardstanding required and ensures that it is out of public

view. The existing access gate to the front of the site would provide a winding grass path towards the dwelling interspersed with planting, providing a pleasant setting for the proposed dwelling in keeping with the rural surrounds. This additional planting, along with the existing hedging and the significant set back from the road, would provide sufficient screening to ensure that the proposed built form has limited visibility in the streetscene and is not a visual intrusion into the wider landscape. This hard and soft landscaping could be sufficiently secured by condition.

17. The proposed development would result in additional built form in this quiet rural area, where there is currently only a small number of existing dwellings set out in an informal and spacious layout. However, a single dwelling on this large residential site would be easily accommodated and well separated from neighbouring properties. As such, it would not result in the over intensification of built form on the site or in the surrounding area. Furthermore, it would also be located amongst existing development on an existing residential site and so would not represent an extension of built form into the open countryside or significantly harm the open nature of the surrounding area.
18. The design of the proposed dwelling is contemporary but generally in keeping with the varied style of surrounding properties and would use materials suitable to this rural environment. It would also accord with the general pattern of development in the immediate area, as a large dwelling on a generous plot set well back from the road. Therefore, it would not be an incongruous addition to the site, the surrounding area or the overall AONB.
19. Consequently, the proposed development would not harm the character and appearance of the area or the AONB and would accord with Policy SCLP5.4(d) of the LP. As outlined above this policy seeks to ensure that new development would not cause undue harm to the character and appearance of the cluster of dwellings in which it is located or result in any harmful visual intrusion into the surrounding landscape.

Other Matters

20. It has been highlighted within the Council's report that the appeal site is within the recreational disturbance Zone of Influence (ZOI) for a number of European Sites in East Suffolk. These include the Minsmere-Walberswick SPA and Ramsar Site, the Minsmere-Walberswick Heaths and Marshes SAC, the Alde-Ore Estuary SPA and Ramsar Site, the Orfordness-Shingle Street SAC and the Sandlings SPA.
21. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SPAs and Ramsar sites. The effects arising from the proposal need to be considered in combination with other development in the area, adopting a precautionary approach.
22. The development would result in an additional dwelling with a consequent increase in the number of local residents living within the ZOI for these European Sites. This would be likely to result in additional recreational activity in these areas. Therefore, the proposed development is likely to have a significant effect on these European Sites. As the competent authority, it is

- necessary for me to conduct an Appropriate Assessment (AA) in relation to the effect of the development on the integrity of the SPAs and Ramsar sites.
23. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of a European site, such as those listed above. I may consider measures to secure mitigation with a view to ensuring that the proposal would not adversely affect the integrity of the SPA and Ramsar sites. The Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) provides strategic mitigation measures to address this impact, with financial contributions at a specified tariff per dwelling collected from new development to fund this mitigation.
24. The Council have confirmed that the appellant has made an upfront payment in relation to this and given the evidence before me I am satisfied that the mitigation measures have been secured and would be used for their intended purpose. The contribution would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contributions towards the mitigation schemes would count as mitigation toward maintaining the integrity of the sites. I therefore find within my AA that, with the provided mitigation, the proposal would not have an adverse effect on the integrity of the European Sites outlined above. The development would therefore comply with the Habitats Regulations.
25. I note the previous decisions for the appeal site, including the most recent appeal decision in November 2018¹ where the Inspector concluded that the appeal site was in an unsustainable location in relation to the relevant policies at that time and that the proposed development would harm the AONB. However, this was considered prior to the adoption of the current development plan and the proposal has been amended since this previous iteration. Therefore, any previous decisions do not prejudice my consideration of the appeal proposal or the conclusions that I have come to.
26. It is noted that the provision of biodiversity net gain (BNG) has been highlighted by a third party. However, due to the date of submission of the planning application, this is not relevant to the appeal proposal before me.

Conditions

27. In addition to the standard time period for commencement of the development, I have attached a condition requiring the development to accord with the approved plans, as this provides certainty and precision. Furthermore, conditions requiring the submission of details relating to external facing materials and a scheme of landscaping have been included, to ensure an appropriate appearance for the development.
28. Whilst the submitted contaminated land assessment indicates a low risk, a condition has been included to ensure that any contamination found during construction is appropriately dealt with to ensure it does not have a detrimental impact on the future occupants or neighbouring occupiers. This has been re-worded from the condition suggested by the Council to provide clarity. A condition to ensure that the development complies with the submitted ecology

¹ APP/J3530/W/18/3204382 (2018 appeal decision)

documents, has also been attached to ensure that the recommendations in these documents are carried out in relation to protected species. Conditions relating to the provision and retention of a vehicle parking and manoeuvring area and the surfacing of the existing access have been included to ensure appropriate vehicle parking and access is provided as part of the development, to prevent harm to highway safety.

29. A condition requested by the Highways Authority for the provision of electric vehicle charging points has not been included as this requirement would be covered by building regulations. Similarly, a condition relating to the provision of cycle parking has not been included as this could easily be accommodated within the proposed garage. A condition relating to the installation of external lighting recommended by the AONB Planning Officer would not be necessary as the appeal site is already located within a residential area where domestic external lighting is likely already present.

Conclusion

30. For the reasons given above the appeal should be allowed.

E Grierson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 200.000, 200.001 and 200.002.
- 3) No development above ground level shall take place until details of all external facing materials have been submitted to and approved in writing by the local planning authority in writing. The development shall be carried out in accordance with the approved details.
- 4) No development above ground level shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and 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.
- 6) The development hereby permitted shall be undertaken in accordance with the ecological avoidance, mitigation and compensation and enhancement measures identified within the Preliminary Ecological Appraisal (PEA) (ADAS, November 2017) and Screening Update and Habitat Regulation Assessment (Diane Ling, March 2023) as submitted with the planning application.
- 7) The use shall not commence until the area within the site shown on drawing no.200.002 for the purposes of manoeuvring and parking or vehicles has been provided and thereafter shall be retained, maintained and used for no other purposes.
- 8) Prior to the development hereby permitted being first occupied, the existing 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.
- 9) Any contamination that is found during the course of construction of the development hereby permitted 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 until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.