
Appeal Decision

Site visit made on 2 September 2024

By David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2024

Appeal Ref: APP/W3520/W/23/3332708

Land At Hoxne Road, Denham, Eye, Suffolk IP21 5DN

- 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 Phil Cobbold Planning Consultancy against the decision of Mid Suffolk District Council.
 - The application Ref DC/23/03685, dated 4 August 2023, was refused by notice dated 24 October 2023.
 - The development proposed is use of land for stationing of 9 holiday lodges.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issues

2. Whilst the planning application and appeal form are in the name of a planning agent, the appellant's name in the decision banner above is taken from the submitted appeal statement and land ownership certificate.
3. Since the Local Planning Authority (LPA) made its decision, it has adopted the Babergh and Mid Suffolk Joint Local Plan – Part 1 in November 2023 [the JLP]. The National Planning Policy Framework (NPPF) was revised in December 2023. I am satisfied that main parties in this appeal have had the opportunity to consider these latest documents.
4. The main issues in this appeal are:
 - i) whether the appeal site would be a suitable location for the development proposed;
 - ii) The effect of the proposed access on highway safety with particular reference to visibility at the site entrance;
 - iii) The effect of the appeal proposal on biodiversity; and
 - iv) The effect of the proposal on the living conditions of surrounding residential properties, having particular regard to noise and disturbance.

Suitable Location

5. The appeal site is in a small cluster of houses and rural buildings converted to residential at the southern end of the linear, scattered and modest settlement of Denham. It is not land within or near a settlement boundary as identified in the development plan. The rural character at the appeal location and the dispersed nature of established housing comprising principally former

farmsteads and associated buildings means the site is justified as being identified as countryside for the purposes of planning policy. It is not part of, or near to, any coherent or sizeable settlement.

6. At this countryside location, the appeal site is distant from services and facilities. Denham itself has very few services and facilities. Larger settlements such as Eye, Stradbroke and Hoxne are some distance from the appeal site. While the appellant suggests that cycles could be provided, the connecting distances and routes to services and facilities are far and involve fast and isolated roads that would not be attractive to less confident cyclists. As such the appeal proposal would only be accessible on a regular basis by private motor vehicle.
7. I note the appeal site benefits from planning permission for 5 lodges. The appeal proposal would, however, result in a material increase in the number of lodges and associated vehicle movements in this very rural location. A condition could be imposed requiring electric vehicle charging points but it remains likely for the foreseeable future that the proposal would attract and generate appreciable petrol or diesel vehicle movements. The appeal site is not a sustainable location.
8. In terms of the character and appearance at the appeal location, the appeal site comprises a small parcel of land bounded by mature trees and hedging along its northern and eastern boundaries. Tall close boarded timber fencing bounds the site to the south and west, beyond which are rural buildings which have been converted to residential use. The appeal site forms part of the fabric of scattered development set within a strong, verdant patchwork of trees and hedging and generally small parcels of land along this part of Hoxne Road.
9. The appeal site has planning permission for 5 holiday homes and a layout plan for this scheme has been provided. I observed a mobile home is currently stationed on the land in the south-west corner. There are various references before me to buildings that previously existed on the site but these appear to have been removed. Nonetheless, the site retains a strong rural character due to its relative openness, boundary vegetation and varying intervisibility with nearby scattered development.
10. In terms of the effect on local character, the appeal proposal would result in a dense and cramped arrangement of development on what is a relatively small site. It would be conspicuous from within Hoxne Road, appearing harmfully at odds with the prevailing rural character and the scattered of pattern development. Whilst the site is bounded to Hoxne Road by mature trees, the understorey is weak and gappy, allowing for unobstructed views into the site. Any landscaping would take a significant time to filter views of the dense arrangement of the proposed lodges, including the lodge proposed to be positioned tight to the boundary in the north-east corner of the site. The proposed amount and layout of development would result in significant harm to the rural character of the appeal location. Further rendering it an unsuitable location for the scale of development proposed.
11. I therefore conclude that the appeal site would not be a suitable location for the development proposed. Part 2 of Policy SP03 the JLP applies settlement boundaries outside of which development will only be permitted in the countryside where it accords with another policy set out in the JLP at Table 5.

The most relevant policies in Table 5 on this main issue are Policy SP07 (*Sustainable Tourism*) and Policy LP12 (*Tourism and Leisure Development*).

12. The proposal would not be appropriate to the scale, character and nature of the locality for the reasons set out above and so would be contrary to JLP Policy SP07. Whilst the proposal would attract and cater for more visitors to this part of Mid Suffolk it would not be accessible by public transport, it would not facilitate walking or cycling and would not be of an appropriate scale for its context outside a settlement boundary in a very rural location. Accordingly, the proposal would be contrary to JLP Policy LP12. By virtue of conflicting with JLP Policies SP07 and LP12, the proposal would also fail to accord with JLP Policy SP03. It would also conflict with JLP Policy LP24 in that the scale and nature of the development would not safeguard the existing character or context, being materially different to the much smaller, spacious scheme for 5 lodges previously approved at the site.
13. The National Planning Policy Framework (NPPF) supports the principle of a prosperous rural economy. JLP Policies SP07 and LP12 have recently been adjudged to be consistent with the NPPF in a Mid-Suffolk context and so are up to date. The identified harm to the character of the countryside means the proposal would not accord with NPPF paragraph 88 in terms of sustainable rural tourism which respects the character of the countryside. It would also fail to accord with NPPF paragraph 135 which states that developments should function well, add to the overall quality of the area, be visually attractive and be sympathetic to local character.
14. It is recognised that NPPF paragraph 89 states that sites to meet local business needs in rural areas may have to be found beyond existing settlements, and in locations not well served by public transport. I have little before me regarding the demand or overriding business need for appeal proposal (a net addition of 4 extra lodges in addition to those yet to be implemented) in such a rural location. The appellant references the Council's Visitor Destination Pla, but I note that the Council's Economic Growth Service did not support further expansion at this site beyond the 5 lodges already approved¹. Moreover, NPPF paragraph 89 goes on to say that in such rural circumstances it will be important to ensure that development is sensitive to its surroundings. That would not be the case here. Ultimately, I find the proposal would not amount to sustainable rural economic development.

Highway Safety

15. Access to the appeal site would be via the mouth of a wide shared private driveway with two adjacent residential properties. Although the proposed entrance to the site is set back very slightly from the highway it nonetheless remains that there would be no immediate access onto Hoxne Road. As such vehicular traffic to the appeal proposal would have to utilise, what is in my view, a complex arrangement where three separate points of private access converge onto Hoxne Road. As set out above, because of its unsustainable location, the appeal proposal would be a significant generator of vehicular traffic, including visitors unfamiliar with the local highway network.
16. Visibility into and out of the site at this point onto Hoxne Road is affected by vegetation along the appeal site frontage and by the forward position of the

¹ Response to the planning application consultation, dated 28 September 2023

boundary treatment to Ash Barn to Hoxne Road to the south. Hoxne Road at the appeal location is at the national speed limit (60mph) and unlit. Whilst there are bends a short distance to the north which are likely to slow traffic, it nonetheless remains that the appeal site is at point where traffic from the north would be gaining speed at the appeal location as the road straightens out to the south. The ruler straight road to the south approaching the appeal site is temptingly fast. There is no speed data at the appeal location to inform what the safe visibility should be in accordance with a recognised formula. As such I cannot be certain that safe and suitable access could be achieved via the existing shared arrangement for the proposed intensification of vehicular traffic generated by the appeal proposal.

17. The appellant relies significantly on the planning permission for five holiday lodges on the site as a demonstration that safe and suitable access can be achieved. For whatever reason, the Local Highways Authority (LHA) states it was not consulted on that proposal. In any event, the LHA has objected to this proposal and expended the effort in submitting a comprehensive written statement for this appeal, articulating its concerns regarding the intensified use of the appeal site and the need to ensure this can be achieved safely for all highway users. Accordingly, I do not consider the previous planning permission, in and of itself, to be a clear demonstration that safe and suitable access could be achieved for the appeal proposal.
18. I therefore conclude the proposed access, with particular reference to visibility, has not been demonstrated to be safe and suitable having regard to the highway conditions at the appeal location. Consequently, the appeal proposal would be contrary to JLP Policy LP29 which requires, amongst other things, that all new development will be required to demonstrate safe and suitable access and that impacts on highway safety must not be unacceptable. On this basis the proposal would also conflict with the NPPF at paragraphs 114 and 115 for the same reasons.

Ecology

19. The District Council's Ecologist identifies that the appeal site is a short distance from ponds, is close to where there have been records of bats and within an amber risk zone for Great Crested Newts. There is no Preliminary Ecological Appraisal or Report and little detail of how the proposal could secure any biodiversity net gain (BNG).
20. On the issue of BNG, the application was submitted prior to statutory requirements being enacted through the Environment Act 2021. Additionally, the application was submitted and determined prior to Policy LP16 of the JLP being adopted, including the requirement to secure measurable biodiversity net gains equivalent to at least 10%. As such I do not consider the absence of information on BNG to be a determinative matter in this appeal.
21. On the matter of proximate ponds, I note the Council's ecologist comments that there are physical barriers between the ponds and the appeal site, including Hoxne Road for one of the ponds. The site has consent for five lodges. As such I am not clear why the additional four lodges as part of this appeal proposal would be materially harmful to these water features or any species that rely on them given the recent planning consent on this site. Overall, I consider that survey and assessment work and any identified

potential mitigatory matters could be secured by a pre-commencement condition.

22. On the issue of bats, the existing building referred to by the ecologist no longer exists on the appeal site and I have few details about what the building was or when it was removed. As such the recommended roost assessment of this building is no longer capable of being carried out. The site more generally is in a moribund, and somewhat transitional condition with a run-down mobile home, heaps of rubble and unkempt grass. Given the nearest bat records are some 800 metres distant it is not clear what the remaining bat roosting potential of the appeal site is, taking into account the relatively recent planning permission for five holiday lodges.
23. Overall, I am not persuaded that the appeal proposal would result in significant harm to biodiversity and that enhancement for biodiversity commensurate with the scale of development could be secured by condition as suggested by the appellant. I therefore find, subject to the imposition of conditions, that there would be no conflict with JLP Policy LP16 in relation to the need to conserve and enhance biodiversity at the appeal location or with NPPF paragraph 185b) in terms of conserving and enhancing ecological networks and pursuing opportunities for securing measurable net gains for biodiversity.

Residential Amenity

24. As set out above the proposal would intensify the number of holiday lodges at what is generally a very tranquil rural location. There would be a material and appreciable increase in the number of people at the site, noise generated and various comings and goings including vehicles in the evenings. In particular, the proposed layout would squeeze 9 lodges onto the small site resulting in 2 lodges directly along the western boundary of the site adjacent to Sebrights Barn. Furthermore, the cramped layout would see 3 lodges against the southern boundary very close to the properties at Ash Barn and Greenlands Farm. The appellant emphasises the existing consent for the five units, but as set out above, the layout for this approved scheme would be more spacious, with materially fewer lodges so close to the nearby residential properties. As such, the intensity of occupation at the appeal proposal (an 80% increase in the number of lodges) would be in stark contrast to the approved scheme.
25. The appellant has referred to the potential for a management plan, which could be secured by condition, to protect the amenity of nearby residents. There is no reference in any of the material before me to a manager on site or nearby, to aid enforceability of any management plan. Nor would it be reasonable or practicable to restrict the number or times at which visitors could use their vehicles, including at nighttime or to impose a curfew on occupiers of the lodges from socialising, allowing their children to play or relaxing on their holiday in terms of not being able to use any outside seating or amenity areas after a set time, particularly in summer months. I do not consider a condition to impose a management plan would be effective. The rural tranquillity of the appeal location means it would not be an appropriate location for such an intensive scale of development.
26. I therefore find the proposal would result in significant harm to the living conditions of surrounding residential properties, having particular regard to noise and disturbance. The proposal would be contrary to JLP Policy LP24 in that it would not protect the amenity of occupiers of surrounding properties

due to unacceptable levels of noise and disturbance. It would also fail to accord with NPPF paragraph 135(f) in that it would not secure a high level of amenity for existing residences.

Balance and Conclusion

27. The appeal proposal would be contrary to the adopted and up-to-date development plan, when taken as a whole. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (As amended) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The appeal proposal would have only moderate economic benefits for the local economy and only very limited social benefits in enabling rural holiday experiences and any associated well-being. I have also concluded that there would not be any significant harm to local biodiversity and that some degree of enhancement may be possible through the imposition of conditions, although any environmental benefits are likely to be only small given the dense layout proposed. Overall, these are not material considerations sufficient to outweigh the clear and significant conflict with the development plan.
28. I have had regard to all other matters raised, but there is nothing that leads me to conclude other than the appeal should be dismissed for the reasons given.

David Spencer

Inspector.