



Appeal Decision

Site visit made on 21 August 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2024

Appeal Ref: APP/X3540/W/23/3334725

Land Off Marsh Lane, Carlton Colville, Lowestoft, Suffolk, NR33 8BW

- 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 Andrew Oldman of Oldman Homes against the decision of East Suffolk Council.
- The application Ref is DC/23/3263/FUL.
- The development proposed is 2no. bungalows, access drive and driveways.

Decision

1. The appeal is allowed and planning permission is granted for 2no. bungalows, access drive and driveways, at Land Off Marsh Lane, Carlton Colville, Lowestoft, Suffolk, NR33 8BW, in accordance with the terms of the application, Ref DC/23/3263/FUL, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are i) whether the appeal site is an appropriate location for new housing having regard to local and national planning policies; ii) the effect of the development on the character and appearance of the local area; and iii) the integrity of designated habitat sites.

Reasons

Location

3. Policy WLP1.1 of the East Suffolk Council Waveney Local Plan 2019 (the LP) seeks to direct the majority of new housing growth to the Lowestoft Area, which includes Carlton Colville. It is not a restrictive policy and does not refer to settlement boundaries. This strategy is consistent with the National Planning Policy Framework (the Framework) in terms of distributing growth in a way that reduces the need to travel.
4. Policy WLP1.2 of the LP states that land outside of defined settlement boundaries and allocations will be considered as countryside, where new residential development will not be permitted except where specific policies in the LP indicate otherwise. The appeal site is not within any defined settlement boundary or allocation and as such it is classed as being in the countryside.
5. Policy WLP7.1 refers specifically to new housing in rural settlements and as such is not relevant to this site, which adjoins the built-up Lowestoft urban area.
6. The Supplementary Planning Document (SPD) 'Housing in Clusters and Small Scale Residential Development', which was adopted November 2022 and is a material consideration, advises that Policy WLP8.7 of the LP is only intended to

relate to residential developments in settlements in the countryside that do not have defined settlement boundaries. Consequently, Policy WLP8.7 is also not relevant to the appeal site.

7. It is undisputed that the site is adjacent to the largest built-up area of the district. As such, the proposal would not result in isolated new homes and future occupiers of the development would have convenient access to a good range of services and facilities without having to be reliant upon private motor vehicles.
8. It is also undisputed that the site is residential garden land. The defined settlement boundary follows Marsh Lane to the north and east of the site and cuts across the rear gardens of properties fronting onto Beccles Road to the south. Due to the relationship of the site with the residential dwellings and gardens surrounding it on three sides, and the golf course bounding its fourth side, the proposed development would not encroach beyond its existing built-up surroundings into the wider undeveloped countryside or result in urban sprawl.
9. Although the proposal would conflict with Policy WLP1.2 of the LP, no harm would arise from this conflict. The proposal would accord with the purpose of this policy and the Framework, which seek to direct new development to the most sustainable locations and would not undermine the overall distribution of development set out in Policy WLP1.1. The proposal would also not conflict with Policies WLP7.1 or WLP8.7 of the LP, or the SPD, which relate only to development in countryside villages and are therefore not relevant in this case.
10. I therefore conclude that the appeal site is an appropriate location for residential development having regard to local and national planning policies.

Character and appearance

11. The site, which is currently accessed from Beccles Road, comprises a substantial area of grassland, which is occupied by a large polytunnel. It is bound by substantial hedges, has residential gardens on two sides, residential development directly opposite it, and a golf course on its other side. The existing use of the site is described in the appellant's submissions as un-used amenity land. Although it does not appear to form part of the domestic curtilage to No.414 Beccles Road, the Council has not contested that the site has been used for domestic garden purposes. I note that other residential properties along this side of Beccles Road also have long rear gardens that extend well beyond the settlement boundary defined by the LP.
12. The surrounding dwellings are not uniformed and comprise a mixture of single to three storey properties of varying age, design and materials. The pattern and layout of built development in the area is also somewhat varied. I acknowledge that this side of Marsh Lane is more undeveloped than the opposite side, but it nevertheless comprises residential gardens and outbuildings, including a vehicular access and garage adjacent to the eastern boundary of the site. As such, it is distinctly different in character and appearance to the golf course and wider open countryside beyond.

13. The proposed new bungalows would not extend further into the undeveloped countryside than the adjoining areas of garden land or the dwellings to the north and south of the site. I acknowledge that the appeal dwellings would be set further back from Marsh Lane than others and would be served by a new long, shared, access drive, which is not typical of the immediate area. However, this would not in my view be harmful given the varied surroundings. Furthermore, the setback would be beneficial in terms of reducing the visual impact of the dwellings and parking areas from Marsh Lane and enabling the planting of a new boundary hedgerow, set back from the road that would not encroach into the visibility splays.
14. The scale and design of the proposed hipped roof bungalows would be similar to that of the bungalows on the opposite side of Marsh Lane, as would be the spacing between and around them. Accordingly, their appearance would not be unsympathetic or harmfully detract from the local character of the area.
15. The site slopes up from Marsh Lane and whilst the Preliminary Ecological Survey states that the proposal does not require the removal of any hedging, the submitted plans suggest that all of the landscaping along the northern boundary of the site would be removed, as well as the northern end of the eastern and western boundary hedges. This would be necessary in order to achieve the visibility splays required for the new access. However, the existing northern boundary hedge is of poor quality and there is sufficient space within the site to provide new and enhanced boundary hedges and tree planting set back from the road. Subject to appropriate new landscaping, which can be secured by conditions, the verdant character of Marsh Lane would be retained and enhanced.
16. I therefore conclude that the development would not harmfully detract from the character and appearance of the area. As such the proposal would accord with Policies WLP8.29 and WLP8.35 of the LP, which seek to ensure amongst other things that new development responds to local context and the form of surrounding buildings, taking into account the need to protect and where possible enhance landscape features. I also find no conflict with the Framework with regard to design and landscape matters.

Designated habitats

17. The appeal site falls within the Zone of Influence of the Benacre to Easton Bavents Special Protection Area (SPA). The qualifying feature of this SPA is the breeding Little Tern. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) requires an Appropriate Assessment (AA) to be undertaken by the decision maker.
18. A Habitats Regulations Assessment of the Local Plan has identified that new residential growth in East Suffolk will result in increased recreational disturbance on Habitats Sites. The in-combination effect of this new growth will, in the absence of adequate mitigation measures, result in an adverse effect on the integrity of Habitats Sites in East Suffolk. Although this development alone would have a negligible effect on any designated sites, it is necessary to consider the cumulative effects of residential developments in the area, which are significant.
19. The Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), provides strategic mitigation measures to address this impact. To

fund this mitigation financial contributions are collected from new developments. I have received confirmation that the appellant has made the appropriate RAMS contribution, and I have consulted with Natural England, who have confirmed that the payment collected is commensurate with the tariff agreed and would be sufficient to avoid any adverse effect to the integrity of the designated site.

20. I therefore conclude that the proposal would have no adverse effect on the integrity of any protected designated habitats sites.

Other Matters

21. The proposal for two modest bungalows would not significantly increase traffic movements along Marsh Lane and there is no substantive evidence before me to suggest that the drains and pumping station could not cope with anymore development. Whilst there would inevitably be some disruption to local people during the construction period, this would be of a temporary and short-term nature. No precedent would be set and any future proposals would be determined based upon their own merits. I acknowledge that the development would change the view from nearby properties and that concerns have been raised regarding property values. However, the planning system does not exist to protect such matters.

Conditions

22. The Council provided a suggested list of conditions, which the appellant confirmed in writing they were broadly agreeable to subject to comments relating to the access condition. I have considered the suggested conditions against the comments made and the relevant tests. Written consent has also been provided in relation to the necessary pre-commencement conditions.
23. In addition to the standard time limit, I have imposed a condition listing the approved drawings to provide certainty as to what has been approved. Given the variety of materials used in buildings surrounding the site, I have conditioned the external materials referred to in the application documents, which I am satisfied would be appropriate.
24. As very limited details have been provided regarding the landscaping of the development or the protection of existing trees and hedges on the site, conditions relating to such matters are necessary to ensure the edge of settlement character is retained. A management plan is also necessary to ensure soft landscaping works outside of the gardens to the proposed bungalows are appropriately maintained. To protect and enhance the ecological value of the site it is also necessary to condition that the development is undertaken in accordance with the submitted ecological report. As this includes recommendations relating to site clearance a duplicate condition on this matter is not required.
25. Conditions relating to the construction of the initial site access and driveway, including their gradient, the provision of visibility splays, parking and turning space, measures to prevent surface water from the site running onto the highway and a construction management plan, are all necessary in the interests of ensuring highway safety. A condition requiring details of waste storage and collection points to be agreed is also necessary to avoid bins being stored where they may obstruct the public highway or its users.

26. Electric vehicle charging facilities for new dwellings are secured by Building Regulations and as such a condition is not necessary. As there is ample space for the provision of secure cycle storage within each plot, I do not consider it necessary in this case for details to be agreed with the Council. Such facilities should however be provided prior to occupation to encourage and facilitate sustainable travel. Whilst there is no reason to suspect the site is contaminated, a condition for dealing with any unexpected contamination is necessary as a precaution to ensure any potential harm to the environment is prevented.

Balance and Conclusion

27. Notwithstanding the conflict with Policy WLP1.2 of the LP, I consider that the provision of two modest bungalows in this location would be acceptable having regard to access to services and facilities and the need to protect the intrinsic character and beauty of the countryside. The absence of any harm that would result from the conflict with the development plan is a material consideration of significant weight, which indicates to me that planning permission should be granted.
28. For the reasons given above, and having had regard to all matters raised, the appeal is allowed.

R Bartlett

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. SL01 location and site plan and PL02 floor plans and elevations.
- 3) The development hereby permitted shall be carried out using the external materials detailed on the application form and approved drawing no. PL02.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; and hard surfacing materials. The Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed number/densities where appropriate; and implementation programme. The approved landscaping scheme shall be completed within 6 months of the first occupation of the development, or such other date as may be agreed in writing with the Local Planning Authority. Any trees or plants which die during the first 5 years shall be replaced during the next planting season.

- 5) No development shall take place until the existing trees and hedges on site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping, have been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been agreed in writing with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees and hedges to be protected. Any trees or hedges dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with new ones of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be agreed in writing with the Local Planning Authority, following the death of, or severe damage to them.
- 6) Before the development is first occupied a landscape management plan, including a long-term schedule of landscape maintenance and management responsibilities for all open space and landscape areas falling outside the gardens of the approved dwellings, shall be submitted to and approved in writing by the Local Planning Authority. All landscaping shall be managed and maintained in accordance with the approved landscape management plan for the life of the development.
- 7) The development hereby approved shall be undertaken in accordance with the ecological avoidance, mitigation, compensation and enhancement measures, and other recommendations identified within the Preliminary Ecological Appraisal and Impact Assessment (Eco-check, April 2023) as submitted with the planning application.
- 8) No other part of the development hereby approved shall commence until the new vehicular access from Marsh Lane has been laid out and completed in all respects in accordance with the standard residential access requirements of Suffolk County Council and with a minimum entrance width of 4.5 metres. The gradient of the vehicular access shall not be steeper than 1 in 20 for the first 5 metres measured from the nearside edge of the highway or steeper than 1 in 12 elsewhere. The improved access shall thereafter be retained in the specified form.
- 9) Prior to the development hereby permitted being first occupied, the new 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.
- 10) Before the access is first used visibility splays shall be provided as shown on Drawing no. SL01 and thereafter retained in the specified form. 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.
- 11) The use shall not commence until the areas within the site shown on drawing no. SL01 for the purposes of manoeuvring and parking of vehicles have been provided and these areas shall thereafter be retained, maintained and used for no other purposes.

- 12) No dwelling shall be occupied until it has been provided with covered and lit, secure cycle storage space for a minimum of 2 cycles. The cycle storage shall be retained thereafter.
- 13) Before the development is commenced details of the areas to be provided for the storage and presentation of refuse and recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter.
- 14) Before the development is commenced details shall be submitted to and approved in writing 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 access is first used and shall be retained thereafter in its approved form.
- 15) Before the development is commenced a Construction Management Strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include access and parking arrangements for contractors' vehicles and delivery vehicles (locations and times) and a methodology for avoiding soil from the site tracking onto the highway together with a strategy for remedy of this should it occur. The development shall only take place in accordance with the approved strategy.
- 16) 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 [or relevant phase of 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.

End of Schedule