



Appeal Decision

Site visit made on 3 December 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2024

Appeal Ref: APP/X3540/W/24/3342771

Avondale, Blundeston Road, Corton, Suffolk NR32 5DD

- 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 Richard Bond against the decision of East Suffolk Council.
 - The application Ref is DC/23/4375/FUL.
 - The development proposed is new detached bungalow to garden plot.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For the avoidance of doubt, where reference is made to the National Planning Policy Framework (the Framework), the paragraph numbers quoted are those that appear in the latest version that came into force on 12 December 2024.

Main Issues

3. The main issues are:
 - The effect of the proposal on European protected species and habitats, with specific regard to Great Crested Newts;
 - The effect of the proposal on the character and appearance of the area; and
 - Whether the appeal site is suitable for the development proposed, having regard to local and national policy.

Reasons

Protected species

4. The appellant's Preliminary Ecological Appraisal (PEA) identifies that a pond within the appeal site has excellent suitability for Great Crested Newts (GCNs). As such, there is a strong likelihood of GCNs being present on the site. Consequently, the PEA indicates that further survey is necessary.
5. GCNs are designated and protected under the Conservation of Habitats and Species Regulations 2017. Paragraph 193 of the Framework states that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. The Framework refers to Circular 06/2005¹

¹ Biodiversity and Geological Conservation

which states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before planning permission is granted. The Circular advises that surveys should only be required by condition in exceptional circumstances.

6. Given the strong likelihood of the presence of GCNs, and in the absence of further surveys and mitigation measures that are recommended in the PEA, it is likely that the proposal would have adverse effects on a protected species. I have considered the use of a suitably worded condition to require that relevant surveys be undertaken. Nevertheless, since there is no certainty that the harm could be mitigated, a condition would not be appropriate.
7. The appellant has referred to planning permission for development at Salix near to the appeal site, which was not supported by a full PEA as requested by the Council's Ecologist, asserting an inconsistent approach to that taken to the scheme before me. However, there were notable differences in that the Salix proposal was for a replacement dwelling in a position further away from the onsite pond than the existing dwelling. Moreover, even if I found that the Council had been inconsistent in its decision making, that would not override the requirements of Circular 06/2005 set out above.
8. To conclude, the proposed development would have an adverse effect on GCNs, a European protected species, and their habitat. This is contrary to Policy WLP8.34 of the Waveney Local Plan (LP) which requires applications to be supported by an ecological survey where there is reason to suspect the presence of protected species or habitat.

Character and appearance

9. The site is located off Blundeston Road within the rear garden of a dwelling that forms part of a ribbon of development extending from the junction with the A12/A47. The ribbon comprises large single storey and two storey dwellings within generous plots. The set back of the dwellings from Blundeston Road is varied as are the plot widths.
10. The proposed dwelling would be accessed from an existing driveway, ensuring that the front boundary hedge would be retained. Given such limited alteration to the frontage of Avondale to accommodate the dwelling, the position of the dwelling some way to the rear and the screening offered by mature vegetation within the gardens of the host and adjoining properties, the proposal would not be visible from Blundeston Road. It would, therefore, have a minimal impact on the street scene. Furthermore, there is dense hedge and tree planting along the side boundaries of the plot, giving it a visually secluded appearance, which will ensure that the proposed dwelling would only be glimpsed from neighbouring properties.
11. Given the absence of uniformity to the pattern of development the introduction of the proposed backland dwelling would not appear incongruous as to cause unacceptable harm to the character and appearance of the area. Additionally, the density of the development in the immediate area would remain low should the proposed development take place and would be appropriate for this rural location.

12. The Council considers that the detailed design of the proposed dwelling is appropriate, and that the proposal would not result in a cramped form of development. Based on the evidence before me, I concur.
13. My attention has been drawn to the backland dwelling, the Hutch, which adjoins the appeal site. I observed that the Hutch is not prominent in views from within the appeal site or from Blundeston Road and successfully integrates into its mature garden surroundings. This demonstrates that backland dwellings can be successfully accommodated locally on appropriate sites, and there is no compelling evidence before me to suggest that would not be achieved by the appeal proposal.
14. Accordingly, whilst backland development is not typical of this part of Blundeston Road, the proposal, for the reasons set out above, would reflect the character of the area, including that of the dwellings forming the existing built-up frontage. It would therefore accord with paragraph 129 of the Framework as the proposal would make efficient use of land whilst maintaining the area's prevailing character.
15. Therefore, the proposal would not harm the character and appearance of the area. As such, it would accord with LP Policy WLP8.33 and WLP8.29 which seek to ensure, amongst other things, that development is of a high-quality design which responds to local context.

Suitable location

16. LP Policy WLP1.1 seeks to distribute new residential development across the district to sustainably deliver specified growth targets. LP Policy WLP1.2 indicates that the appeal site, which is outside of defined settlement boundaries, is in the Countryside where new residential development will not be permitted except where specific LP policies indicate otherwise.
17. LP Policy WLP8.7 addresses small scale residential development in the Countryside and indicates that up to three dwellings will be permitted where three criteria are met. It also requires that for all small-scale development in the Countryside the design of the scheme must respect and reflect the character of the settlement and existing built-up frontage.
18. It is undisputed that the proposal meets two of the criteria of LP Policy WLP8.7, as there are existing residential properties on two sides of the site, and the proposal would not extend development further into the undeveloped Countryside. The remaining criterion requires that the site constitutes a clearly identifiable gap within a built-up area of a settlement within the Countryside. Notwithstanding the Council's contrary contention, it is not essential that the site forms a frontage plot for this criterion to be satisfied. Nonetheless, even though the site is in a built-up area, it is not clearly identifiable as a gap as it forms part of a rear garden, and currently contains a large outbuilding.
19. I have found, notwithstanding its backland position, that the proposal would be informed by, and reflect, the existing character of the settlement and, I am satisfied that it would not result in the loss of a site forming an integral part of that character. In this regard it would accord with LP Policy WLP8.7 as well as the associated guidance set out in The Housing in Clusters and Small Scale Residential Development Supplementary Planning Document. As such, I find

that the proposal would be in general conformity with LP Policy WLP8.7 and no harm would arise from the minor conflict that I have identified.

20. The appeal site is very close to the defined settlement boundary of Corton and has good pedestrian and cyclist access to the facilities and services it contains, and to a Tesco superstore on the edge of Lowestoft. Furthermore, there are bus stops on the A47 which are easily accessible on foot, and which provide access to a regular bus service to Lowestoft and Great Yarmouth, where a full array of services and facilities can be found. The future occupiers of the proposed dwelling would, therefore, not be wholly reliant on the use of a private vehicle. As such, the site is in an accessible location and would accord with the Framework which seeks to direct new development to the most sustainable locations.
21. I therefore conclude that the appeal site is suitable for the development proposed. I would accord with LP Policies WLP1.1 and WLP1.2 which seek to ensure that only appropriate development takes place in the Countryside and would be in general conformity with LP Policy WLP8.7.

Other Matters

22. Based on the evidence before me, the appeal site lies within the Zone of Influence of the Benacre to Easton Bavents Special Protection Area and I note that a financial contribution under the Recreational Disturbance Avoidance and Mitigation Strategy has been paid. However, because the scheme is unacceptable for other reasons there is no need for me to consider the implications of the proposal upon such a designated site as would otherwise be required by the Conservation of Species and Habitats Regulations 2017.
23. The proposal would contribute to the local housing supply and would provide some temporary economic benefits during the construction stage. In addition, future occupiers would be likely to provide an economic and social contribution to the local community and services. However, since the scheme would harm a protected species, these matters have not altered my overall decision.

Conclusion

24. Whilst I have found that the proposal would not harm the character and appearance of the area and is in a suitable location, this does not outweigh the identified harm to GCNs, a protected species. The proposed development, therefore, conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harms and associated development plan conflict.
25. Accordingly, I conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR