



Appeal Decision

Site visit made on 18 December 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th February 2025

Appeal Ref: APP/X3540/W/24/3344009

Land adjacent to Chequers Public House, Easton Road, Kettleburgh IP13 7JT

- 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 Hartley (D & CJ Properties) against the decision of East Suffolk Council.
 - The application Ref is DC/23/3265/FUL.
 - The development proposed is construction of one x 2 bedroom and two x 3 bedroom bungalows with garages and associated boundary treatments, landscaping and EV charging points for the occupation of people aged 55 and over.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 12 December 2024, a revised version of the National Planning Policy Framework (the Framework) was published, and the Council and the appellant have been given the opportunity to comment upon it. In making my decision I have had regard to the revised Framework insofar as it is relevant to the appeal.
3. The appellant's submissions include a Great Crested Newt Survey (GCN Survey), a Reptile Mitigation and Enhancement Plan (Reptile Plan) and a Technical Note undertaken by a highway consultant which were not before the Council when it made its decision. The GCN Survey and the Reptile Plan propose ecological measures which seek to minimise the effects of the proposed development upon such species and seek to ensure that the site retains suitable habitat for them. They do not to any substantial degree amend or evolve the proposed development.
4. The submitted Technical Note presents the results of a vehicle speed survey. However, the design of the proposed site access is unchanged from that which was before the Council when it made its decision. Again, therefore, no substantial changes to the proposed development have arisen as a result of the submission of the Technical Note.
5. The evidence before me indicates to me that the GCN Survey, the Reptile Plan and the Technical Note have all been before the Council since the appellant submitted their Appeal Statement. Furthermore, through the Council's notification processes during the appeal, third parties have also been given the opportunity to submit comments. I am satisfied that it is procedurally fair to accept all three documents. In my decision I have had regard to them and, as necessary, refer to them.
6. A screening direction was issued under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). In exercise of the powers conferred by Regulations 14(1) and 7(5) of the EIA

Regulations, the Secretary of State directed that the development is not EIA development.

Main Issues

7. The main issues are:

- Whether the appeal site provides a suitable location for the development proposed having particular regard to the development plan's spatial strategy, its policies on housing within rural areas and the site's accessibility credentials;
- The effects of the proposed development upon the character and appearance of the area;
- Whether the proposed site access arrangements would be safe; and
- The effects of the proposed development upon great crested newts.

Reasons

Location

8. Policy SCLP3.2 of the Suffolk Coastal Local Plan (LP) establishes a settlement hierarchy, and it identifies Kettleburgh as a small village within the fourth tier of that hierarchy. The appeal site is not within the village's settlement boundary, and it is within the countryside as defined by LP Policy SCLP3.3. However, the site is on Kettleburgh's fringes and is not isolated. Policy SCLP3.3 states that in the countryside residential development will not be permitted unless policies within the LP or a relevant neighbourhood plan indicate otherwise, and it further sets out that such development will be carefully managed, including in accordance with national planning policy guidance.
9. Policy SCLP5.3 lists types of housing developments which are appropriate within the countryside. This includes the likes of building conversions and dwellings for rural workers which the proposal clearly does not constitute. However, criterion g) allows for other residential development which would be consistent with policy concerning residential development in the countryside contained within the Framework.
10. Policy SCLP5.3 does not explicitly set out which policies concerning residential development within the Framework criterion g) relates to. However, as they comprise of forms of residential development which are not listed within Policy SCLP5.3's other criteria, I consider this to relate to the likes of isolated homes of exceptional design quality (paragraph 84 e) of the Framework) but also housing that would enhance or maintain the vitality of rural communities (paragraph 83 of the Framework).
11. Services within Kettleburgh itself are quite limited, but the village is not without them. The Chequers pub is close to the appeal site and elsewhere there is a village hall and a church. The prospective occupiers of the proposed development could provide support for these services.

12. Beside the appeal site, Easton Road does not have a dedicated footpath connection with Kettleburgh, nor is there a dedicated cyclepath. I accept that these are factors which would make walking or cycling to the village a less attractive option for some prospective occupiers of the proposed development. However, the site is close enough to the village that these limitations would be unlikely to discourage other occupiers who would, for example, be prepared to undertake a walk to a bus stop even if it is only intermittently on a pavement.
13. Furthermore, evidence before me indicates that Kettleburgh's bus services includes those to the likes of Framlingham and other settlements with their wider array of facilities. Consequently, the site would be served by a credible way of accessing the typical array of services and facilities that occupiers of the proposed development would require by a means other than a private car.
14. As a result, I find that the proposal would be likely to enhance the vitality of local rural communities. This accords with the content of paragraph 83 of the Framework. In turn, criteria g) of Policy SCLP5.3 is also complied with.
15. Age-restricted housing is proposed, to be occupied by those aged 55 and over. A mechanism would be required to ensure that this was the case. However, I have no substantive reasons to conclude that a suitably worded condition would not suffice. I am mindful of the advice contained within the Planning Practice Guidance which sets out that age-restricted general market housing is generally for people aged 55 and over and the active elderly, and it would not include support or care services. Consequently, I find it quite likely that the prospective occupiers of the development would still be active and healthy, and the site's degree of accessibility to services and facilities would be appropriate for them.
16. For these reasons, the appeal site provides a suitable location for the development proposed having particular regard to the development plan's spatial strategy, its policies on housing within rural areas and the site's accessibility credentials. The proposal therefore complies with Policies SCLP3.2, SCLP3.3 and SCLP5.3 of the LP.
17. The Council's first reason for refusal cites conflict with LP Policies SCLP5.4 and SCLP11.1. The proposal would not be within a housing cluster within the countryside and, therefore, Policy SCLP5.4 is irrelevant. Policy SCLP11.1 relates to matters of design quality. As such it does not govern the location of housing within rural areas and, in these regards, I find no conflict with it.

Character and appearance

18. North of the appeal site the Chequers pub and its car park mark the commencement of the built-up parts of Kettleburgh village. To the south of the pub, buildings are much more sporadically distributed, and there are largely open fields bounded by trees and hedgerows such as the one the appeal site forms a part of. At this southern edge of Kettleburgh, Easton Road is also lined on both sides by hedgerow and embankment. Therefore, the appeal site is located at a point along Easton Road where the character transitions to one which is less developed and more open and rural. The verdant character of the particular part of Easton Road the appeal site forms a part of contributes positively to the character and appearance of the area.

19. Upon completion of the proposed development much of the site would become built-upon. Altogether, the bungalows, the garaging, the access and driveways would form a quantum of built development which would be quite significant. The site would become markedly more built-up, and its present open and undeveloped character would be eroded. The proposed access, inclusive of visibility splays, would result in the loss of sections of the hedgerow lining Easton Road. This roadside hedgerow forms a distinctive landscape element, and it provides a marker that a countryside setting has been entered beyond the village.
20. This combination of effects would harmfully erode the verdant and rural character exhibited by the appeal site and this particular part of Easton Road. These effects upon the landscape character of the area would be localised rather than very widespread, but they would, nevertheless, be harmful.
21. The development would include new tree and hedgerow planting. However, this would be likely to take a quite considerable time to mature, and a substantial gap in any roadside planting would endure due to the access junction. I also accept that there are facets of the development's design and its context which, to some extent, would assist in its assimilation into its surroundings. This would include the properties proposed being bungalows, and thereby of a low-slung appearance, whilst the density of existing planting on field boundaries would quite effectively screen the development from Kettleburgh Public Footpath 26. Nevertheless, these factors would not provide sufficient mitigation for the effects I have described above and overall, for the reasons I have given, a harmful effect upon the character and appearance of the area would result.
22. Consequently, the proposal conflicts with LP Policy SCLP10.4. Amongst other matters, this policy seeks to ensure that developments are informed by, and are sympathetic to, the qualities and features of the landscape's character. The policy also requires that proposals protect and enhance the visual relationship and environment around settlements, their landscape settings and their landscape features.

Access

23. Easton Road, from which the proposed vehicular access would be taken, is subject to a 60mph speed limit. The Technical Note assesses the results of a speed survey undertaken, and it identifies that the 85th percentile speeds of the observed vehicles were much lower than the speed limit at 36.9mph for the northbound vehicles and 38.4mph for the southbound vehicles. I have no sound basis on which to dispute the accuracy of the speed survey undertaken and, in such circumstances, it is appropriate that the observed speeds inform the visibility splays applicable to the site access.
24. To inform upon the appropriate splay requirements for the proposed access the submitted Technical Note refers to the Manual for Streets (MfS) standards, and I have no reason to disagree with this approach. As such, the Y distance of the visibility splay should be based on the stopping sight distances set out within table 7.1 of MfS. Given the observed 85th percentile speeds, the Y distance in this case is 59m both north and south of the access junction. To ensure visibility, the splays would need to be clear of any obstruction greater than 600mm above the existing carriageway level.

25. The Visibility Splay Plan submitted (referenced JG01) does not show a Y distance of 59m for the northern splay: only 43m. Furthermore, within the northern splay, there is land which is not within the appeal site, as denoted by the red line of the submitted Location Plan (referenced 1.8 Rev 00). This land includes hedgerow which would need to be maintained so that it would not obscure visibility within the splay. I have no substantive evidence that the appellant owns this land or exercises control over it. As a result, I am not confident that the necessary northern visibility splay, clear of obstruction, could be achieved. In such circumstances I cannot conclude that the proposed access junction visibility is sufficient. In turn, I find that the proposed access arrangements would not be safe.
26. As a result, the proposal conflicts with Policy SCLP7.1 of the LP which, amongst other matters, seeks to ensure that development proposals reduce conflicts between highway users and do not reduce road safety. The proposal also conflicts with the advice of the Framework which seeks to ensure that developments achieve a safe and suitable access for all users. The Council's fifth reason for refusal cites conflict with LP Policy SCLP7.2. This policy is concerned with parking rather than accesses and, as such, I find it is not relevant to this main issue, and I find no conflict with it.

Great crested newts (GCNs)

27. Amongst other matters, Circular 06/2005 states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. Otherwise all relevant material considerations may not have been addressed in making the decision. The Circular also states that developers should not be required to undertake surveys unless there is a reasonable likelihood of the species being present and affected by the proposed development.
28. Informed by the consultee comments of its ecologist, the Council's third reason for refusal cites the content of a preliminary ecology appraisal (the PEA) submitted to them. References to the PEA includes its findings that the appeal site contains terrestrial habitat suitable for GCNs, that there are multiple records of GCNs within the local landscape and that Environmental DNA sampling should be carried out in ponds within 500m of the appeal site. I have no sound basis on which to dispute these PEA references which, due to the combination of historical GCN records and the presence of suitable on-site habitat and off-site waterbodies, indicates GCN surveys are necessary in order to establish the presence or otherwise of the protected species. The GCN Survey has been submitted as part of the appeal in direct response.
29. Paragraph 2.1 of the GCN Survey sets out that a review of Ordnance Survey and aerial imagery identified "eleven more ponds within 500m of the site". The total number of ponds within 500m of the site is not clear from the evidence before me, neither is the location of the vast majority of these ponds. Paragraph 2.1 also states that the "...ponds on site were both surveyed. The remaining ponds were not surveyed because of a lack of access due to their location on private land." The survey results contained within Table 3 of the GCN Survey present the results of just a single pond and Appendix 3 indicates that its location is, in fact, off-site. Furthermore, on my site visit I did not note either of the two ponds suggested to be on the site itself.

30. Such contradictory content significantly undermines the confidence I have in the accuracy of the GCN Survey. Furthermore, should there be in excess of eleven ponds within 500m of the appeal site that the GCN Survey presents detailed survey results of only a single pond does not provide me with sufficiently robust evidence that GCNs are not likely to be present in the area.
31. Given that GCNs are a protected species under The Conservation of Habitats and Species Regulations 2017, I consider a precautionary approach should be taken. I am also mindful of the statutory duty placed upon me by section 40(1) of The Natural Environment and Rural Communities Act 2006 to have regard to the purpose of conserving and enhancing biodiversity.
32. For the above reasons, I find that there is a significant degree of uncertainty surrounding the presence of GCNs, but it seems to me that there is a reasonable likelihood that they are present in the area and the submitted evidence does not provide me with the confidence to conclude that the proposed development would not adversely affect them. Consequently, the proposal conflicts with Policy SCLP10.1 of the LP which sets out that development proposals should follow a biodiversity hierarchy which firstly requires the avoidance of impacts upon biodiversity, secondly, should impacts result, the satisfactory mitigation of those impacts and finally, as a last resort, compensation for biodiversity harm or loss. The policy sets out that this hierarchy applies to protected species and, where there is reason to suspect the presence of such species, that applications be supported by appropriately scoped ecological surveys and assessment.

Other Matters

33. The proposed development would boost housing supply. It would provide a choice of homes in the area and contribute towards meeting the housing needs of older residents. As a development of only 3 dwellings it is likely that the site would deliver homes quite quickly too. I acknowledge Policy 5.8 of the LP includes provisions to ensure certain housing developments deliver homes suitable for older persons, and that certain housing allocations include particular provision for them. However, I have limited information before me on delivery and how successfully the housing need of older persons is being met in the area. In the circumstances, and whilst the contribution to the overall supply of housing would be quite modest, in catering for the needs of a specific group, I find the proposal would make a valuable contribution to supply and I attribute a moderate amount of weight to it as a result.
34. Economic benefits would be derived from the construction phase of the development and from the occupation of the dwellings for instance through support to local services. However, given the scale of the development, these benefits would be modest.
35. The appellant submits that the proposal would achieve biodiversity enhancements. However, in my main issues, I have identified a likelihood of adverse effects upon a protected species. In such circumstances I am not convinced of the appellant's assertions that biodiversity enhancements would, overall, result.
36. The benefits that would be derived from the proposed development would be insufficient to outweigh the harms I have identified in my second, third and fourth main issues. In coming to this view I have had regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 (the Act) which sets out the need to eliminate unlawful discrimination, harassment, victimisation, and to

advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The Act sets out the relevant protected characteristics which includes age. In dismissing this appeal, dwellings suitable for older persons would not be delivered. However, it does not follow from the PSED that the appeal should succeed. In my view any adverse effects of dismissing the scheme on potential prospective users of the development with protected characteristics would be proportionate having regard to the harms I have identified.

37. It may be, in respect of a range of other planning considerations, that the development would not result in harmful effects. This may include its effects upon the living conditions of neighbouring occupiers. Even so, an absence of harm in respect of such matters is a neutral factor in my decision and it does not outweigh the harms that I have identified.
38. The appellant has drawn to my attention an appeal decision¹ which granted planning permission for 4 dwellings. The full details of this case are not before me, only the appeal decision itself. In the absence of other evidence which will likely have been before the inspector in that case, such as the plans, relevant development plan policies and any statements from the appeal parties, it is not possible to draw accurate comparisons between that scheme and the one which is before me. Appeal decisions are heavily dependent on the case-specific evidence and circumstances. I must come to my own views on this appeal having regard to the evidence before me now, my own experience and the particular circumstances of the case. Accordingly, the findings of the inspector in the cited case do not weigh in the proposal's favour to any meaningful extent. Regardless, the appellant's principal purpose of referring me to the appeal decision is in order to draw comparisons with the appeal proposal on matters related to my first main issue, and I have not objected to the appeal proposal on those particular grounds.
39. Finally, the Council's fourth reason for refusal relates to the potential effects of the development upon the integrity of Habitats Sites in the area. More specifically, the potential for the interest features of those sites being affected by the proposal's contribution toward recreational activities and pressures. If I were minded to allow the appeal, I would need to be satisfied that the proposal would have no adverse effects upon the Habitats Sites. However, I am dismissing the appeal because of my findings on the main issues. Therefore, there is no requirement for me to undertake this assessment.

Conclusion

40. Whilst I have concluded that the appeal site provides a suitable location for the development proposed in principle, this does not outweigh the harm that would be brought about as a result of the proposal's effects upon the character and appearance of the area and upon highway safety nor the additional prospect of harm to a protected species. The resulting conflict with the development plan policies I have identified leads me to conclude that, despite the proposal according with various other development plan policies, the development conflicts with the development plan as a whole.

¹ Appeal Decision Reference APP/L3245/W/22/3310764

41. There are no material considerations of sufficient weight to indicate a decision other than one in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

H Jones

INSPECTOR