



Appeal Decision

Site visit made on 7 February 2025

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th March 2025

Appeal Ref: APP/X3540/W/24/3348308

Land adjacent to Orwell Park Gardens, Church Road, Nacton, Suffolk IP10 0ES

- 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 Ms B Clark (P.L.O.T Community Interest Company) against the decision of East Suffolk Council.
 - The application Ref is DC/24/0352/FUL.
 - The development proposed is a change of use from agricultural land to F1 for use by community interest company P.L.O.T.
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Decision

1. The appeal is allowed, and planning permission is granted for a change of use from agricultural land to F1 for use by community interest company P.L.O.T. at Land adjacent to Orwell Park Gardens, Church Road, Nacton, Suffolk IP10 0ES in accordance with the terms of the application, Ref DC/24/0352/FUL, subject to the following 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 the following approved plans:

Location Plan 3064 01 Revision 1
Existing: Site Plan 3064 03 Revision 2
Polytunnel sketch with measurements
Polytunnel diagram
 - 3) The use of the land shall be for the purposes of the provision of education of pupils/children attending the therapeutic centre at The Buck House, Church Road, Nacton only and for no other purpose (including any other purpose in Class F1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Background and Preliminary Matters

2. Planning permission is sought for a change of use of the appeal site to the F1 Learning and Non-residential Institutions Use Class. More specifically, the appeal submissions propose that the land would be used for the provision of practical

education to children/pupils within the nearby therapeutic centre at The Buck House on matters surrounding horticulture and animal care.

3. On site the animal pen and polytunnel, proposed in association with the F1 use, are in situ. However, the appellant asserts that the use of the appeal site for the F1 Use Class referenced in the description of the development has not yet commenced. I have no substantive evidence before me to the contrary, and I have determined the appeal on this basis. This is reflected in my use of tense.
4. On 12 December 2024, a revised version of the National Planning Policy Framework (the Framework) was published. In making my decision, I have had regard to the revised Framework insofar as it is relevant to the appeal.
5. In my other matters, I refer to various listed buildings and a listed landscaped parkland within the surroundings to the appeal site. As a result, in reaching my decision, I have had regard to the statutory duty placed upon me by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving any listed building or their settings or any features of special architectural or historic interest which they possess.
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 Issue

7. The main issue is whether the appeal site provides a suitable location for the development proposed having regard to those policies within the development plan, and within the Framework, which are concerned with community facilities and sustainable transport.

Reasons

8. The appeal site is located beyond the settlement boundary of Nacton and thereby within the countryside. Despite this, there are a number of buildings nearby to it including Orwell Park School and a number of residential properties. Importantly The Buck House therapeutic centre is also located in very close proximity.
9. Amongst other matters, the Planning Practice Guidance (PPG) sets out that, when used properly, planning conditions can enable development to proceed where it would otherwise have been necessary to refuse planning permission. However, conditions should only be imposed when the 6 tests of imposition are met. Those tests being that each condition should be necessary, relevant to planning, relevant to the development permitted, enforceable, precise and, finally, reasonable in all other respects.
10. Planning permission usually simply runs with the land. Therefore, for instance, the land may change hands, but any persons, landowner or body may utilise the land for its permitted purposes. However, there are occasions when it is appropriate to use conditions to exercise greater control. A typical example would be a condition which requires the occupiers of a new dwelling in the countryside to be employed in a rural enterprise. In that case, the site would be likely to be limited to the proposed property and its associated plot, but the rural enterprise its occupiers

would be employed by may be elsewhere in the locality and not necessarily in the same ownership either.

11. Condition 3 in my decision above would ensure that the appeal site is used solely for educating the children of The Buck House such that it would form part and parcel of the centre's education and therapy facilities, and for so long as this centre is within The Buck House. The scenario would be similar to the manner in which a school playing field would be used as an integral part of a school's facilities even though it may be a quite considerable distance from the main school building itself.
12. Without such a condition, there would be the potential for the appeal site to be used for another purpose within the F1 Use Class, or by another school in the area which is not very local. Such uses could bring with them the likes of increased vehicular movements and problematic parking on the country lanes in the area.
13. However, in this case, during the therapeutic centre's daytime and term time hours, it is proposed that children would be taken from The Buck House to the appeal site, taught and then returned. With the security provided by condition 3, tying the use to The Buck House, no change to the established travel patterns or parking arrangements already associated with the therapeutic centre would result. Staff could walk the children the very short distance to the site and back again. Therefore, the appeal site is easily accessible to those the proposal would serve via a sustainable transport mode.
14. Condition 3 is therefore necessary, relevant to planning and to the development permitted as it would ensure that the travel patterns associated with the proposal would be sustainable. If required, the manner in which the site was being used could be monitored by the Council. Therefore, any breach of the condition could be detected and thus it would be enforceable. The condition is clearly worded and easy to understand, it is therefore precise. Finally, condition 3 would place no unjustified or disproportionate burdens upon the appellant, indeed, they have proposed a condition along its lines as a means to resolve the Council's concerns. Therefore, I conclude that condition 3 meets all the 6 tests and, despite the reservations of the Council, I have no substantive evidence before me which leads me to the conclusion that its imposition would be inappropriate.
15. As the proposal would provide a means by which children attending The Buck House could be educated in an outdoor setting it would widen the education offering for the children. By doing so, the proposal would be providing a valuable service, and it would be meeting the needs of the local community.
16. Given its separation from Nacton itself, I accept that the site is not well related to a settlement as such. However, it is well related to its prospective users: the staff and pupils at The Buck House and, consequently, it is easily accessible and available to those within the local community it is proposed to serve.
17. As a result, overall, I find that the proposal accords with Policy SCLP8.1 of the Suffolk Coastal Local Plan (LP). Amongst other matters, this policy supports new community facilities which would meet the needs of the local community, which would be proportionate in scale, which would be well related to the settlement proposed to be served and which would not adversely affect existing facilities that are easily accessible and available to the local community.

18. The proposal also accords with LP Policy SCLP7.1 which seeks to ensure that development is designed to encourage travel by means other than by car, to maximise opportunities to enable travel by sustainable means and which mitigates its impacts upon the highway network including reducing any conflicts between different highway users.
19. I also find that the proposal accords with those policies within the Framework which seek to ensure that the provision of community facilities is positively planned for in order to enhance the sustainability of communities. It also complies with those Framework policies which seek to ensure that sustainable transport modes are prioritised taking account of the development type and its location.
20. For these reasons, I conclude that the appeal site provides a suitable location for the development proposed having regard to those policies within the development plan, and within the Framework, which are concerned with community facilities and sustainable transport.

Other Matters

21. Within the public representations made, there are some assertions that the submitted plans may not accurately depict the land the subject of the proposal and that statements regarding the ownership of the appeal site are incorrect. However, I find that the submitted location plan, referenced 3064 01 Revision 1, accurately identifies the land the subject of the appeal. Evidence is also before me that the appellant gave requisite notice to any person (other than the appellant) who owns the appeal site, and I have no substantive reason to conclude this was not undertaken correctly.
22. The Council raised no objections to the proposed development on the grounds of its effects upon the living conditions of local residents. Given the size of the appeal site, and the likely scale of the horticulture and animal keeping operations which would take place within it, I have no reason to disagree. Furthermore, there are other regulatory regimes which, in the interests of their health and welfare, govern the keeping of farm animals. I have no reason to conclude that those separate provisions would not be sufficient or effective in this case.
23. A number of designated heritage assets are located within the surroundings of the appeal site. Orwell Park School and Observatory is Grade II listed, and it is located on the opposite side of Church Road. Within the school site there are other individually listed (Grade II) buildings as well. In summary, these comprise of a clock tower, a garden wall, sections of gates, piers and flank walling, a water tower, an orangery and a ceremonial gateway to the south lawn. Orwell Park School was originally a country house, but it later became an independent school. The significance of the site as a whole is principally derived from its architectural interest as a grand and imposing building within spacious grounds which exhibits traditional and ornate architectural features and details, some of which are listed on their own merits. The Orwell Park School site also has historic interest owing to its association with notable individuals including the architect of its observatory John MacVicar Anderson.
24. To the south-east of the appeal site is Broke Hall, a Grade II* listed country house which is situated within a separately listed (Grade II) landscaped park known as Broke Hall Park. Broke Hall is a large and distinguished red brick property. It is distinctively designed in a Gothic style. Its significance largely stems from its

architecture but also its historical association with the distinguished Broke family. Broke Hall Park was laid out following designs undertaken by the notable landscape architect Humphry Repton. It has historical interest because of this and, again, its association with the Broke family. As a largely intact example of late 18th Century landscaped park design, it has architectural and artistic interest as well. Within the parkland a crinkle-crankle boundary wall and a set of gates are, separately, Grade II listed. This wall and set of gates are significant because of their distinctive design and because of the historic interest of having incorporated the salvaged timbers of HMS Shannon which was commanded by Admiral Sir Philip Bowes Vere Broke.

25. Evidence before me illustrates that the appeal site was once utilised as a kitchen garden serving Orwell Park School when it was a country house. As such, the appeal site has a historical association with the listed Orwell Park School building, and it makes a positive contribution to its significance by providing evidence of how the country house functioned in the past. As a result of the proposal, the site would be used in part for horticulture which would be reflective of, and sympathetic to, the historical kitchen garden use. The proposal would not affect the surviving historical brick wall which encloses the site. Furthermore, this high brick wall enclosure means that the animal pen and the polytunnel within the site are well screened from land beyond it. Other boundary treatments, and the presence of many mature landscape features in the area, provide further effective screening of the site from the aforementioned designated heritage assets. For these reasons, no harm to the various listed buildings and the listed landscaped park within the site's vicinity, including their settings, would result from the proposal.
26. The appeal site is located within the Suffolk and Essex Coast and Heaths National Landscape. The area's natural beauty, and the reasons for the designation, are largely owed to its combination of farmland interspersed by picturesque villages and seaside towns, marshland, woodland and heathland. In respect of this designated landscape, I am mindful of the statutory duties imposed upon me to seek to further the purposes of this designation which are to conserve and enhance its outstanding natural beauty. Reflective of this, the Framework places great weight upon the conservation of these landscapes.
27. Comprising principally of a change of use with only modest built interventions, and being well screened from views beyond the site's bounds, the visual and landscape effects would be limited and very localised. The proposed development would be sympathetic to the National Landscape and thus comply with the duty to seek to further the conservation and enhancement of the National Landscape.
28. The coast, heaths and estuaries of Suffolk are internationally recognised wildlife assets and include a concentration of designated ecological sites. This includes European Sites which are afforded protection under the Conservation of Habitats and Species Regulations 2017. Closest to the appeal site these designated sites include the Stour and Orwell Estuaries Special Protection Area (SPA), the Stour and Orwell Estuaries Ramsar (Ramsar site), the Orwell Estuary Site of Special Scientific Interest (SSSI) and the Nacton Meadows SSSI.
29. Altogether the qualifying features and special interests of these various sites arise from the assemblages of breeding and non-breeding bird species which utilise the areas, the particular habitats which support this and the presence of scarce fen-meadow.

30. In respect of the SPA and Ramsar site I must consider whether a likely significant effect upon the qualifying species of the sites which would undermine their conservation objectives would result from the proposed development. On the basis of what is before me, there is no credible evidence which indicates to me that a likely significant effect would result from the proposal. Given the nature of the development proposed there would be no impact pathway stemming from the development which would affect the European Sites. I have no reason to conclude, for instance, that any changes in air or water quality would result nor would there be any increase in recreational pressure upon, or disturbances to, habitats within the European Sites. Consequently, I am satisfied that I can rule out a likely significant effect occurring upon the European Sites. In turn, no likely significant effect would arise from any in-combination effects with other development in the area and, finally, neither would similar such effects upon the interest features of the SSSIs result.

Conditions

31. As an appendix to its appeal statement, the Council has provided me with a list of suggested conditions. I have considered these in the light of the Framework and the PPG.
32. As evidence before me indicates that the use of the appeal site for the F1 Use Class referenced in the description of the development has not itself commenced, I consider it necessary to impose the standard time limitation condition. I have also imposed condition 2 to ensure that the development is only implemented in accordance with the approved plans for the reason of certainty. In my main issue I have already explained the reasons why I have imposed condition 3.
33. The Council's appeal statement appendix has not set out that any other conditions are necessary. I have no reason to disagree with this conclusion and have imposed no other conditions.

Conclusion

34. The proposed development accords with the development plan as a whole, and there are no material considerations which indicate a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be allowed, subject to the conditions above.

H Jones

INSPECTOR