



Appeal Decision

Site visit made on 13 March 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 May 2025

Appeal Ref: APP/V0510/W/24/3351340

3 Soham Road, Fordham, Cambridgeshire CB7 5LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Justin King against the decision of East Cambridgeshire District Council.
 - The application Ref is 24/00048/OUT.
 - The development proposed is Erection of five dwellings and garages.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework was revised in December 2024 and amended on 7 February 2025 to correct cross references from footnotes 7 and 8, and to amend the end of the first sentence of paragraph 155 to make its intent clear. The 2025 Framework (the Framework) has not materially changed in terms of the identified main issues below and therefore, it has not been necessary for me to seek comments from the main parties.
3. The application was made in outline with all matters except the means of access reserved for subsequent approval. However, the application was accompanied by an indicative layout plan showing the location of the houses and garages (amongst other things), which I shall treat as being for illustrative purposes only.
4. The appeal submission includes a Preliminary Ecological Appraisal Addendum dated September 2024 (PEA Addendum) and Arboricultural Impact Assessment which were not before the Council at the time of its decision. It is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
5. In this case, the PEA Addendum provides additional detail in relation to the potential for protected species within the appeal site and biodiversity gain, rather than any amendments to the proposal. The Council and interested parties had an opportunity to comment upon the appellant's PEA Addendum. I consider that there would be no prejudice to any party by considering the PEA Addendum, and I have therefore determined the appeal on this basis.

Main Issues

6. The main issues are:
 - whether the appeal site is in an acceptable location having regard to local and national policies; and

- the effect of the proposal on protected species and Biodiversity Net Gain (BNG).

Reasons

Location of development

7. Policy GROWTH 2 of the East Cambridgeshire Local Plan 2015 (as amended 2023)(LP) provides the locational strategy for new development in the district. Outside of the district's market towns more limited development will take place in villages which have a defined development envelope. The main parties agree that the appeal site lies beyond the defined development envelope for Fordham. Therefore, for policy purposes it lies within the countryside where development will be strictly controlled.
8. Policy GROWTH 2 allows for some development outside the development envelopes where it meets specific exceptions outlined within the policy. However, the main parties agree that the proposal would not meet any of these exceptions.
9. Policy 1 of the Fordham Neighbourhood Plan 2016-2036 (FNP) allows the provision of small-scale infill sites outside of Fordham's development envelope in certain circumstances. In determining a previous appeal at the site¹ for 5 detached 2 storey dwellings, each with a detached double garage, the Inspector noted that infill development was not defined in the FNP. It was therefore necessary to use a common definition - the development of small gaps between buildings. I consider that this definition remains appropriate.
10. I understand that since the previous appeal decision, the adjoining site at 2 Soham Road has been constructed, creating four detached dwellings in a small cul-de-sac. When determining the previous appeal the Inspector was aware of this development, although its construction was not complete. In contrast, adjoining the opposite side of the appeal site is 4 Soham Road, a single detached dwelling positioned close to the front of its site. Although layout is a reserved matter, and the appellant's site layout drawing is illustrative, it seems to me that a development of five dwellings and garages is likely to utilise the majority of the appeal site's depth. The development would therefore spread to a much greater depth than the limited built form of 4 Soham Road. For this reason, the proposal would not be fully between buildings on the adjoining site and would go beyond what can be considered small-scale infill development.
11. The National Planning Policy Guidance (PPG) confirms that there is no timeframe within which neighbourhood plans are required to be reviewed or updated. Whilst I acknowledge that the FNP is six years old, I have no substantive evidence before me to demonstrate that Policy 1 of the FNP conflicts with any strategic policies or that it has been superseded by other local policies. I therefore do not consider the FNP to be out-of-date.
12. I note that pockets of additional housing have been constructed on Soham Road since the determination of the previous appeal, including those at 2 Soham Road and up to 52 houses also allowed at appeal² at land further to the west of the appeal site. I am mindful of case law³ which states that a defined settlement

¹ APP/V0510/W/19/3224359

² APP/V0510/W/18/3195982

³ Wood v SSCLG & Gravesham BC [2014] EWHC 683 (Admin)[[2015] EWCA Civ 195

boundary in a Local Plan may not itself be determinative, but that regard should also be had to factors on the ground.

13. Whilst the existence of additional dwellings on Soham Road is a material consideration, this edge of Fordham retains some of its character from the juxtaposition of fields and houses. Indeed, there remain generous areas to the rear and west of the appeal site where there are presently no buildings in the immediate vicinity of the appeal site. The site itself also contains limited physical structures. The proposal would further consolidate development on the edge of the village, urbanising its countryside edge and causing a loss of openness.
14. The site is reasonably well related to a range of shops, services and facilities of the village, and would therefore accord with aspects of Policy GROWTH 2. I also acknowledge that the housing requirement identified by Policy 1 of the FNP does not set an absolute ceiling for local housing development. Notwithstanding this, there would be an overall conflict between the proposal and the LP and FNP policies as a result of the appeal site's location outside the settlement boundary. Overall, the appeal site would not be a suitable location for the appeal scheme when applying the spatial strategy in the LP. Instead, the proposal would undermine the objectives of the strategy. This would be harmful given the relative certainty and public interest that flows from a planning system that is genuinely plan led.
15. My attention is drawn to an appeal decision⁴ for a single dwelling in Dullingham. I have not been provided with full details of that appeal such as drawings. However, from the information before me it is evident that it related to an appeal site which adjoined two dwellings which were within the defined development envelope for Dullingham. In contrast, no part of the appeal site before me adjoins the development envelope of Fordham. Whilst I note the Inspector's comments on the changes to local built form, due to the precise circumstances of the appeal site and the proposal, the Dullingham appeal does not weigh heavily in my considerations.
16. In conclusion, the appeal site would not be a suitable location for the appeal proposal when applying the spatial strategy set out in the development plan. As a result, the proposal would conflict with Policy GROWTH 2 of the Local Plan. It would also conflict with Policy 1 of the FNP as it would not meet the definition of limited infilling outside the development envelope.

Protected species and BNG

17. The planning application was submitted prior to biodiversity net gain (BNG) becoming mandatory via the Environment Act 2021. However, Policy ENV 7 of the LP requires that new development not cause harm to biodiversity and sets the expectation that new development maximises opportunities for creation and restoration of natural habitats. The Council's Natural Environment Supplementary Planning Document (2020) (SPD) also requires a net gain in biodiversity.
18. The PEA Addendum, using the small sites metric, indicates that a net gain in area habitats could not be achieved on site. Consequently, an off-site compensation would be required, equating to 1.016 units. The appellant indicates that the additional BNG compensation requirements can be addressed through off-site provision.

⁴ APP/V0510/W/21/3283673

19. The PPG states that when a planning application is submitted for a phased development, applicants are strongly encouraged to provide sufficient information to demonstrate how biodiversity gain is expected to be achieved, and that this is likely to include potential requirements for s106 agreements of off-site gains. However, I am not provided with an offsite compensation proposal or any mechanism to demonstrate how this would be reasonably secured. As such, the evidence submitted does not satisfy me that BNG would be achieved in these circumstances.
20. The PEA submitted with the planning application was produced following a site visit including a field survey and a desk study. It includes a description of the habitats on, and surrounding the site. The PEA Addendum submitted with the appeal has been produced to respond to the Council's reason for refusal and following further assessment of trees on site for bat roost potential.
21. The only potential roost features found were the same as those found during the original PEA survey in September 2023. They were inspected with an endoscope, with no evidence of bat presence found. A further five mature trees were assessed for potential roost features, but none were found.
22. The initial site survey, nor a supplementary survey undertaken in March 2024 identified evidence of badgers on-site. Noting that badgers are a highly mobile species, the PEA addendum indicates further measures such as undertaking a badger walkover survey six weeks prior to clearance work commencing. Having considered the evidence, I am satisfied that adequate safeguards for protected species could have been secured through an appropriately worded planning condition, had I been minded to allow the appeal.
23. The proposal would not have a harmful effect on protected species. However, given the above, the proposal, on the basis of the evidence before me, conflicts with the requirements of Policy ENV 7 of the LP and the SPD not to cause harm to biodiversity, as uncertainties within the submission mean that I cannot know the proposal would deliver offsite biodiversity gains.

Other Matters

24. The appeal site is within an Impact Risk Zone (IRZ) for the Brackland Rough Special Scientific Site of Interest (SSSI). Within the IRZ, development increasing recreational pressure could have a likely significant effect on SSSI. Whilst the Council's officer report indicates that a mitigation plan could be secured through a planning condition, local planning authorities have a duty to consult Natural England (NE) before granting planning permission for any development falling within an IRZ as this is likely to affect a SSSI. Had I not already identified harm in respect of the main issues above, I would have required NE's response before I could consider granting any planning permission. In any case, since I am dismissing the appeal for other reasons, there is no need for me to undertake consultation with NE.

Planning Balance and Conclusion

25. The proposal would add to the supply of housing within the district and it would make a more efficient use of the site. The Framework seeks to significantly boost the supply of homes, and also outlines that small and medium sized sites can make an important contribution to meeting the housing requirement of an area,

and are often built-out relatively quickly. However, the Framework also gives substantial weight to the value of using suitable brownfield land within settlements for housing, rather than land in the countryside as is the case with this proposal. Consequently, this tempers the weight given to these factors. The absence of other planning harms are only neutral factors and the contribution of five homes, which is a modest addition to the local housing stock, leads me to consider that the public benefits would be limited.

26. The site is reasonably well related to a range of shops, services and facilities of the village. Paragraph 83 of the Framework shows that development in countryside locations can enhance or maintain the vitality of rural communities where they are suitably located. Therefore, the five dwellings would bring social and economic benefits to the village. The development would also give rise to some economic benefits during the construction phase and provide support to local services. Given the scale of the proposal the economic benefits are afforded minor weight.
27. A number of potential non-habitat based enhancements such as bird, hedgehog and bat boxes are indicated. These matters weigh in favour of the proposal, however, this is tempered by my findings on biodiversity net gain.
28. The conflict with policy GROWTH 2 and ENV 7 of the LP and Policy 1 of the FNP attract full weight in my determination of this appeal. The proposed development therefore conflicts with the development plan. The identified material considerations taken together do not attract such weight as to indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

B Pattison

INSPECTOR