



Appeal Decision

Site visit made on 19 March 2025

by **S Pearce BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 June 2025

Appeal Ref: APP/F2415/W/24/3350897

**Sutton Circuits, Sutton Lane, Sutton in the Elms, Broughton Astley,
Leicestershire, LE9 6QF**

- 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 David Poyner of DAVICO Properties UK Ltd against the decision of Harborough District Council.
 - The application Ref is 24/00229/FUL.
 - The development proposed is described as the “change of use from holiday accommodation to a retirement village”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the application, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and amended on 7 February 2025. Those parts of the Framework most relevant to the appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no parties interests would be prejudiced by my taking this approach.
3. Planning permission has been granted for 42 holiday lodges¹ at the appeal site (the previous scheme). Both main parties state that the previous scheme has been implemented. However, there is no holiday accommodation present within the appeal site. Moreover, the evidence indicates that the current use of the appeal site is a go-karting facility. Having regard to these matters and noting the description of development seeks a change of use, the intent of the appeal proposal would be to allow the construction of a retirement village, albeit to the same design and layout as the previous holiday lodge scheme.

Main Issues

4. The main issues are:
 - whether the appeal site is a suitable location for the development proposed, having regard to the development plan,
 - the effect of the proposed development on the character and appearance of the area,
 - the effect of the development proposed on biodiversity, including Biodiversity Net Gain,

¹ Original planning application reference 11/00806/ETO

- whether a planning obligation is necessary in respect of matters relating to affordable housing, healthcare and highway considerations,
- the effect of the proposed development on the economic conditions and sustainability of the area, and
- if any harm is identified, whether that harm would be outweighed by the alternative holiday lodge development.

Reasons

Whether a suitable location

5. The appeal site does not lie within or adjacent to a settlement. It is separated from the settlement of Sutton in the Elms by open fields. While the Leicestershire County Council Definitive Map illustrates that the appeal site is well-located to access the established footpath network, it is, nevertheless, some distance from the edge of the settlement. In this regard, the proposal does not comply with Policy GD2 of the Harborough Local Plan 2019 (LP).
6. Within the countryside, LP Policy GD4 supports new housing providing such proposals meet at least one of the listed criteria. The appeal scheme does not accord with any of the criteria listed within this policy.
7. The appeal scheme seeks to provide a retirement village. In this regard, LP Policy H4 sets out the criteria for specialist housing. One criterion requires such development to demonstrate that it is conveniently situated in relation to local retail and community services.
8. The appeal site is accessed from Sutton in the Elms via Sutton Lane. The evidence indicates that Sutton in the Elms has a diverse socio-economic character, including established businesses, a residential care home, residential dwellings and a church, with Broughton Astley providing a broad range of services and facilities. The stretch of highway from the edge of Sutton Lane to the appeal site is subject to the national speed limit, is unlit and there are no footpaths. It is highly unlikely, therefore, that future occupiers would choose to walk or cycle to services and facilities, particularly after dark or during inclement weather.
9. Although the appeal scheme includes a shop and café/restaurant, there is limited evidence that these would provide sufficient facilities to support the day to day needs of the future occupiers. As such, the appeal site is not conveniently situated in relation to local retail and community services, as future occupiers are likely to be reliant on the private car.
10. The proposed footpath included within the previous scheme would provide a link to established footpaths at Sutton in the Elms. However, while this would provide a link for pedestrians, the appeal site remains a significant distance from key services and facilities, including healthcare, which, based on the evidence, appear to be located within Broughton Astley, not Sutton in the Elms.
11. While noting the use of the appeal scheme as a retirement village, including the suggested condition to restrict future occupiers to those who are retired and over 50 years of age, such services would be more important for permanent occupiers of the appeal site than for holiday residents.

12. It therefore follows that, in all likelihood, occupiers of the appeal scheme would be heavily dependant on the private vehicle to meet their day to day living needs. As such, this would lead to a different pattern of vehicle movements to a holiday maker who would not be so dependent on accessing similar local services.
13. Policy H3 of the Broughton Astley Neighbourhood Plan 2014 (NP) supports small, well designed residential windfall sites that do not harm the surrounding area or neighbouring properties subject to such development having a direct highway frontage. Having regard to the second criterion of this policy and noting the Council's contention that the appeal site could be considered previously developed land, the appeal scheme seeks to provide significantly more than 5 dwellings. Hence, the proposal would also be contrary to NP Policy H3.
14. The existing care home in Sutton in the Elms has been drawn to my attention. The appellants asserts that the principle of a care home is well established in the area and the appeal scheme mirrors this, partly due to it providing residential accommodation, with on-site management, and a café and restaurant. Reference has also been made to a development of 9 dwellings. As the evidence indicates that these schemes lie on the edge of and within Sutton in the Elms, they are not, therefore, directly comparable. In any case, I have considered the appeal on its own merits.
15. While it has been stated that there is limited ability for a retirement village to be located or developed within an urban environment, there is little evidence to substantiate this assertion.
16. For these reasons, the appeal site is not in a suitable location, having regard to the development plan. It is therefore contrary to LP Policies GD2, GD4 and H4 and NP Policy H3, as set out above.

Character and appearance

17. The appeal site is located within and surrounded by countryside. It is in use as a go-karting track, and comprises a large open area, that is predominantly laid to grass, bounded by hedges and vegetation. There are ancillary structures and buildings, of modest scale, located within the appeal site. The open and verdant nature of the appeal site contributes towards the rural character and appearance of the area.
18. While only layout plans have been provided, these show a tight-knit form of development. The introduction of significant built form, which is of a suburban scale, layout and appearance, would inevitably change the character of the appeal site. As such, the proposed development would urbanise and erode the open and rural qualities of the appeal site, to the detriment of the prevailing character and appearance of the area.
19. The appeal scheme is also likely to generate a greater amount of domestic paraphernalia, than that of tourism accommodation. Those occupying a house on a permanent basis are likely to want structures that would not necessarily be required by a holiday let, such as garages, sheds and greenhouses. Furthermore, alterations to gardens, garden structures and fences would also be likely. On a site comprising 42 residential properties, such alterations and additions would likely be highly visible, further detracting from the rural character and appearance of the

area. As such, there would be a notable and harmful difference between the operation as private dwellings and holiday lets.

20. For these reasons, the proposed development would result in unacceptable harm to the character and appearance of the area. This is contrary to LP Policy GD8, which seeks, among other things, to ensure development proposals respect and enhance local character.

Ecology

21. As set out in the preliminary matter, while the appellant argues that the proposed change of use does not involve built development, nevertheless, the intent of the proposal, having regard to the existing site conditions, would be the introduction of built development into the appeal site.
22. A large section of the appeal site is laid to grass, with the evidence indicating that protected species may be present in the area and nearby hedgerows are a Local Wildlife Site. Having regard to the nature and context of the appeal site, in the absence of substantive evidence it is not possible to determine whether there would be any adverse impact upon ecology and whether any such harm could be adequately mitigated. Moreover, it is not clear from the evidence submitted whether Biodiversity Net Gain (BNG) could be achieved.
23. The appellant has highlighted that the previous scheme includes significant landscape improvements, including a lake and recreational improvements. Given the appellant has applied to change the use of the previous scheme, there is nothing before me which indicates the landscaping conditions attached to the previous scheme could not be applied to the appeal proposal. However, while such measures are proposed, there is limited evidence which indicates whether protected species would be affected. Moreover, at the time the previous scheme was determined, BNG was not a requirement. Therefore, given the absence of information in respect of protected species and BNG, the appeal scheme would be more harmful.
24. Consequently, I am unable to conclude that the proposed development could be accommodated without causing harm to ecology, and whether any harm identified could be satisfactorily mitigated. As such, the proposal is contrary to LP Policy GI5, which seeks, among other matters, for development to protect and improve biodiversity.

Planning obligations

25. LP Policy GD1 and NP Policy SD1 collectively seek to improve the economic conditions and sustainability of the area. LP Policy IN2 seeks to ensure, among other things, that proposals maximise the use and efficiency of existing transport facilities. NP Policy CI1 also requires, among other things, financial contributions to fund additional healthcare services within the village.
26. While not referenced in the Council's reason for refusal, both LP Policy IN1 and LP Policy H2 were included within the Council's Committee Report in respect of planning obligations.
27. LP Policy IN1 states, among other things, that financial contributions towards meeting all the eligible costs of infrastructure directly required by a major development will be sought whenever this is necessary. The supporting text to this

policy advises that infrastructure includes social assets such as health centres and doctors' surgeries.

28. LP Policy H2 stipulates that 40% affordable housing will be required on housing sites of more than 10 dwellings. It goes on to state that where off-site provision is demonstrated to be impractical, off-site commuted sums of an equivalent value will be made in lieu of on-site provision.
29. The Council states that a planning obligation to secure contributions in respect of affordable housing, healthcare and monitoring fees and a travel pack to promote sustainable travel choices are required. Based on the evidence before me, I am satisfied that these would be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.
30. The appellant has indicated their willingness to enter into a planning obligation for the contributions stipulated and it is noted that a draft Heads of Terms has been prepared. Although the appellant indicated their intention to finalise a signed and dated obligation, no executed and certified planning obligation has been submitted with the appeal.
31. In view of all the above, a planning obligation is required in relation to affordable housing, healthcare and sustainable travel choices. The absence of a completed planning obligation to secure these matters is contrary to LP Policies GD1, IN1, IN2 and H2 and NP Policies CI1 and SD1.

Tourist accommodation and employment

32. LP Policy GD1 and NP Policy SD1 collectively seek to improve the economic conditions and sustainability of the area. The appeal scheme would provide some economic and employment benefits, including through its construction and provision of a shop and café/restaurant. As such, it is likely to have a positive effect on the economic conditions and sustainability of the area in accordance with LP Policy GD1 and NP Policy SD1.
33. However, the evidence indicates that during consideration of the previous scheme, the economic benefits of the development, through the provision of tourist accommodation and employment, amounted to a considerable economic benefit to the District. The Council has raised concerns that should the appeal scheme succeed, there is the potential that such benefits would not occur.
34. It is not in dispute that the previous scheme has been implemented, albeit there is no tourism accommodation in use at the appeal site, which remains as a go-karting facility. Therefore, should the appeal scheme succeed and subsequently be implemented, no tourist accommodation would be provided at the appeal site.
35. However, as set out above, the appeal scheme would also provide economic benefits. Having regard to the scale of both schemes, the benefits associated with each respective development are likely to be broadly comparable. Consequently, my findings on this matter are neutral in the planning balance.

Alternative development

36. As indicated in the preliminary matter, both main parties state that the previous scheme has been implemented. I have limited evidence before me to indicate

whether the previous scheme would not be built. As such, there is a greater than theoretical possibility that the development might take place as a fallback position should this appeal fail.

37. However, for significant weight to be afforded to a fallback position there needs to be not only a greater than theoretical possibility of it taking place, but also it would need to be equally or more harmful than the appeal scheme.
38. The two schemes are comparable insofar as the number of units which are to be provided. Moreover, it is noted that the previous scheme is for a development with a Use Class C3, which is controlled by a planning condition that restricts the occupancy for holiday purposes.
39. However, as highlighted in the respective main issues above, the appeal scheme would be more harmful when compared with the previous scheme, with regard to the location of development, character and appearance of the area and biodiversity. With regard to the economic benefits, as set out in the main issue, the appeal scheme would be broadly comparable to the previous scheme.
40. For the reasons outlined, the appeal proposal would be more harmful than the previous scheme. Consequently, I afford the previous scheme limited weight in the support of the appeal development.

Other considerations

41. Following the publication of the revised Framework, the appellant highlights that the Council is unable to demonstrate a 5 year supply of housing land. While the Council do not dispute this, the precise shortfall has not been provided.
42. The proposal would make a meaningful contribution towards the areas housing supply. The Government's objective is to significantly boost the supply of homes, and the Framework supports the development of windfall sites. The proposal would lead to some social and economic benefits through the construction of the properties and the activities of the future residents of the scheme.
43. The appeal scheme seeks to secure occupation of the development for the over 50's. The evidence indicates that retirement parks using lodge accommodation are well-established in the UK and recognised by Age UK as housing accommodation for older people. Moreover, the Council accept that the area has an ageing population. The appellant has confirmed that occupancy could be controlled via a suitably worded condition. Therefore, the provision of specialist housing is a benefit of the scheme.

Planning Balance and Conclusion

44. Paragraph 11 d) of the Framework states that where the policies which are most important for determining an application are out-of-date, which includes situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, permission should be granted unless any adverse impacts of doing so significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As the Council is unable to demonstrate a Framework compliant five-year supply of deliverable housing sites, paragraph 11 d) of the Framework is engaged.

45. The proposal conflicts with LP Policies GD1, GD2, GD4, GD8, GI5, IN1, IN2, H2 and H4 and NP Policies H3, CI1 and SD1. As such, the appeal scheme does not accord with the development plan as a whole. These policies are broadly consistent with policies of the Framework, in respect of seeking to safeguard the countryside and direct growth to areas which have good access to services and facilities, ensuring that development reflects local character, minimises impacts on and provides net gains for biodiversity, provision of affordable housing and healthcare contributions and promotion of sustainable travel. As such, the weight to be given to this conflict is significant.
46. Taking the benefits of the appeal scheme together, including the fallback, these are not sufficient to outweigh the conflict identified in respect of the location of development, character and appearance of the area, biodiversity and the absence of a planning obligation to secure matters relating to affordable housing, healthcare and highway considerations. Therefore, the harm identified in respect of the main issues would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
47. Consequently, the appeal scheme would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR