



Appeal Decision

Hearing held on 1 August 2017

Site visit made on 1 August 2017

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6th September 2017

Appeal Ref: APP/J3530/W/17/3171875

Norwood House, Littlemoor Road, Middleton IP17 3JZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Gareth Nixon-Moss of County Care Homes Ltd against the decision of Suffolk Coastal District Council.
 - The application Ref DC/16/3947/OUT, dated 20 September 2016, was refused by notice dated 7 December 2016.
 - The development proposed is erection of 14 sheltered/extra care dwellings, together with residents lounge/meeting room and parking area.
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Decision

1. The appeal is allowed and outline planning permission is granted for erection of 14 sheltered/extra care dwellings, together with residents lounge/meeting room and parking area at Norwood House, Littlemoor Road, Middleton IP17 3JZ, in accordance with the application Ref: DC/16/3947/OUT, dated 20 September 2016, subject to the conditions set out in the Schedule to this decision.

Application for costs

2. An application for costs was submitted by Mr Gareth Nixon-Moss of County Care Homes Ltd against Suffolk Coastal District Council prior to the hearing and to which the Council had already responded. Further representations were made at the hearing. This application is the subject of a separate Decision.

Procedural Matters

3. The application was in outline with issues of appearance and landscaping reserved for future consideration. The proposal would make use of the existing access to Norwood House Care Home on Littlemoor Road. Plans showing the proposed scale and layout of the development were submitted with the application and I have determined the appeal accordingly.
4. The Council determined the application on the basis that the proposal was for dwellings (Use class C3), capable of being sold on the open market. However, notwithstanding the references to 'dwellings' in the description of the development and the design and access statement, it was abundantly clear from all that I read and heard that this is not the primary purpose of the proposed accommodation. The proposal seeks to provide housing that could be described as 'half-way' between living in one's own home and living in a residential institution.

5. The intention would be to run and operate the 'dwellings' as ancillary accommodation to the existing care home, with strong functional links between the two parts of the site. Possible mechanisms for securing this arrangement in perpetuity were discussed at the hearing and are matters to which I will return later. Following the hearing I consulted the parties about the possibility of changing the description of the development, but this was not acceptable to the Council. Nevertheless, I have had regard to the views of both parties in relation to this matter in my determination of the appeal.

Main Issues

6. The main issues are:
 - a) whether or not the site is suitable for the proposed development in view of its location outside the settlement boundary of Middleton;
 - b) the effect of the proposal on protected species, including reptiles and Great Crested Newts.

Reasons

Location of development

7. The appeal site lies immediately adjacent to Norwood House, an existing residential care home, specialising in dementia care. It is an area of rough ground, part of which is used for parking and which, in visual terms, reads as part of the grounds of the care home. The site is largely enclosed by hedges and trees and surrounded by agricultural land. The proposal would provide five one-bedroomed and nine two-bedroomed apartments in a series of four blocks around a communal parking area. There would be a separate building to provide a shared area for social activities and a communal garden. The site lies outside the village of Middleton and is distant from the facilities and services normally required for everyday living. For the purposes of planning policy it is in the countryside.
8. Policies SP2 and SP3 of the Suffolk Coastal District Local Plan: Core Strategy and Development Management Policies (Core Strategy) aim to increase the stock of housing to meet the needs of the existing and future population. The spatial strategy seeks to provide additional housing in accordance with the settlement hierarchy, set out in Policy SP19 of the Core Strategy. This directs new housing to the major settlements. In villages such as Middleton and in the countryside housing development will be minimal. It will only be permitted where it meets a limited number of exceptional circumstances, set out in Policy DM3 of the Core Strategy. However, none of these are relevant to this case. Although the proposal would conflict with Policies SP2 and SP19, it must be recognised that these policies seek to influence the provision and location of general housing, whereas the appeal scheme is specifically for accommodation which I am treating as ancillary to the existing C2 use of the wider site.
9. Whilst Policy SP3 refers in passing to the needs of an ageing population, the development plan appears to be silent on how this is to be achieved. Even though the Council acknowledge there is a need to provide additional care homes and sheltered housing for elderly people, the Core Strategy does not address the issue either through specific policies or site allocations.

10. However, compelling evidence of need was provided in the Suffolk and Great Yarmouth Strategic Market Review, produced by the Suffolk Commissioners, (three Clinical Commissioning Groups and Suffolk County Council) and a doctor specialising in dementia care. The county already has above national average percentages of elderly people and dementia sufferers. About 13,000 people currently live with dementia in Suffolk and by 2035 this is expected to increase by 90% to approximately 25,000. Suffolk Coastal District is likely to experience a 63% increase in the population aged 75 and over between now and 2025.
11. The county's care home provision is below that of the national average. There are fewer very sheltered housing schemes for the elderly population than in other surrounding authority areas. There appears to be a concentration of facilities around Ipswich to the south and in Lowestoft and Great Yarmouth to the north, but within Suffolk Coastal District care homes and sheltered housing are more scattered. These factors suggest that planning should be undertaken at District and County level rather than only considering Parish needs.
12. The appeal proposal would contribute to meeting the needs of a particularly vulnerable group within the wider population. A group for which little provision appears to have been made even though the numbers of them are expected to significantly increase over the next decade. It would do so by locating the accommodation close to Norwood House and where residents would have access to the services and facilities that operate within the existing care home. These would include doctors, nurses, other medical practitioners, together with a range of domiciliary services and a variety of social activities. A requirement for occupants to demonstrate reliance on these services in order to qualify for occupation of any of the proposed units is a matter to which I will return to later.
13. The accommodation proposed would enable couples to remain living together with a degree of independence, when one of them is suffering from dementia, avoiding the need to separate life-long partnerships. This would be beneficial, as housing with additional support is known to extend and improve quality of life for both sufferers and their carers. It also reduces pressure on the health services, as occupants have fewer and shorter hospital admissions.
14. The Council's rejection of the scheme was primarily based on its broad brush spatial strategy and the remoteness of the site. Clearly the distance from many facilities would make the appeal site unsuitable for housing that would be available on the open market. However, in its assessment the Council did not consider the existing or future need for sheltered accommodation. It did not consult with the County's social services on either the need for such provision or the suitability of this location. Neither did it recognise the benefits of locating such accommodation in close proximity to a well-established, existing care home that would provide future occupants with a significant range of services that those residents would need.
15. In my view the location of the proposed accommodation, with the close functional and social relationships with the existing home, is a significant material consideration. Residents would be provided with many of their daily and weekly needs through the existing care home. Those with dementia would be unlikely to have needs that require them to travel further afield. Carers would have to travel further for the occasional shopping or social visit, but

could do so knowing that their partner would be adequately cared for. Additional staff would be likely to travel to the site by car in order to work, but they would then be able to serve the needs of many residents. This would be an efficient use of their time. All these factors suggest that the appeal site is an exceptional one, where the benefits of co-location with existing facilities would outweigh the disadvantages associated with its otherwise rather remote and isolated location.

16. However, I understand that the Council fear that the proposal could, either now or in the future, provide accommodation which could become independent and self-contained. I accept that it may be possible for the proposal to change to more traditional housing if, for example, the care home ceased to operate at some point in the future. There was therefore a discussion at the hearing about how the proposed development could be managed to secure permanent operational and functional arrangements between the two parts of the site.
17. Firstly, it would be possible to restrict the use by way of a condition. This would restrict the use to accommodation which is ancillary to the care home. Secondly, a planning obligation could legally bind the ownership, use and management of the development in the future. As a consequence of the discussion at the hearing the parties were given time to negotiate the terms of a Section 106 agreement that would secure the future use of the proposed development as part of Norwood House.
18. A duly completed S106 agreement which has been agreed by the parties was subsequently submitted. Its provisions would ensure that the units would remain under the control of the operators of Norwood House and could not be sold separately. Occupancy of the units would be restricted and subject to a conditional arrangement linked to care needs and provision; it could not be sold or re-assigned by a tenant. It would prevent a remaining partner continuing to live in one of the units for more than 12 months after the other had died or moved elsewhere. The agreement would also ensure that none of the units have discrete utilities or services provided; all would be provided through Norwood House. Furthermore, information about the occupancy of all the units would be provided to the local planning authority on request at agreed intervals, enabling them to be satisfied that the terms of the obligation were being adhered to.
19. I am satisfied that the provisions of the agreement would satisfy the tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the Framework. The agreement would ensure that the proposed accommodation would only be made available to those who have a demonstrable need. Furthermore, all occupants would have access to, and be reliant upon, the services that are available to the residents of Norwood House. I have taken the completed agreement into account in reaching my decision.
20. I therefore conclude that notwithstanding the apparent conflict with Policies SP1, SP2, SP19, SP29 and DM3 of the Core Strategy, the site would be a suitable location for provision of sheltered/extra care accommodation, which would be ancillary to the care home use of Norwood House. The proposal would accord with Policy SP3, insofar as it would address the needs of a particularly vulnerable group within an ageing population.

Protected species

21. The ecological survey submitted with the application was insufficient to satisfy the Council that protected species would not be harmed by the development. I therefore could not be certain that the proposal would not adversely affect species protected under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. Paragraph 99 of Circular 06/2005¹ advises that the presence or otherwise of a protected species and to what extent they may be affected by a proposed development must be established before planning permission is granted. The need to ensure ecological surveys are carried out should only be covered and required by condition in exceptional circumstances.
22. The original survey submitted with this application was not sufficiently up-to-date to suggest that this is an exceptional case which would permit me to consider a condition. However, I understand that when the extension to Norwood House was undertaken it was not found that any mitigation measures were necessary, even though there were Great Crested Newts found in the pond to the east of the home. At the hearing it was established the Council took a highly precautionary approach, rather than taking advice from an ecologist. Furthermore, its primary concern related to the possibility of other reptiles on the appeal site, which can be surveyed throughout the year.
23. As a consequence additional survey work was undertaken after the hearing. This has now been completed. No reptiles were observed and I am satisfied that no protected species would be adversely affected by the development.
24. I therefore conclude that the proposal would not be harmful to a protected species and there would be no conflict with Policy DM27 of the Core Strategy, which seeks to safeguard protected species and their habitats.

Planning balance

25. The National Planning Policy Framework requires local authorities to plan for a wide choice of housing based on current and future demographic trends. This means planning for the needs of different groups, including older people. The Core Strategy seeks to deliver an appropriate number of houses for the general population and to do so in sustainable locations. However, other than directing all housing in accordance with its settlement hierarchy, it is silent on the specific needs of supported accommodation for older people.
26. I have found that locating the proposed units at Norwood House would give rise to a degree of conflict with the overall spatial strategy for the District. However, there is a need, both now and in the future, to provide additional accommodation of this nature which is not 'housing' in a traditional sense. The proposal would, therefore, provide considerable social benefits to the users and their carers, and help to reduce pressure on other providers of social care and health services. The juxtaposition of the proposal to an existing well-established facility, which is both valued and supported by the local community, is an exceptional situation and a significant material consideration which weighs in the scheme's favour.
27. Although the proposal would encroach into open countryside it would be low profile and well-screened from its surroundings. Following additional survey

¹ Biodiversity and Geological Conservation: Statutory Obligations and their impact within the planning system

work it has been confirmed that there is no risk to protected species. There would therefore be no material harm to the countryside or biodiversity that would justify refusing planning permission.

28. There would be limited economic benefits arising from short term construction jobs and the creation of up to six full-time jobs for additional carers who would be based at Norwood House to support future residents. I am also satisfied that the use would be secured for the long term through the provisions of the S106 agreement, which I have taken into account. The risk of the units being sold on the open market as dwellings would therefore be small.
29. Taking all these factors into consideration, I find that the social benefits arising from the scheme would outweigh the conflict with the development plan's housing and location policies. There are no other adverse impacts associated with proposal that would significantly or demonstrably outweigh these benefits. This leads me to conclude that the proposal would be a sustainable development.

Conditions

30. In the event that the appeal was allowed the Council has suggested a number of conditions. These, and others, were discussed at the hearing, along with those suggested by the Parish Council.
31. Conditions imposing standard time limits and requiring approval of reserved matters are required in the interests of certainty. A condition requiring the apartments to be used and occupied as ancillary accommodation to Norwood House Care Home is essential to restrict its occupancy to those for whom it is intended to provide associated and assisted care. I have imposed this condition in preference to changing the description of the development in view of the Council's objection to this alternative approach. It was also agreed at the hearing that a condition restricting the provision of boundary treatments was required to prevent the units taking on the appearance of self-contained dwellings.
32. Conditions requiring agreement to the materials to be used prior to the commencement of the development are necessary to secure a satisfactory appearance of the site and the buildings. A condition specifying the plans is necessary in the interests of certainty.
33. A requirement to submit details of: (a) facilities for the storage of refuse and recyclable materials, (b) surface water drainage and (c) a scheme for ecological enhancement prior to commencement of the development are necessary in order to provide a satisfactory layout, prevent flooding and secure biodiversity. All these need to be in place prior to occupation, along with the car parking and turning areas. I have imposed conditions accordingly.
34. In the event that external lighting is required, details must be approved in order to protect the appearance of the countryside. A condition to that effect is therefore necessary. A condition requiring the implementation of the landscaping scheme and its maintenance during the subsequent five years is needed to secure the satisfactory appearance of the development and to protect the countryside. A construction method statement is needed in the interests of highway safety, to protect the surrounding environment and to avoid undue disturbance of the living conditions of adjoining occupiers.

Conclusions

35. For the reasons given I find that there are material considerations which outweigh the conflict with the development plan. I therefore conclude that appeal should be allowed, subject to conditions.

Sheila Holden

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The sheltered/extra care dwellings hereby permitted shall only be used and occupied as ancillary accommodation to the C2 use of Norwood House Care Home.
- 5) Other than to comply with condition (6) of this permission the development hereby permitted shall be carried out in accordance with the following approved plans:
PAS/CCH/NOR/02, PAS/CCH/NOR/03 Rev D, PAS/CCH/NOR/04 Rev B, PAS/CCH/NOR/05, PAS/CCH/NOR/06, PAS/CCH/NOR/07, PAS/CCH/NOR/08, PAS/CCH/NOR/09, PAS/CCH/NOR/10.
- 6) No boundary treatment that encloses an area to the rear of any of the individual units of accommodation hereby permitted shall be erected without the specific written authority of the local planning authority.
- 7) No development shall commence until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) No unit of accommodation hereby permitted shall be occupied until space has been laid out within the site in accordance with drawing no. PAS/CCH/NOR/03 Rev D for 16 cars to be parked and for the loading, unloading and manoeuvring of vehicles and that space shall thereafter be kept available at all times for those purposes.
- 9) No unit of accommodation hereby permitted shall be occupied until facilities for the storage of refuse and recyclable material have been provided in accordance with details that have previously been submitted

to and approved in writing by the local planning authority. The refuse/recycling facilities shall thereafter be retained as approved for that purpose.

- 10) No development shall take place until details of a scheme to prevent the discharge of surface water drainage onto the highway have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the units of accommodation hereby permitted.
- 11) No development shall take place until a scheme for ecological enhancement on the site has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved prior to first occupation of any of the units of accommodation hereby permitted.
- 12) No external lighting shall be installed details of which have not previously been submitted to and approved in writing by the local planning authority. Details should include position and height of mounting features, height and angle of lights including aiming points, light fixing type, size, appearance and luminance. Thereafter only the approved lighting scheme shall be installed and retained thereafter as approved.
- 13) The landscaping scheme required as a 'reserved matter' shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 14) No development shall take place, including any ground works, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours;
 - ix) protection of the highway verges in the vicinity of the site.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

APPEARANCES

FOR THE APPELLANT

Gareth Nixon-Moss	Appellant
Kelly Holloway	General Manager Norwood House (attended the site visit)

FOR THE LOCAL PLANNING AUTHORITY

Katherine Scott BSc(Hons) MSc MRTPI	Planning and Enforcement Officer
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INTERESTED PERSON

Nigel Smith	Chairman – Middleton cum Fordley Parish Council
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DOCUMENTS SUBMITTED AT AND AFTER THE HEARING

- 1 Eleven letters of support for the proposal from relatives of Norwood house residents and local people
- 2 Expert Statement of Dr David Sheard: Dementia Care Matters
- 3 Section 106 agreement – dated 29 August 2017
- 4 Results of reptile survey – dated August 2017