



Appeal Decision

Site visit made on 3 July 2019

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 13 November 2019

Appeal Ref: APP/W3520/W/19/3222557

Land at Church Lane, Claydon, Ipswich IP6 0EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Maria Jones against the decision of Mid Suffolk District Council.
 - The application Ref: DC/18/03846, dated 21 August 2018, was refused by notice dated 27 November 2018.
 - The development proposed is the erection of dwelling and detached garage.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling and detached garage at land at Church Lane, Claydon, Ipswich, IP6 0EJ in accordance with the terms of the application, Ref: DC/18/03846, dated 21 August 2018, subject to the schedule of conditions to this decision.

Main Issues

2. The main issues are:
 - i) whether the appeal site is a suitable location for a dwelling having particular regard to the settlement strategy; and
 - ii) the effect of the proposal on highway safety.

Reasons

Settlement strategy

3. The development plan includes the Mid Suffolk District Core Strategy Development Plan Document (CS) which was adopted in 2008. CS Policy CS1 sets the Council's spatial strategy for the district and seeks to focus the majority of development within towns. However, outside of these areas the main focus of development will be within Key Service Centres. It is recognised that Claydon is a Key Service Centre. However, the appeal site lies outside of the settlement boundary of Claydon and therefore for the purposes of applying planning policy, the appeal site is located within the countryside.
4. Within the countryside, only specified types of development will be permitted in accordance with CS Policy CS2. However, in the absence of anything to suggest that the proposal would be consistent with countryside policies, the proposal would conflict with CS Policies CS1 and CS2 insofar as these policies seek to control development within the countryside.

Highways

5. Access to the appeal site would be taken via a new opening, approximately 3 metres wide, onto Church Lane, a single carriageway road with a 60mph speed limit. At the time of my site visit, I observed that the road was in regular use and that sightlines for drivers travelling along this part of the road were good due to it being fairly straight and there being a lack of on-street parked vehicles. However, the presence of a sharp bend near to Corner Cottage had the effect of slowing down the speed of moving vehicles. A continuous but overgrown verge was present, in both directions from the point of the proposed access.
6. In the interest of highway safety, suitable visibility splays should be provided at the junction of the access with the highway. The Council disputes that this is achievable. The 'Site Location Plan & Layout Plan Streetscene, drawing No.5' (Plan 5) demonstrates that uninterrupted sight lines are practicable from the proposed access in the region of 62 metres and 59 metres, in each direction along the highway, taken from a point 2.4 metres back from the edge of the highway.
7. The Council maintains that the land required for the visibility splays falls within third party ownership. However, there is no compelling evidence before me to substantiate this. Whilst I am mindful that previous applications for development at the appeal site have been refused for reasons of highway safety, the Highway Authority (HA) were consulted on the proposal, including Plan 5, and have provided no objection to the proposed access. I have had regard to a number of comments concerning the dangerous nature of the road together with the report provided in support of this view. However, there is limited detailed evidence before me regarding the circumstances and frequency of such accidents.
8. Overall, I find no reason to disagree with the professional assessment of the HA and as such, I am not persuaded on the evidence before me that a scheme of this scale would lead to significant impacts on highway safety, nor that safe access to and egress from the site is not achievable. Accordingly, an appropriately worded condition would be capable of ensuring that the visibility splays are provided before occupation of the proposed dwelling and maintained thereafter.
9. Accordingly, I conclude that the proposal would accord with Policy T10 of the Mid Suffolk Local Plan (1998) insofar as this policy requires development to provide safe access to an egress from the site.

Other Matters

10. I note the concern that allowing the proposal would set a precedent for similar developments within the area. However, no directly similar sites to which this might apply were put forward. Furthermore, each application must be determined on its own individual merits, and a generalised concern of this nature does not justify withholding permission in this case.
11. Reference has been made to the absence of mains sewerage and the unsuitability of the appeal site to accommodate a septic tank. However, there is no evidence before me that the suitable provision of sewerage facilities could not be achieved.

Planning balance and conclusion

12. Planning law dictates that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case, the development plan comprises the CS which was adopted in 2008. However, existing development plan policies should not be considered as out-of-date simply because they were adopted or made prior to the publication of the National Planning Policy Framework (the Framework). It is therefore incumbent upon me to apply paragraph 213 of the Framework which states that due weight should be given to relevant policies according to their degree of consistency with the Framework, the closer the policies in the plan to the Framework, the greater the weight that may be given.
13. The Council's reason for refusal cites conflict with CS Policy CS1. This sets out the spatial strategy for the district. However, it includes the words "*the rest of Mid-Suffolk, including settlements not listed in the above will be designated as countryside...*", which perpetuates a theme of protection of the countryside for its own sake. As such, it offends the balanced approach that the Framework advocates. It is a policy which is the most important for determining the application and it is out of date.
14. Given that the appeal site is located outside of the settlement boundary within the countryside for planning purposes, the proposal conflicts with the requirements of CS Policy CS2. However, the Framework does not impose a blanket restriction on development outside defined settlement boundaries, or stipulate the requirement for any 'special circumstances' has to be met by all development in the open countryside. Instead, a balancing exercise is required where all material considerations have to be weighed in the balance. Thus, CS Policy CS2 is a most important policy for determining the application and it is also out of date.
15. This balancing of harm against benefit is a defining characteristic of the Framework's overall approach embodied in the presumption in favour of sustainable development. Moreover, the Framework recognises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
16. Overall, I have concluded that the proposal would not adversely affect highway safety provided that the appropriate visibility splays are implemented and maintained thereafter. However, as the appeal site is located outside of the settlement boundary and within the countryside the proposal is thus contrary to the development plan taken as a whole. However, in accordance with the Framework, I have concluded that CS Policies CS1 and CS2 are the most important policies for determining this appeal and they are out of date. I therefore attach only moderate weight to the conflict with these policies which, as a consequence, lessens the significance of that conflict.
17. The parties dispute whether the Council is presently able to demonstrate a five year housing land supply, which I am unable to resolve on the limited evidence before me. In any event, the 'tilted balance' is engaged for other reasons as explained above. In terms of benefits, the proposal would provide an additional dwelling together with additional spending by the future occupants of the proposed dwelling within the locality and the provision of employment

opportunities during construction, albeit the social and economic benefits associated with a single dwelling would be modest.

18. In environmental terms, the appeal site is located within a short distance of Claydon, a key service centre, with a good range of services and facilities, including shops, school, pharmacy and a public house. A regular bus service from Claydon provides wider access to Ipswich with a greater range of services, facilities and employment opportunities. Notwithstanding the absence of a continuous footway from the appeal site to Claydon, the route could be cycled in the region of two minutes. I therefore conclude that some day to day trips could be undertaken by sustainable means and the future occupants of the proposal would not be entirely dependent upon the use of a private motor vehicle.
19. Taking all matters into account, including all material considerations, I find that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole and that the proposal represents sustainable development. Accordingly, a decision otherwise than in accordance with the development plan is justified and the appeal is allowed.

Conditions

20. The Council suggested a number of conditions and I have considered these against the advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency or clarity and omitted others.
21. In addition to the standard time limit, a condition specifying the approved plans is necessary as this provides clarity.
22. Conditions requiring details of an archaeological Written Scheme of Investigation in addition to further conditions requiring the analysis, publication and dissemination of results and archive deposition prior to use of the development commencing is necessary to ensure the preservation, recording and archive of archaeological evidence.
23. Conditions relating to the construction of the vehicular access, turning and parking areas, the provision of visibility splays and details for the storage and presentation of refuse and recycling are necessary to protect the safety of highway users.
24. I have imposed a condition requiring landscaping details to include the retention and protection of trees in order to safeguard the surrounding landscape character.

E Brownless

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 4463 Drwg No 5 Site Location Plan & Layout Plan Streetscene; 4463 Drwg No 6 Proposed Plans, Elevations & Section, House & Garage.
- 3) No demolition/development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions – and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
 - vii) no demolition/development shall take place other than in accordance with the Written Scheme of Investigation.
- 4) No dwelling shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the local planning authority in accordance with the Written Scheme of Investigation to be provided under condition 3, and the provision made for analysis, publication and dissemination of results and archive disposition.
- 5) No dwelling shall be occupied until the vehicular access shall have been constructed to a width of 3 metres in accordance with the approved plans. The vehicular access as constructed shall be retained thereafter.
- 6) No dwelling shall be occupied until space has been laid out within the site in accordance with 4463 drawing no. 5 Site Location Plan & Layout Plan Streetscene for cars to manoeuvre and be parked and that space shall thereafter be kept available at all times for those purposes.
- 7) No dwelling shall be occupied until the vehicular access shall be provided in accordance with the approved plans. The visibility splays shall be retained thereafter and kept free of any obstruction exceeding 0.6 metres in height.
- 8) No development above ground floor slab level shall take place until details of the areas to be provided for storage and presentation of refuse/recycling bins shall have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the approved scheme has been provided and it shall be permanently retained as such thereafter.

- 9) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees on the land, identify those to be retained and set out measures for their protection throughout the course of development. No development shall take place other than in accordance with the scheme of landscaping.