
Appeal Decision

Site visit made on 30 June 2020

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 07 August 2020

Appeal Ref: APP/F3545/W/20/3244428

Land adjacent to Candlemas Barn, Flempton Hall, Bury Road, Flempton IP28 6EQ

- 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 Mr and Mrs Cargill against the decision of West Suffolk District Council.
 - The application Ref DC/19/1227/FUL, dated 7 June 2019, was refused by notice dated 23 October 2019.
 - The development proposed is construction of single storey dwelling with garage.
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Decision

1. The appeal is allowed, and planning permission granted for the construction of a single storey dwelling with garage at Land adjacent to Candlemas Barn, Flempton Hall, Bury Road, Flempton, IP28 6EQ in accordance with the terms of the application Ref DC/1227/FUL, dated 7 June 2019 subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are the suitability of the area for the proposed development in terms of whether the site is in an appropriate location for a new dwelling and the effect of the proposal on the character and appearance of the area.

Reasons

The suitability of the area for a new dwelling

3. The appeal site is part of a group of around 8 dwellings at the southeast corner of a staggered crossroads. To the northeast lies the main part of the village. The immediate surroundings of the appeal site are characterised by large dwellings, with mature trees, which appear to be once part of the grounds of a large house. The site is separated from the public highway by a paddock and is accessed from a private road. The site itself has the appearance of a well-maintained lawn with mature trees.
4. The Council contend that the site lies outside defined settlement boundaries, in the countryside, where new housing development is restricted to certain specific categories. This approach is set out in Policy DM5 of the Forest Heath and St. Edmundsbury Local Plan – Joint Development Management Policies Document (JDMPD), of February 2015. The JDMPD allows for development in the countryside at Policy DM27 through 'infilling' in a 'close-knit cluster of 10 or more dwellings fronting a highway'.

5. The appeal site is surrounded by an access drive to existing dwellings, the gardens of other dwellings and a small paddock which separates it from the Risby Road. There are other dwellings between it and the Risby and Bury Roads and continuous development between it and the centre of Flempton. The site is part of a group of 8 dwellings and lies in an area that is residential in character, albeit at low density. Whilst the site itself does not front directly on to a highway, the group of dwellings of which it is part, front on to both the Risby and Bury Roads. The site is not isolated as it lies adjacent to other dwellings close to the village of Flempton and within walking distance of a bus route.
6. It is clear that there is some conflict with DM5 and DM27, as the site is not within a settlement boundary, within a close-knit cluster of 10 or more dwellings and the site itself does not directly front a highway. However, the site is next to existing houses, is within walking distance of the village and a bus route.

Effect on the character and appearance of the locality

7. The policies DM5 and DM27 of the JDMPD seek, amongst other things, to protect and enhance the quality and character of the countryside. The appeal proposal lies within an area of houses and has been designed to integrate into its surroundings by reflecting the characteristics of adjacent dwellings in its design. It would be viewed as part of the existing group of dwellings and not as part of the open countryside surrounding the village. I therefore find that the proposal would not have an adverse effect on the character and appearance of the locality. Therefore, it is not in conflict with the parts of these policies which seek to protect the character and appearance of the area.

Other Matters

8. Part of the site lies within the Flempton Conservation Area and some of the buildings around the site are within the curtilage of listed buildings. The Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision takers, amongst other things, to have special regard to the desirability of preserving the building or its setting and pay special attention to the desirability of preserving the character or appearance of the conservation area. I have assessed the appeal proposal both in terms of its effect on the setting of the listed buildings (the Grade II listed, Flempton Hall and Flempton House) which might be affected, and in terms of its effect on the character or appearance of the Flempton Conservation Area. I find that the setting of the listed buildings, Flempton Hall and Flempton House, and the character or appearance of Flempton's Conservation Area would be preserved by the appeal proposal.

Planning Balance

9. The site lies outside the defined settlement boundary of Flempton referred to in Policy DM5. However, it lies within an area of existing development, is within walking distance of a bus route and the village centre. It is therefore not in an isolated location.
10. Although not compliant with Policy DM27 in that the proposal does not fall within a close-knit cluster of 10 or more dwellings, it would be in a group of 8 dwellings which front the Risby and Bury Roads and would not have an impact

on the character of the countryside surrounding the village. It would also assimilate well into its surroundings.

11. The main purpose Policies DM5 and DM27 are seeking to achieve is to protect and enhance the quality and character of the countryside and the appeal proposal is consistent with that purpose.
12. The development itself would make a small contribution to the supply of housing within the District, it would help to support services in Flempton and surrounding villages and be accessible by public transport.
13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. I acknowledge some conflict between the proposal and the development plan. However, I consider that the other material considerations I have identified are sufficient to weigh in favour of the appeal.

Conditions

14. There needs to be conditions covering the standard time limits and referencing, for the avoidance of doubt, the plans the approved plans.
15. The Council has suggested a condition limiting the days and hours construction on the site can take place. I consider that this condition is necessary as the site is in close proximity to existing residential properties and there is a need to protect their living conditions.
16. The Council has suggested a water consumption condition. I have not imposed this condition as it can be covered by the approvals required as part of the Building Regulations.
17. I consider that a condition requiring an electric vehicle charging point is necessary to make the development acceptable. I am satisfied that should any occupier of the dwelling wish to make use of an electric vehicle a charging point should be available, as required by paragraph 110 of the Framework.
18. I consider that conditions related to the approval of external finishes and materials, boundary treatments (including gates and fences) and the details of windows and doors to be necessary given the proposal's position within Flempton's Conservation Area. I have combined some of the conditions suggested by the Council in the interests of clarity.
19. The site is in a rural location surrounded by mature trees and hedges which are a feature of the area. Therefore, conditions are necessary which protect the existing trees during the construction period and protect species which might be present on the site and enhance its biodiversity. I have combined and amended these conditions in the interests of clarity and brevity.

Conclusion

20. I find that having regard to all matters before me, including the policies of the development plan, when taken as a whole, the appeal should be allowed.

Peter Mark Sturgess

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 plans: 100A, dated July 2019; 101, dated March 2019; 102, dated March 2019.
- 3) The site preparation, construction and delivery works shall only be carried out between the hours of 08:00 to 18:00 Mondays to Fridays and between the hours of 08:30 to 13:30 on Saturdays and at no time on Sundays or Bank Holidays.
- 4) No development above ground level shall take place until full details of the external finishes and materials to be used on the external surfaces of the building have been submitted to and approved in writing by the Council, including samples of materials where considered necessary by the Council. The dwelling hereby approved shall be completed in accordance with the approved materials and finishes.
- 5) No development above ground level shall take place until full details of the boundary fences and gates have been submitted to and approved in writing by the Council. The approved gates and fences shall be installed in accordance with the approved details prior to the occupation of the dwelling and permanently retained thereafter.
- 6) No above ground development shall take place until full details of the proposed windows and doors to be used in the dwelling hereby approved shall be submitted to and approved in writing by the Council. These details shall include elevational drawings of not less than 1:10 and horizontal and vertical cross sections to a scale of 1:2 detailing the new window and doors (including panels, glazing bars, sills, heads and methods of opening and glazing). The works shall be carried out in accordance with the approved details.
- 7) The development shall be carried out in complete accordance with the details and recommendations set out in the arboricultural assessments "Tree Survey, Arboricultural Impact Assessment Preliminary Arboricultural Method Statement and Tree Protection Plan in accordance with BS5837:2012" prepared by Hayden's Arboricultural Consultants, dated 19 September 2019, the Tree Protection Plans 1 and 2 (undated) and the Tree Survey Plan (category and definition, Candlemas Barn, Flempton) ref 7669-D-AIA, dated 13 September 2019.
- 8) The ecological measures and works detailed in the Hillier Ecology Report 'Extended Phase 1 Survey', dated June 2019 shall be carried out in accordance with the recommendations contained in that report and fully implemented in accordance with the approved details prior to the occupation of the dwelling hereby permitted and shall be permanently retained on site thereafter.