
Appeal Decision

Site visit made on 25 August 2020

by David Wallis BSc (HONS) PG DipEP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2020

Appeal Ref: APP/W3520/W/19/3234690

5 The Cedars, Offton, Ipswich IP8 4RB

- 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 Nigel Whebby against the decision of Mid Suffolk District Council.
 - The application Ref DC/19/01304, dated 4 March 2019, was refused by notice dated 18 July 2019.
 - The development proposed is the severance of part of rear garden and erection of 2 No dwellings and creation of new vehicular access from Ipswich Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is submitted in outline form with the matter of access supplied. I have determined the appeal on this basis. The appeal is accompanied by a Unilateral Undertaking (UU), signed 23 September 2019, to secure mitigation payments with regards the Suffolk Coast Recreational disturbance and Mitigation Strategy (RAMS). I shall return to this matter later in my decision.
3. My attention has been drawn to policy SP03 in the emerging Joint Local Plan. I am cognisant however that the Joint Local Plan is only at a consultation draft stage and therefore, where I have had regard to this policy in my decision, it is only given limited weight due to its early stage of preparation.

Main Issues

4. The main issues for the appeal are:
 - whether the appeal site is a suitable location for development with regards to national and local policies
 - whether the development is an accessible location with regards national and local policies
 - the effect of the development on the Stour and Orwell Estuary Special Protection Area (SPA).

Reasons

Whether the site is a suitable location

5. The starting point for any planning decision is the Development Plan, as identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004. Determination of any application must be made in accordance with the plan unless material considerations indicate otherwise.
6. In the adopted Development Plan, policy CS1 of the Mid Suffolk Core Strategy 2008 (CS) sets out a settlement hierarchy for the purposes of directing the location of growth and new development. Beyond the cited list of settlements is designated as countryside, within which development is restricted to particular types, inclusive of which are those that would support the rural economy. The Council have stated that since the refusal of the application they have been able to demonstrate a 5-year housing land supply, which the appellant does not dispute. Therefore, notwithstanding the age of CS, I consider policy CS1 not to be out-of-date in this instance and important to this appeal.
7. The appeal site falls outside of any settlement defined in policy CS1 and is therefore in a countryside location. The appeal site would continue to fall outside a settlement boundary in the future, as indicated under policy SP03 in the emerging Joint Local Plan.
8. The proposal to construct two detached dwellings on the plot would therefore conflict with the aims of policies FC1 of the Core Strategy Focused Review 2012 and CS1 of the CS, which seek the presumption in favour of sustainable development through managing growth in a hierarchy of settlements.

Whether the site is an accessible location

9. Offton is a settlement in two parts of different character and form. In the context of the appeal site, which consists of the private garden to No 5 The Cedars, Offton comprises of a largely linear form of residential development following the course of Ipswich Road. Agricultural fields surround the settlement and separate it from the next nearest village of Somersham, to the east, and the village centre of Offton, which is to the northwest.
10. Ipswich Road is a narrow rural highway that passes through Offton without footpaths or street lighting, enclosed at times by high walls, hedgerows and embankments. There are no bus stops in the vicinity of the appeal site, with the nearest I observed being close to the Duke of Marlborough Public House in Somersham, some distance to the east. An entrance to a public footpath exists within 'The Cedars' enclave and extends southward to Chapel Lane and eventually into Somersham.
11. The part of Offton within which the appeal site sits has no facilities to support day-to-day living and the central part of Offton village, some distance to the northwest, does not contain shops or services either. Somersham is classified as a primary village under policy CS1 and I noted from my site visit the presence of a garage, community shop, playing field, public house and primary school in that village.

12. The appeal development may be able to rely on facilities within Somersham to an extent, thus increasing expenditure to the rural economy within the local area. However, secondary schools, a wider choice of food retail and employment opportunities would require greater travel distances to reach and, given the rural nature of the local road network, the majority of travel would be done by private car.
13. Whilst the site is not isolated, there is little likelihood that prospective occupiers of the appeal development would use the unlit rural public footpath to reach the bus stop near the Duke of Marlborough Public House, or to gain access to services within Somersham. Ipswich Road is also unlit and narrow, making it unsuitable as a reliably safe route for pedestrians and cyclists. In the absence of other available transport modes, reliance on the private car would be heavy and essential, contrary to the environmental objectives of sustainability set out in the National Planning Policy Framework (the Framework).
14. Policy CS1 makes reference to development in the countryside that would support the rural economy. However, in view of the sites' poor accessibility credentials and the lack of local infrastructure, it is unlikely the proposal would provide such support. I therefore conclude the site is not in an accessible location and development on the site would not support a prosperous rural economy, contrary to policies FC1 of the Core Strategy Focused Review 2012 and CS1 of the Mid Suffolk Core Strategy 2008 and the Framework.

Effect on the Stour and Orwell Estuary SPA

15. In 2018 the Court of Justice of the European Union ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA) rather than at the screening stage. This responsibility now falls to me within this appeal.
16. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of the European sites.
17. The site falls within the 13-kilometre 'Zone of Influence' for the Stour and Orwell Estuary SPA, as defined in the Suffolk Coast Recreational disturbance and Mitigation Strategy (RAMS) Supplementary Planning Document. This site is designated at European level for its environmental importance, since it provides habitats for wintering birds, wildfowl and wading birds including little terns, bitterns and brent geese. The site is used for public recreation the proposal, when considered alone or in combination with other schemes, could have significant effects on the quality features of interest of the SPAs due to the increased recreational use.
18. When concluding that the scheme, either alone or in combination with other schemes, would have a significant effect on the quality features of interest of the identified European sites, it is incumbent upon me to undertake an Appropriate Assessment. Whilst the main parties agree that the mitigation can be delivered via the UU submitted by appellant pursuant to Section 106 of the Town and Country Planning Act 1990 (the Act), given that I am dismissing the appeal on other grounds I have not had need to examine the content of the UU nor undertake the task of Appropriate Assessment.

Other Matters

19. The appellant refers to the age of policies CS2 and CS5 of the CS, to which the Council also considers would hold limited weight in the planning balance due to their consistency with the Framework. With the appeal site in a countryside location, both policies are relevant to this appeal even though not relied upon in the Council's reason for refusal. Whilst seeking to protect the countryside, these policies are not wholly consistent with the Framework insofar as they do not allow for housing to be located where it would enhance or maintain the vitality of rural communities. I consider policies CS2 and CS5 to be out-of-date and the weight of the conflict with said policies to be reduced.
20. Where policies for the provision of housing are out-of-date, paragraph 11(d) of the Framework is engaged.
21. The development would increase housing choice and supply in Offton but, for the reasons given above regarding accessibility, there are limited economic benefits to the rural economy. Due to its location, there is also limited opportunity for the appeal development to support social infrastructure within the surrounding villages. The development may reuse previously developed land, but the benefits of this are offset by the heavy reliance on the private car for transportation.
22. My attention is drawn to other appeal decisions made in comparable circumstances, although I note that these relate to a time when the Council could not demonstrate a 5-year housing land supply. Other appeals referenced are not within the same context as the appeal site and I have no detailed evidence as to the factors involved in each respect. Nonetheless, each case should be determined on its own merits and I have determined this appeal on this basis.
23. I acknowledge that the appeal site falls beneath the thresholds for affordable housing set out in policy H4 of the Mid Suffolk Core Strategy 2008, and thus can find no obvious conflict with this policy. Whilst the proposal may not cause other harms or effects, these are neutral in the planning balance, and in any event the proposal directly conflicts with policies CS1 and FC1 of the Development Plan, as well as the environmental objective of sustainability.
24. I therefore conclude that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. The conflict with the Development Plan is not outweighed by other considerations in this instance and the appeal should be dismissed.

Conclusion

25. The appeal is dismissed for the reasons given above.

David Wallis

INSPECTOR