



Appeal Decision

Site visit made on 10 November 2020

by **M Philpott BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th November 2020

Appeal Ref: APP/W3520/W/20/3252793

Land adjacent to Fourwinds, Bildeston Road, Little Finborough, Stowmarket IP14 2LA

- 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 James Scarff against the decision of Mid Suffolk District Council.
 - The application Ref DC/20/01191, dated 18 March 2020, was refused by notice dated 12 May 2020.
 - The development proposed is construction of detached dwelling and garage with new vehicle access.
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Decision

1. The appeal is allowed and planning permission is granted for construction of detached dwelling and garage with new vehicle access at Land adjacent to Fourwinds, Bildeston Road, Little Finborough, Stowmarket IP14 2LA in accordance with the terms of the application, Ref DC/20/01191, dated 18 March 2020, subject to the conditions set out in the attached schedule.

Procedural Matters

2. Outline planning permission is sought. The appellant's statement suggests that matters of access, appearance, landscaping, layout and scale are reserved for future consideration. However, the planning application form shows that matters of access and layout have been sought for approval and the Council determined the application on that basis. I have therefore determined the proposal on the same basis as the Council. I have taken the proposed layout plan (drawing number 5882 02.A) into account insofar as it relates to matters of access and layout.
3. In order to address the Council's second reason for refusing the application, the appellant submitted a plan with the appeal documents that shows proposed vehicular visibility splays (drawing number 5882 02.B). The Council and the Highway Authority have had an opportunity to consider it; however, I cannot be entirely certain there are not interested parties who did not comment on the basis of being content with the scheme as submitted and are unaware of the proposed visibility splays. I have thus taken it into account as an illustration of the extent to which visibility splays are achievable.

Main Issues

4. Based on the Council's decision notice, I consider that the main issues are: (i) whether the proposal would be in an appropriate location, with particular

reference to the district's settlement hierarchy and access to services, facilities and sustainable transport options; and (ii) the effect of the proposed access on highway safety, with particular reference to visibility at the junction with Bildeston Road.

Reasons

Location

5. The site includes part of an agricultural field at the end of a row of residential properties located along Bildeston Road. The site is within the countryside but adjacent to the settlement boundary of Combs as shown on the Mid Suffolk Local Plan (LP) Proposals Map.
6. Policy CS1 of the Council's Core Strategy Development Plan Document (CS) sets out the settlement hierarchy for the district. It directs most development to towns and key service centres, but also accounts for some provision for meeting local housing needs in primary and secondary villages. It identifies Combs as a secondary village and states that development in the countryside will be restricted to particular types. CS Policy CS2 identifies the categories to which development in the countryside will be restricted, including rural exception housing in the form of agricultural workers' dwellings. In addition, LP Policy H7 explains that new housing will be strictly controlled outside settlement boundaries.
7. Paragraph 78 of the National Planning Policy Framework (the Framework) states that in rural areas housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 79 of the Framework sets out that isolated homes in the countryside should be avoided unless one or more circumstances apply, including where there is an essential need for a rural worker to live there. Having regard to the site's location near to residential properties, it is not isolated.
8. The proposed dwelling would be occupied by the manager of the vineyard located near to the site. However, the appellant states that there is no justification for the dwelling to be subject to an agricultural occupancy condition because the site is not isolated. In the absence of a condition or other mechanism, there can be no certainty that the dwelling would be occupied by an agricultural worker. Therefore, although I have had regard to the reasons for the application being made, anyone could occupy the dwelling. As such, it conflicts with CS Policies CS1 and CS2 and LP Policy H7.
9. Limited information has been provided regarding the site's accessibility credentials. However, the Council indicates that services are located within 2km and the appellant contends that the vineyard operation provides employment opportunities. Stowmarket is the nearest settlement with a wide range of services, facilities and sustainable transport options. The route there features a footpath and is subject to a 30 miles per hour speed limit and trips could reasonably be made by walking and cycling, albeit the topography, distance and lack of street lighting is likely to often disincentivise the future occupiers of the dwelling from doing so. It is thus likely that the occupiers would be largely reliant on private motor vehicles to access the services and facilities required to satisfy their requirements for daily living.

10. The appellant contends that the proposal would reduce the need for the vineyard manager to travel for work; however, I cannot be certain that the dwelling would be occupied by the vineyard manager. In any case, the occupiers would need to travel elsewhere for other requirements for day-to-day living.
11. Paragraph 103 of the Framework sets out that patterns of growth should support its transport objectives, which includes the promotion of walking, cycling and public transport. However, it also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In this case, some trips to services and facilities could be made by walking and cycling. In addition, the site is within a short travelling time of Stowmarket by private motor vehicles. The level of harm generated by the movements of the occupiers of the dwelling would therefore be limited.
12. The appellant has referred to 2 approved planning applications. One relates to the erection of dwellings adjacent to the settlement boundary of Combs¹ and the other relates to the erection of dwellings further from the services and facilities in Stowmarket². Full details of these schemes have not been provided. However, they are not directly comparable as the former permitted dwellings closer to Stowmarket and the latter permitted 9 dwellings at a time when the Council could not demonstrate a 5 year supply of deliverable housing sites.
13. I conclude that the proposal would harm the integrity of the Council's settlement hierarchy and the future occupiers of the dwelling would be largely reliant on private motor vehicles to access services and facilities. The proposal is contrary to CS Policies CS1 and CS2, LP Policy H7 and paragraph 103 of the Framework, the purposes of which have already been identified. The proposal also conflicts with Policy FC1.1 of the Council's Core Strategy Focussed Review (FR), which requires principles of sustainable development, as informed by the 2012 version of the Framework, to be demonstrated.
14. The Council has also referred to FR Policy FC1 in respect of this main issue; however, it repeats the presumption in favour of sustainable development from the 2012 version of the Framework and thus I find no direct conflict with it.

Highway safety

15. The site's boundary with Fourwinds has a tall hedge running along it near to the carriageway. A pole supporting overhead wires is adjacent to the carriageway and the hedge. In the other direction there is also an overhead wire pole near to the carriageway; however, the field has an open boundary along the road for a short distance and is then bound by low hedges.
16. The speed limit along the road is relatively low and vehicles are likely to emerge from the access slowly. In order to provide the visibility splays, a small section of the hedge next to Fourwinds may need to be cut back and small areas of land to the front of Fourwinds and the field would need to be kept free from obstructions. However, neither the Council nor the Highway Authority have indicated that there is no prospect of the splays being achieved. In addition, intervisibility in respect of the vehicular access to Fourwinds would be improved by any cutting back of the hedge next to the carriageway. Although

¹ Planning application reference: DC/19/05572

² Planning application reference: DC/18/05259

the overhead wire poles would likely remain in situ, they are narrow and would not prevent vehicles and pedestrians from being seen.

17. The visibility splays plan demonstrates that sufficient visibility could be provided at and on approach to the access to prevent harm to highway safety. However, as the plan is illustrative, a condition is needed to require details of the splays to be submitted for approval.
18. I therefore conclude that the proposal would not have a harmful effect on highway safety. The proposal accords with LP Policy T10 and paragraph 108 of the Framework, which seek to ensure that proposals have a safe and suitable means of access.

Other Matters

19. The Council's officer report raises concerns regarding the effect of the proposal on the character of the area, light pollution and the loss of best and most versatile agricultural land. However, these are not reflected in the reasons for refusal.
20. The proposal would form a logical extension to the existing row of residential properties along the road. The position of the dwelling would be set back from the road in a similar manner to those in the row, continuing the existing pattern of linear development. Subject to matters of appearance, landscaping and scale being sensitively considered, the proposal would not have a harmful impact on the character of the area. In addition, there is no reason to conclude that the dwelling would give rise to harmful levels of light pollution. No information has been provided regarding the grade of the agricultural land; however, the amount of land that would be lost is small and thus any harm from the loss of the land would be limited irrespective of its grade.
21. An interested party stated that this proposal must not be allowed to set a precedent; however, no concerns in this respect have been identified by the Council. In any event, each application and appeal must be considered on its individual merits and a generalised concern of this nature does not indicate that this proposal is unacceptable.

Planning Balance

22. The appellant has referred to an appeal decision³ which found that CS Policies CS1 and CS2 are out-of-date. I have no substantive reasons to reach a different conclusion, as these policies adopt a prohibitive approach to housing in rural areas which is inconsistent with the Framework's balanced approach. LP Policy H7 is similarly prohibitive in comparison with the Framework and thus it is also out-of-date.
23. CS Policies CS1 and CS2 and LP Policy H7 are the most important policies for determining this appeal. While the parties do not dispute that the Council can demonstrate a 5 year supply of deliverable housing sites, the presumption in favour of sustainable development, as set out at paragraph 11d of the Framework, therefore applies.
24. The appellant puts forward that if the vineyard manager lived at the site then they would be able to take immediate action to prevent the loss of crops from

³ Appeal reference: APP/W3540/W/18/3194926

- events such as frost. It is also stated that the manager would be able to monitor the nearby access to Fenns Farm, improving security. It is contended that these matters would maintain the success of the vineyard and enable its future expansion to create jobs. However, substantive evidence has not been advanced which demonstrates that the loss of crops would be inevitable, there is currently a security issue or the business would not expand if the vineyard manager did not live on the site. Moreover, I cannot be certain that the vineyard manager would occupy the dwelling as explained above. I do not consider that these are benefits weighing in favour of the proposal as a result.
25. A self-build dwelling is proposed. Government policy is supportive of such housing. However, evidence has not been provided which demonstrates that the proposal would accord with the definition of self-build and custom housebuilding⁴ and no mechanism is before me which would ensure that it would be so. It is not therefore a benefit in the planning balance.
26. Nevertheless, the proposal would contribute to housing supply, which is supported by the Framework, albeit the benefit would be limited in the absence of a housing supply shortfall and as one dwelling is proposed. In addition, the future occupiers would be able to support the local community and services in nearby settlements in accordance with paragraph 78 of the Framework, even if they are likely to rely on private motor vehicles to do so in many cases. I have also identified that there may be improvements to the intervisibility of the access at Fourwinds, which would constitute a limited benefit. Overall, the benefits of the proposal are limited.
27. I attach limited weight to the proposal's harm to the settlement hierarchy given that CS Policies CS1 and CS2 and LP Policy H7 are inconsistent with the Framework. I also attach limited weight to the harm that I have identified from the proposal's accessibility to services, facilities and sustainable transport options and the potential harm arising from the loss of agricultural land. Overall, the adverse impacts of the proposal are limited.
28. Therefore, the adverse impacts of the development would not significantly and demonstrably outweigh the benefits when the policies in the Framework are taken as a whole. The proposal thus benefits from the presumption in favour of sustainable development.
29. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any determination must be taken in accordance with the development plan unless material considerations indicate otherwise. In this case the presumption in favour of sustainable development is a material consideration which outweighs the conflicts with the development plan. A decision should thus be taken otherwise than in accordance with the development plan.

Conditions

30. I have considered the conditions put forward by the Council. I have included those conditions that meet the tests set out at paragraph 55 of the Framework, with some minor editing of the suggested wording for precision and clarity.
31. In addition to the condition already identified, conditions relating to the submission and timing of the reserved matters and the commencement of development are necessary. A condition is also needed to require the

⁴ Defined by Section 1(A1) and (A2) of the Self-build and Custom Housebuilding Act 2015

development to accord with the proposed layout plan insofar as it relates to matters of access and layout.

32. The Council has suggested that access details are submitted but other than for the visibility splays this is unnecessary as such details have been submitted. However, a condition is required to ensure that the access and the manoeuvring and parking areas for vehicles are constructed before the dwelling is occupied to make sure that they are delivered. Conditions to require the access to be constructed at an appropriate gradient and limit the discharge of surface water from the development onto the highway are also necessary in the interests of highway safety. A condition relating to waste storage is also needed to ensure that adequate provision is made.
33. The Council has suggested conditions relating to landscaping details, including replacement planting, the surfacing materials for the access and the location of any boundary enclosures. However, such matters can be assessed when landscaping is considered and thus these conditions are unnecessary. I have not been referred to any development plan policies which indicate that cycle storage is required and therefore I am not persuaded that a condition to require such storage is necessary.
34. Interested parties have indicated that the dwelling should be subject to an agricultural occupancy condition. However, the appellant opposes such a condition and, in any case, I have found that the proposal would be acceptable without such a restriction. It has also been put forward that construction vehicles should be prevented from obstructing the highway. However, this is not achievable by means of a condition and firm evidence has not been provided which indicates that conditions relating to the construction process are necessary.

Conclusion

35. For the reasons given above I conclude that the appeal should be allowed, subject to the conditions identified.

Mark Philpott

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping and scale (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 development hereby permitted shall be carried out in accordance with drawing number 5882 02.A insofar as it relates to matters of access and layout.
- 5) The gradient of the vehicular access shall not be steeper than 1 in 20 for the first 5 metres measured from the nearside edge of the adjacent metalled carriageway.
- 6) Prior to the commencement of development details of visibility splays for the vehicular access shall be submitted to and approved in writing by the local planning authority. The visibility splays shall be retained in that form thereafter.
- 7) Prior to first occupation of the dwelling the vehicular access and the vehicle manoeuvring and parking areas shall be laid out and completed in all respects in accordance with drawing number 5882 02.A and made functionally available for use. The access and the manoeuvring and parking areas shall be retained in that form thereafter and used for no purposes other than for the manoeuvring and parking of vehicles.
- 8) Prior to first occupation of the dwelling details of measures to limit the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the local planning authority. The measures shall be carried out in their entirety prior to first occupation of the dwelling and retained in that form thereafter.
- 9) Prior to first occupation of the dwelling details of the areas to be provided for storage and presentation of refuse and recycling bins shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in its entirety prior to first occupation of the dwelling and retained in that form thereafter.