

Appeal Decision

Site visit made on 7 January 2021

by David Spencer BA(Hons) DipTP MRTPI

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

Decision date: 16 March 2021

Appeal Ref: APP/W3520/W/20/3256612

Land to the north of Eye Road, Yaxley, Suffolk

- 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 & Mrs Julian and Sandra Moore against the decision of Mid Suffolk District Council.
 - The application Ref DC/20/00283, dated 19 January 2020, was refused by notice dated 16 March 2020.
 - The development proposed is erection of 4 dwellings, including new access and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issue

2. The application was submitted in outline with all matters reserved except for access. The application was accompanied by an indicative layout plan, but this is no more than suggestive of how the proposed development could be implemented and so is not determinative. The Local Planning Authority (LPA) dealt with the application on this basis and so shall I. The description of the development proposed in the decision banner above is taken from the planning application form which accurately describes the appeal proposal.
3. When the LPA made its decision one of the two reasons for refusal related to highway safety and the proposed site access. On evidence provided by the appellant regarding traffic speed and visibility, this reason for refusal is no longer pursued by the LPA. From everything that is before me I do not consider highway safety arising from the proposed point of access to be a main issue for this appeal.
4. Consequently, the sole main issue in this appeal is whether the appeal site is a suitable location for the proposed development having regard to the spatial strategy in the development plan and any other material considerations.

Reasons

Suitable location and spatial strategy

5. The appeal site is principally an area of grazing land with a corner containing trees and scrub at the eastern edge of the village of Yaxley. Outbuildings are situated towards the south-west corner of the site but due to their scale and envelopment within maturing vegetation they are not prominent or out of character with this rural, edge of settlement location. Established hedging

bounds the site along Eye Road and along its eastern boundary, reinforcing its rural character.

6. In views from within Eye Road the site is occasionally seen against a backdrop of housing and outbuildings to the west and across to a new and imposing 2½ storey dwelling constructed to the north. Despite this visual interconnectivity, the appeal site has a limited relationship to the established pattern of housing development in this part of Yaxley. Whilst some limited residential development has taken place on Eye Road to the west of the appeal site, this has been tightly arranged, generally on a north-south axis, immediately to the rear of existing housing, maintaining a relatively compact pattern of development. In contrast the appeal site would represent a linear projection of housing eastwards along Eye Road into open countryside. Here the prevailing character is a patchwork of verdant fields to the north of Eye Road, bounded to varying degrees by established hedgerows and trees and the larger open arable fields to the south of Eye Road. The appeal site is integrally part of this countryside buffer between the village and the A140 to the east.
7. Whilst matters of layout, appearance and landscaping would be determined at a later stage, the depth of development into the countryside would not provide a gentle visual transition despite the potential to retain and augment elements of the established vegetation around and on the appeal site. The appeal proposal would not comprise 'infill'¹ and would harmfully erode the rural setting of the village, particularly on the approach via Eye Road.
8. Whilst the appeal site is countryside, the proposed dwellings would not be isolated due to the nearby housing. Yaxley is, however, a small village with a limited range of facilities. Within walking distance of the appeal site are the Cherry Tree Public House, village hall and parish church. Footway provision on Eye Road is generally limited to those parts closest to the junction with The Street and does not extend as far as the appeal site. Owing to the slight curvature of the highway, variable quality of verge to safely step-off and the transition of traffic speed from 30mph into the 50mph speed limit at the appeal site, I found Eye Road to be an uncomfortable quality of route for pedestrians. However, the gap in footway provision is very short and unlikely to deter occupants of the appeal proposal from accessing village facilities by foot.
9. Mellis primary school is located approximately 1 mile to the west of the appeal site. There is no continuous footway to the school. The distances involved and the nature of the route would also reasonably deter children cycling to school. There is significant employment at the Eye Airfield complex to the north-east of Yaxley, however, the busy intervening A140 forms a significant deterrent to all but the most confident pedestrians and cyclists. As such I only give limited sustainability credence to the proximity of this employment area. Reference is made to bus services but there are no details before me of the frequency of services or destinations served. From my observations, bus stop facilities in Yaxley are either rudimentary or non-existent. Accordingly, I cannot conclude that buses would provide a reasonable alternative mode of transport to access services and facilities further afield from Yaxley.
10. The nearest higher order settlements are Eye and Diss. Both are well beyond a reasonable walking distance and Diss beyond a reasonable cycling distance.

¹ in notable contrast to the 'infill' circumstances found at the recent appeal (APP/W3520/W/19/3239180) allowed at Cherry Tree Close in Yaxley.

Eye is within cycling distance and I noted the basic cycle lane infrastructure to cross the A140 at the Eye Road/Castleton Way junction. However, the route to Eye appears to be a relatively busy road including HGV access to Eye Airfield Estate South. It is generally at the national speed limit and for large parts with little natural surveillance. Accordingly, I find the quality of the route to Eye were deter most cyclists.

11. Overall, as a sustainable location, there are limitations to Yaxley that would result in future occupants of the appeal proposal having an appreciable and harmful degree of reliance on the use of the private car with attendant carbon emissions. As such, I arrive at a similar conclusion to my colleague in the recent Cherry Tree Appeal² that additional housing in such a location would be moderately harmful.
12. The development plan comprises of the saved policies of the Mid Suffolk Core Strategy 2008 (the CS) and the Mid Suffolk Local Plan 1998 (the MSLP). Policy CS1 of the CS sets out a settlement hierarchy as part of delivering a sustainable pattern of development in Mid Suffolk which amongst other things seeks to create "...safe, sustainable, liveable and mixed communities with good access to jobs and key services for all members of the community." Yaxley is within the tier of 'secondary village', which the CS defines as being unsuitable for growth but capable of taking appropriate residential infill and development for local needs only. To implement the CS a settlement boundary has been defined for Yaxley such that land beyond it is 'countryside', which applies to the appeal site, where Policy CS1 seeks to restrict development to a number of particular exceptions.
13. The appeal proposal would not conform to the types of development set out in CS Policy CS2. Policy H7 of the MSLP further seeks to strictly control new housing in the countryside, stating that the provision of new housing will normally form part of existing settlements.
14. The appeal proposal by virtue of its location outside of the settlement boundary of a secondary village not anticipated to accommodate growth, because of its limited sustainability credentials, and in countryside where it would not comprise infill means it would harmfully undermine the extant spatial strategy. The proposal would be contrary to CS Policies CS1 and C2 and MSLP Policy H7.

Planning Balance

15. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The 2019 National Planning Policy Framework (NPPF) is a material consideration, significantly postdating both the 2008 CS and 1998 MSLP. This includes paragraph 11 which introduces a presumption in favour of sustainable development. This presumption does not change the statutory status of the development plan as the starting point for decision-making but does necessitate an approach that where the policies most important for determining the application are out-of-date that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

² APP/W3520/W/19/3239180 paragraph 12

16. Whilst the LPA can demonstrate a five-year supply of deliverable housing land there is little dispute that Policies CS1, CS2 and H7 are the basket of policies most important for determining the application. There is also agreement that the collective restrictive approach of these policies to development in the countryside in these policies is not wholly consistent with the NPPF. From everything that is before me, I find that that paragraph 11(d) of the NPPF is engaged and so the tilted balance, described in paragraph 15 of this decision above, is engaged.
17. In assessing the benefits of the scheme, whilst the NPPF at paragraph 103 recognises that opportunities to maximise sustainable transport will vary between rural and urban areas, because of the particular circumstances in Yaxley it still follows that there would be only very modest environmental benefits, due to the limited opportunities to walk, cycle and use public transport to access services and facilities. The dwellings would be constructed to modern standards, which would be a moderate environmental benefit.
18. The scheme would generate a social benefit in terms of boosting the supply of housing but this benefit would be no more than limited given there is a five year deliverable supply of housing land. The scheme would moderately support community facilities and the social vibrancy of Yaxley as a rural community and further afield in terms of services in Mellis and Eye, but at 4 dwellings this benefit would be only modest. Economically, the scheme would generate a small temporary benefit during construction. As set out above, the limited range of services in Yaxley means any economic benefits from additional patronage by future occupants would be only limited.
19. On the other hand, the proposal would be contrary to development plan's spatial strategy. Whilst I have found that strategy to be out-of-date that does not mean any harm arising from a conflict with it is of no weight. In accordance with NPPF paragraph 213 the weight to be given to these policies should reflect their degree of consistency with the NPPF. Given the limited sustainability credentials of Yaxley, its identification in Policy CS1 as a secondary village for appropriate residential infill and local development needs seems reasonable as part of an appropriate spatial strategy. There is no blanket restriction on additional housing in Yaxley in Policies CS1, CS2 or H7. Consequently, I find, similar to the recent Cherry Tree Close appeal³, that these policies are not entirely inconsistent with the NPPF.
20. In terms of the weight to give these extant policies, matters are complicated by the fact that the LPA is preparing an emerging Local Plan (eLP) which the appellant and the previous Cherry Tree Close appeal state envisages growth for Yaxley through an expanded settlement boundary. I have very little detail before me on how the settlement boundary for Yaxley could change and whether the purpose would be to consolidate the situation on the ground or positively allow for additional growth. I note that the eLP is not at an advanced stage and so could change significantly. As such I attach very little weight to the eLP. I accept however, that the eLP does create a degree of tension with the LPAs position in this appeal that Yaxley is not a sustainable location for additional dwellings. Accordingly, I give only limited weight to the harm arising from the conflict with the spatial strategy in Policy CS1.

³ Paragraph 19

21. Whilst the restrictions in Policies CS1, CS2 and H7 to protect the countryside from development other than in exceptional circumstances do not reflect the more nuanced approach in the NPPF it nonetheless reflects to some degree NPPF paragraph 170 that the planning policies and decisions should contribute to and enhance the local environment by, including amongst other things, recognising the intrinsic character and beauty of the countryside. Paragraph 127 of the NPPF also advises that development should add to the overall quality of the area and be sympathetic to local character.
22. As set out above, the appeal proposal is part of the wider countryside on this edge of Yaxley. It would not be infill and nor would it result in an appropriate transition from the existing built edge to further countryside beyond. I attach significant weight to the environmental harm arising from the incongruous loss of characteristic countryside. Consequently, the harm arising from the conflict with the aims of countryside protection in Policies CS1, CS2 and H7 remains to hold appreciable weight.
23. The appellant has drawn my attention to a number of other permissions for housing in Yaxley, including the recent appeal decision on Cherry Tree Close. For the reasons set out above, given the particular character and context at the appeal site I find very limited comparison to these schemes with the site-specific circumstances before me and so give them very limited weight.
24. Accordingly, I arrive at an overall balancing conclusion that the adverse environmental impacts arising from the appeal proposal, notably to the rural character of this part of Yaxley and the conflict with extant spatial strategy, despite its relative out-of-datedness, would significantly and demonstrably outweigh by the benefits identified. The appeal proposal would therefore not amount to sustainable development.
25. The appellant refers me to other appeal decisions elsewhere in Mid Suffolk on the point that conflict with out-of-date policy rarely outweighs the benefits of additional housing. I have relatively limited information about the particular circumstances of these appeals including their comparability to both the partial sustainability credentials of Yaxley as a small secondary village and the site-specific environmental harms arising from character and appearance. I therefore give very little weight to these decisions.
26. I therefore reach an overall conclusion, having regard to all other matters before me, that with the tilted balance engaged, the appeal proposal would nonetheless result in significant and demonstrable adverse impacts that would outweigh the limited benefits, and so should be dismissed.

David Spencer

Inspector.