



Appeal Decision

Site Visit made on 14 October 2021

by M Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th November 2021

Appeal Ref: APP/W3520/W/21/3272131

Land adjacent to Chapel Cottage, Mellis Road, Yaxley IP23 8DB

- 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 G Aldridge against the decision of Mid Suffolk District Council.
 - The application Ref DC/20/05117, dated 13 November 2020, was refused by notice dated 7 January 2021.
 - The development proposed is erection of two detached dwellings with garages.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two detached dwellings with garages at land adjacent to Chapel Cottage, Mellis Road, Yaxley in accordance with the terms of the application, Ref DC/20/05117, dated 13 November 2020, subject to the conditions in the attached Schedule.

Preliminary Matters

2. The application was submitted in outline form with all detailed matters 'reserved' for future consideration and I have assessed the appeal on this basis.
3. There is an outline planning permission within the appeal site for a single dwelling¹ (previous planning permission).

Main Issue

4. The main issue is whether or not the appeal site is an appropriate location for the proposed development, having regard to the impact on the character and appearance of the area.

Reasons

5. Mellis Road connects the settlements of Yaxley and Mellis. Outside of these settlements the street has a mainly rural character, composed of a mix of open fields, trees and hedgerows, but also interspersed with a sporadic arrangement of housing and other buildings which vary in their design and spatial arrangement.
6. The appeal site fronts Mellis Road and comprises a rectangular plot of agricultural land which lies on the edge of Yaxley, adjacent to an existing property and rural buildings, but otherwise largely surrounded by open countryside.

¹ Mid Suffolk District Council planning permission reference - DC/20/02334

7. The pattern of development in the immediate environs of the site is loose knit, with houses occupying spacious plots. However, properties further along the street closer to the village core have a more compact spatial arrangement where dwellings and their respective plots are generally smaller. Therefore, whilst it is the Council's contention that the provision of two dwellings², whatever their final form, would be out of step with the prevailing character of the area; the layout, form, and scale of buildings in the area varies, as do the spatial characteristics of the plots they occupy. Moreover, the appeal site is not inconsiderable in size relative to other plots in the area. Therefore, it would be able to accommodate two suitably designed dwellings whilst retaining sufficient visual relief so they would not appear cramped or overbearing in the street. Consequently, the provision of two houses and the associated use of land for domestic purposes in this location would not deviate from the established pattern of development in the area.
8. The principle of housing development in this location has been established and the previous planning permission remains extant, albeit the site area in that case was slightly smaller. However, it is inevitable that a large proportion of the hedgerow which fronts the street would need to be removed to facilitate access to the dwellings. In addition, the scheme would involve building on an undeveloped site where currently no development exists. Therefore, it would have an urbanising effect on this rural site. Nevertheless, whilst I accept that two dwellings would potentially lead to more development on the site than the single dwelling as approved, due to the ample plot size, I see no reason why a scheme could not be designed which respects its verdurous and built surroundings, using landscaping as necessary.
9. Due to the outline nature of the proposal, I am only able to consider the general principles of how the site can be developed. Therefore, whilst I understand that unsympathetic boundary walls, fences and other built development could harm the area's character, matters relating to access, appearance, landscaping, layout, and scale would be reserved for later determination (reserved matters). As well as the outward appearance of the built form, landscaping is not before me to determine at this stage either. In any event, the extent to which landscaping would be required in order to assimilate the development with its surroundings would be partly dependent on the layout, scale and appearance of the development, and the Council retains control over these elements as and when they are sought.
10. Therefore, I conclude that the scheme would not unacceptably harm its verdant surroundings or the street scene and would therefore respect the character and appearance of the area. The development would align with Policies H13 and H15 of the Mid Suffolk Local Plan 1998 (the Local Plan) which require, amongst other matters, that new housing is appropriate to the site and its surroundings and is consistent with the pattern of development in the area. The development would also respect paragraphs 126 and 130 of the National Planning Policy Framework (the Framework) which require, amongst other matters, that development is of high quality which takes the opportunities available for improving the character and quality of an area and the way it functions.

² With garages

Planning Balance

11. Whilst the Council's reason for refusal directly references only a limited number of policies, I have also taken into account the most important policies for determining the appeal in terms of the location of the proposal, and the weight to be attributed to those policies.
12. The Local Plan and the Mid Suffolk District Core Strategy Development Plan Document 2008 (the Core Strategy) are dated documents, but the weight to be attached does not hinge on their age. Rather, paragraph 219 of the Framework makes it clear that weight should be given to existing policies according to their degree of consistency with the Framework.
13. Policies CS1 and CS2 of the Core Strategy and Policy H7 of the Local Plan seek to protect the countryside by directing housing towards settlements and supporting only development directly related to the needs of the countryside. The proposal would conflict with the development plan due to its out of settlement and countryside location. However, I agree with the main parties that the weight to be attributed to the conflict with these policies should be reduced in this case. This is because of the blanket approach to countryside protection advocated by these policies, and the degree of inconsistency concerning these policies in relation to the Framework.
14. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise³. The Framework is a material consideration in planning decisions. As a result of the foregoing, the most important policies for determining the appeal are out of date. Consequently, it falls for me to determine if the adverse impacts of granting permission in this case would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole as per paragraph 11 of the Framework.
15. The fact that an extant planning permission exists for a single dwelling on the appeal site is important because it establishes the principle of housing development. Furthermore, that permission has a realistic prospect of being pursued given that it also comprises a small housing proposal. Therefore, I have attached significant weight to this fallback position.
16. There would be some harm due to encroachment into the countryside, although, whilst two dwellings would potentially increase the footprint of development within the site over and above the single dwelling permitted, this impact would not be significantly greater given that the appeal site is only marginally larger than that associated with the previous permission. Moreover, the Council would retain control over the scale, appearance, layout and landscaping as part of the reserved matters. Furthermore, housing on this site would be largely reliant on the private car to access the services and facilities in nearby settlements, resulting in modest environmental harm. As was the case with the previous planning permission, there would also be a loss of best and most versatile agricultural land. Overall, these environmental impacts attract moderate weight against the scheme.

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004

17. There would be sufficient space within the plot to erect buildings of an appropriate scale and design, and landscaping as necessary, to ensure no significant impact on the street scene or the wider countryside. This is a neutral impact, attracting weight neither in favour or against the scheme.
18. The proposal would convey benefits including the contribution future residents would make to the local economy, as well as temporary employment during construction, in line with paragraph 79 of the Framework. Overall, there would be modest socio-economic benefits.
19. Taking all these matters into account, the identified harm would not significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the Framework as a whole. The presumption in favour of sustainable development as set out in paragraph 11 of the Framework applies and is a material consideration.
20. Therefore, in this case, the presumption in favour of sustainable development is a material consideration of sufficient weight to indicate that planning permission should be granted notwithstanding the conflict with the development plan.

Other Matters

21. Allowing this appeal would not prejudice the Council's position with regard to the reserved matters where the relationship with neighbouring properties could be fully assessed as and when details are sought. Based on the nature of the site, the quantum of development proposed, and the relationship with Chapel Cottage, I am satisfied that reasonable levels of privacy and access to light could be achieved for neighbouring occupiers.
22. Concerns raised regarding the inadequacy of local infrastructure to accommodate the demands of future residents of the appeal scheme is not supported by detailed evidence. Therefore, I am not persuaded that the additional trips arising from occupiers of the two dwellings proposed either alone or in combination with other recent developments locally would lead to unacceptable highway safety impacts, nor that residual cumulative impacts on the road network would be severe. Finally, the significance of listed buildings in the area would not be harmed due to the distance of the site from the nearest heritage assets.

Planning Conditions

23. The Council have suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance (PPG). As a result, I have amended some of the conditions for clarity, accuracy and conciseness.
24. I have attached conditions relating to the submission of reserved matters along with associated time limits. I have also attached a condition approving the submitted site plan and a further condition limiting the parameters of the development to that applied for so that it is clear what has been approved.
25. I have adapted the Council's suggested landscaping conditions so that any vegetation planted would have to be replaced for the first 5 years, as this to my mind is a more reasonable timescale than the 10 years suggested by the Council. I have also included a requirement within the condition to identify

retained trees and hedgerows, and details of biodiversity enhancement. This is so that priority can be given to retaining important landscape features where possible and to ensure that biodiversity enhancement is embedded into the landscaping scheme, in accordance with paragraph 175 of the Framework⁴. The Council also suggests that the condition should include a requirement to provide a 5m wide landscape buffer. However, it has not been explained to me why a landscaping strip of that exact width would be necessary as the extent of landscaping required would largely depend on the layout, appearance and scale of the development, details of which are as yet unknown. Therefore, I have not included this in the condition.

26. The appellant confirms that the site would be drained via soakaways, but no details have been provided. Therefore, a condition is attached requiring drainage details to be submitted alongside the layout at reserved matters stage.
27. The Council suggests the removal of permitted development rights in relation to additional floors, outbuildings, walls and fences but given that the scale and layout of the development is not for consideration at this stage and is therefore unclear, the reason for such a condition has not been justified. The PPG states that such conditions may not pass the test of reasonableness or necessity. Therefore, I have not attached a condition.
28. Full details of the site access and layout would be required at reserved matters stage. Therefore, conditions relating to visibility and parking/manoeuvring are not necessary at outline. However, a condition is necessary requiring the submission of refuse storage facilities in the interests of the character and appearance of the area.

Conclusion

29. For the reasons given above I conclude that the appeal should be allowed.

M Woodward

INSPECTOR

⁴ Which requires that development contributes to the natural environment by minimising impact and providing net gains

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, 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 the following approved plans: Location Plan at Scale 1:1250.
- 5) The development hereby approved shall comprise up to a maximum of 2 dwellings.
- 6) The development shall be carried out in accordance with the 'Conclusions and Recommendations' set out in the *Phase 1 Geo-Environmental Desk Study and Preliminary Assessment - Report No. P0123/R01 Issue 1*. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 7) The application for the approval of the reserved matters for landscaping pursuant to Condition 1 shall include:
 - Spread, girth and species of all existing trees, shrubs and hedgerows detailing all those to be retained.
 - A Biodiversity Enhancement Plan.
- 8) All hard and soft landscape works shall be carried out in accordance with the approved details of a subsequent reserved matters approval within the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) The application for the approval of reserved matters for layout pursuant to Condition 1 shall include foul and surface water drainage details.

- 10) Prior to the occupation of the development the location and design of refuse storage facilities shall be submitted to and approved in writing by the local planning authority. The approved refuse storage facilities shall be implemented before the development is brought into use.

END OF SCHEDULE