

Appeal Decision

Site visit made on 9 December 2021

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4TH January 2022

Appeal Ref: APP/W3520/W/21/3273833

Land off Hawes Lane, Norton, Bury St Edmunds IP31 3LS

- 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 S Gray (Ash Property Consortium Ltd) against the decision of Mid Suffolk District Council.
 - The application Ref DC/21/00662, dated 3 February 2021, was refused by notice dated 14 April 2021.
 - The development proposed is 'erection of 9 dwellings. Construction of vehicular access and pedestrian links (resubmission)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is for outline planning permission with all matters except for access reserved for subsequent consideration. A drawing has been provided which as well as the proposed vehicular and pedestrian accesses shows the layout of the dwellings and some landscaping¹. As these are reserved matters I have treated these elements of the drawing as indicative only.
3. My attention is drawn to a recent appeal decision involving an outline application for the erection of 20 dwellings on the appeal site². Given the relevance of that decision to the current appeal I have had regard to it and refer to it where appropriate.

Main Issues

4. As in the earlier appeal, I have taken references in the Council's submissions to the 'amenity of residents' as relating principally to highway safety. Accordingly, the main issues are the effect of the proposal on highway safety and on the character and appearance of Hawes Lane.

Reasons

5. The appeal site is open land on the western side of the village of Norton. The site is adjacent to the last dwellings along Hawes Lane before the lane extends

¹ Drawing ref 100-225/004E.

² APP/W3520/W/20/3245218 dated 14 July 2020.

into open countryside beyond the village to join Thurston Road to the north. Vehicular access from the site would be onto Hawes Lane with a new pedestrian link across from the eastern side of the site to Ixworth Road.

Highway Safety

6. The Council indicates that its principal areas of concern relate to the effect on Hawes Lane, on the junction of the lane with Heath Road to the south and along Heath Road between the junctions with Hawes Lane and Ixworth Road. The same matters were considered in the earlier appeal for 20 dwellings and, therefore, I have had regard to that decision as well as to the views of the main parties, interested parties and the Highway Authority (HA).
7. In the earlier appeal, it was found that vehicular movements arising from the proposed development would increase the potential for conflict between pedestrians and vehicles using the rural part of the lane to the north. The appellant has directly addressed this concern about the harmful effect on pedestrian safety by proposing a two metre wide footpath on the eastern side of Hawes Lane to its connection with the bridleway to the north. Furthermore, a number of passing places are proposed along the full length of Hawes Lane to overcome the concerns about vehicles not being able to pass each other on the narrow lane.
8. I have had regard to concerns raised about the adequacy of the passing places to meet their intended purpose, particularly with regard to larger vehicles. However, I note that the submitted drawing includes a note that the highway widening is indicative and the widths are to be confirmed following a more detailed survey, which could be secured by condition. Moreover, the HA does not object to the proposal and states that it would not have a severe impact on the road network. Consequently, I have no basis to conclude that the measures proposed along Hawes Lane would not overcome the safety concerns expressed.
9. In the previous appeal there was consensus that the junction between Heath Road and Hawes Lane has substandard visibility, but the Inspector found that this is common in villages and, as in this case, the HA did not object. Consequently, there was no issue with regard to the junction safely accommodating the additional traffic generated from the development. Based on the site inspection and consideration of the appeal submissions, I concur with these findings and reach the same conclusion, particularly given that the number of dwellings proposed is less than half that in the earlier appeal with a more limited number of associated vehicle movements.
10. While Heath Road has no footpaths to either side, it is a well-established and used village road with housing either side. There is, therefore, also a well-established relationship between pedestrians and motorists using the road with no apparent evidence of accidents. The additional vehicle movements from the appeal site would not increase traffic movements to a point where highway safety would be compromised to an unacceptable level over and above any vulnerability and inconvenience which already exists. The proposal also makes provision for a pedestrian route from the site to Ixworth Road, which would provide a link to village facilities and so mitigate some vehicular journeys from the site. I have no basis to suggest that safe pedestrian crossings of the relatively straight stretch of Ixworth Road could not be made from this path.

Consequently, there is no reason to find differently to the earlier appeal for a larger development that the proposal would not result in harm in this regard.

11. With regard to the effect of construction traffic on safety, while Hawes Lane is a rural lane of limited width the circumstances on the ground are not so exceptional or unusual that an appropriate condition requiring a detailed construction management plan could not address the concerns raised. I note in this regard that the same conclusion was reached in the earlier appeal, which involved more dwellings and, therefore, greater volumes of construction traffic.
12. Accordingly, taking these findings as a whole, I conclude that the proposal would not have a harmful effect on highway safety. As such, there is no conflict with Policy T10 of the Mid Suffolk Local Plan (1998), which requires consideration to be given to the suitability of existing roads giving access to the development, in terms of the safe and free flow of traffic and pedestrian safety. There is also no conflict with the National Planning Policy Framework's (the Framework) requirement that development should not have an unacceptable impact on highway safety³. Policy H16 of the Local Plan and Policy FC1.1 of the Mid Suffolk Core Strategy Focused Review (CSFR) are not directly relevant to this issue in my reading of them.

Character and Appearance

13. Hawes Lanes marks a transition from the settlement edge of Norton, where it provides access to and from Heath Road, to open countryside beyond. For most of its length the lane has the character of a quiet, single width rural track with open fields and raised grass verges to either side. In the previous appeal the proposal involved a single passing bay on the lane between the appeal site and the junction with Heath Road. As this was within the settlement and located between dwellings, the Inspector found that the lane would retain its rural/single track character to the north of the appeal site.
14. The current proposal would involve four additional passing places and a footpath to one side of the lane for most of its length. While the passing places would be intermittent, they would have a significant effect on the appearance of the lane by cutting into the characteristic grass verges and losing part of this rural feature. Moreover, the footpath would be a continuous feature running down the opposite side and effectively replacing the raised verge. I accept that it may be possible to surface the path with a different material than tarmac to reduce its impact and that approval of the details could be required by condition. However, despite this, it would nonetheless materially alter the character and appearance of the rural part of the lane. Both features in combination would have an urbanising effect that would harmfully undermine the clear distinction between the village edge and countryside beyond.
15. I acknowledge that following pre-application engagement with the HA, the proposal seeks to strike a balance between the need to address highway safety issues and minimising the effects of the mitigating measures described. I accept also that these measures could have some apparent benefits for existing users of the lane, both in vehicles and on foot. However, the existing rural character and appearance of the lane would be eroded to the extent that this

³ Paragraph 111.

would result in material harm. This outweighs any such benefits arising with regard to safety, particularly where I have no evidence before me that existing use of the lane has resulted in significant conflict between users, including any recorded accidents.

16. Therefore, for these reasons, I conclude that the proposal would have an unacceptably harmful effect on the existing character and appearance of Hawes Lane. Consequently, it is contrary to Policy GP1 of the Local Plan, which amongst other things, requires proposals to maintain or enhance the character and appearance of their surroundings. It is also contrary to Policy FC1.1 of the CSFR concerning sustainable development, insofar as it requires that proposals for development must conserve and enhance the local character of the different parts of the district.

Other Matters

17. I have had regard to all the representations made by interested parties both for and against the proposal. These do not, however, raise any additional matters in relation to the main issues that would lead me to reach a different overall conclusion; or they raise issues more appropriately addressed in relation to the reserved matters.
18. The Framework requires that plans and decisions should apply a presumption in favour of sustainable development⁴. The Council indicates that it can demonstrate the requisite five year supply of housing land. The appellant questions this in the context of the emerging local plan but I have no substantive evidence before me on this matter. Consequently, the presumption is not engaged as a result of housing under-supply.
19. The appellant contends that the policies which are most important for determining the application are out-of-date, but the only specific reference in this regard that I am aware of is to Policy CS5 of the Core Strategy (2008). However, this is not referred to in the Council's decision notice and is not therefore one of the most important policies. I have no basis to find other relevant policies inconsistent with the Framework or otherwise out-of-date. Therefore, the presumption in favour of sustainable development is not engaged in this regard.
20. I acknowledge that the proposal would provide a mix of nine new dwellings, which would be accessible to local services and facilities, and would provide some short-term local economic benefit from their construction as well as supporting local services.
21. However, for the avoidance of doubt, even were the presumption to be engaged in this case, I have found that the proposal would cause material harm to the character and appearance of Hawes Lane. As such, as well as it being contrary to the development plan, the proposal is contrary to the Framework, which requires that development is sympathetic to local character⁵. I give significant weight to the conflict with the Framework in this regard. The benefits set out by the appellant are not of sufficient weight, either individually or as a whole, to overcome the extent of the conflict with the Framework. Therefore, I conclude

⁴ Paragraph 11.

⁵ Paragraph 130c).

that the adverse impacts of granting permission significantly and demonstrably outweigh the benefits.

Conclusion

22.I have found in the appellant's favour with regard to the first main issue, concerning the effect of the proposal on highway safety. However, this is not sufficient to outweigh the fact that the proposal is contrary to the development plan and the Framework as it would have a materially harmful effect on the character and appearance of Hawes Lane. The presumption in favour of sustainable development does not apply and there are no other material considerations that outweigh the conflict with the development plan. Accordingly, it is concluded that the appeal should be dismissed.

J Bell-Williamson
INSPECTOR