



Appeal Decision

Site visit made on 5 July 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th July 2022

Appeal Ref: APP/W3520/W/21/3281395

Moats Tye Livery, Moats Tye, Combs, Stowmarket, IP14 2EY

- 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 C Oliver against the decision of Mid Suffolk District Council.
 - The application Ref DC/21/01609, dated 17 March 2021, was refused by notice dated 13 July 2021.
 - The development proposed is described on the planning application form as 'Proposed residential dwelling - in outline'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The evidence before me, including the planning application form and Council Officer Report, demonstrate that the proposal is for outline planning permission with all matters reserved. Despite this, the appellant's planning statement refers to a large dwelling being proposed, and the site location plan shows the proposed layout of the dwelling. Nonetheless, the application form is clear and as such, I have only had regard to the layout and siting shown on the Block Plan insofar as it is indicative. Even if the appellant were to contend that layout was not a reserved matter, he has not been prejudiced by this approach to the consideration of the appeal given that I have had regard to the illustrative layout in any case.
3. The address on the appeal form differs from that on the planning application form. I have taken the address from the application form as it is sufficient for the purposes of identifying the appeal site.
4. A previous appeal for 2 dwellings on the appeal site was dismissed in 2018¹ (the Previous Appeal). In considering this appeal I have had regard to this decision and the other decisions referred to by the main parties.
5. Both parties refer to the emerging Joint Local Plan and policies contained within it². The appellant has indicated that Moats Tye will have a settlement boundary within the emerging plan. The appellant has also indicated that he has made representations to the effect that the appeal site should be included within it. However, the Council has confirmed that the examination process has been halted, and the proposal is now to divide the Joint Local Plan into two

¹ PINS Ref: APP/W3520/W/18/3194746

² Albeit I have not been provided with a copy of the title page, policies, or confirmation of the precise stage of the plan.

documents and rewrite a number of policies including LP01. Given this uncertainty, the early stage of the plan and that I have not been provided with copies of all representations made (and confirmation of whether they have been resolved), the Joint Local Plan Policies, including LP01, can only be afforded very limited weight.

6. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). The appeal process has afforded the main parties sufficient opportunity to comment on it and I have had regard to it in considering this appeal.

Main Issues

7. The main issues are:

- Whether the site would be a suitable location for the proposed development with particular regard to its accessibility to services and facilities.
- The effect of the proposed development on the setting of a nearby Grade II listed building, Whitehouse Farmhouse.
- Whether the proposed dwelling would provide a suitable standard of accommodation to future occupiers with specific regard to its proximity to existing development within the surrounding area.

Reasons

Location

8. The appeal site comprises an area of land located at Moats Tye Livery, which the appellant states is used for paddocks, grazing and exercising of horses. The site is located in the countryside in relatively close proximity to a group of residential properties known as Moats Tye.
9. Moats Tye is not included within the settlement hierarchy set out under Policy CS1 of the Core Strategy³ (2008) and it is therefore in the countryside. Policy CS1 states in part that only certain types of development will be permitted in the countryside. Core Strategy Policy CS2 outlines that development in the countryside will be restricted to defined categories of development, none of which apply in this instance. Furthermore, Saved Local Plan⁴ Policy H7 states that outside of the settlement boundaries there will be strict control of proposals for new housing.
10. The Core Strategy text (see paragraphs 2.4 to 2.37) makes it clear that the settlement strategy in the District is aimed at ensuring that development is focussed in locations which have good access to services and facilities, with locations elsewhere in the countryside (such as the appeal site) only acceptable in certain instances.
11. There are very few services and facilities within Moats Tye. The nearest surrounding settlements with any such facilities are Combs, approximately 1.5km walking distance to the north and Battisford Tye which is some 2km to the south-east. Stowmarket has an extensive range of services and facilities

³ Mid Suffolk District Core Strategy Development Plan Document (September 2008)

⁴ Mid Suffolk Local Plan (September 1998)

but this settlement is located even further (in terms of walking distance) from the appeal site.

12. There are very few footways and very little street lighting along the majority of the route between the appeal site and these neighbouring settlements. Given these route characteristics and the significant distances involved, it is highly unlikely that future occupiers of the proposed development would walk along them to access the surrounding settlements. In addition, there is no substantive evidence to indicate that there are regular and frequent bus services which stop in close proximity to the appeal site. As such, the future occupiers of the proposed development would be heavily reliant on the private motor vehicle to access services and facilities to meet their day-to-day needs. Indeed, this was the conclusion reached in the Previous Appeal and there is no substantive evidence to indicate that circumstances have changed since then.
13. The appeal site may not be isolated within the terms of Framework Paragraph 80, given the close proximity to other dwellings, but that does not mean that the site is not isolated from services and facilities.
14. Future occupiers of the proposed development would have poor access to services and facilities and would be reliant on the private motor vehicle to access them on a regular basis. As such, the appeal site is not a suitable location for the proposed development and there would be a conflict with Core Strategy Policies CS1 and CS2 as well as Saved Local Plan Policy H7.
15. Core strategy policies FC1 and FC1.1 refer to the broad concept of sustainable development and they are not particularly relevant to any of the main issues. Nonetheless, there would be conflict with these policies insofar as the development would not be consistent with the provisions of the Framework, as discussed under 'Planning Balance'.
16. Saved Local Plan Policy H10 is not relevant to this proposal as it relates to proposals for agricultural workers dwellings and the evidence before me demonstrates that permission for such is not being sought in this case.
17. The extent to which the proposed development complies or conflicts with emerging Local Plan Policy LP01 is unclear. In any case, for the reasons already outlined it can be afforded very limited weight and it does not alter my conclusions in relation to the harm which would be caused by the development.

Heritage

18. The appeal site is located in close proximity to Whitehouse Farmhouse, which is a grade II listed building. This building is located adjacent to the existing site access track to the west of the appeal site. The Poplars is a grade II listed building which is located approximately 70 metres north-east of the appeal site.
19. The Council contends that the proposed development 'would erode the rural character of the setting' of Whitehouse Farmhouse. It does not however allege harm to the setting of The Poplars. Nonetheless, under section 66 (1) and section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am obliged to have special regard to the desirability of preserving both of these listed buildings, their setting and any features of special architectural or historic interest.

20. The Poplars is a 17th century house which primarily derives its significance from its traditional rural appearance, comprising of a timber-framed and rendered structure with a thatched roof and brick ridge stack. Its rural setting also contributes to its significance, but the appeal site does not particularly form part of that setting, being well set back within the group of buildings which comprise the livery. In addition, the appeal site is physically and visually separated from this listed building by rows of mature and established planting. As such, I do not consider that there would be any harm to the setting of this listed building as a result of the proposed development.
21. In contrast, Whitehouse Farmhouse, which is a 16th to 17th Century building, is much more closely associated with the appeal site. It derives its significance from its rural and agricultural setting. It also derives significance from its relatively grand appearance, with its tall chimney stacks and a steep pitched plaintile roof. Its setting includes the wider rural area, but in particular the immediately surrounding land which includes a variety of equine and agricultural uses. Whilst the equine uses may not have originally existed within the complex (as indicated in the appellant's evidence), they are still of a rural character and they do not significantly detract from the significance of the listed building in this regard.
22. There are dwellings in relatively close proximity to the appeal site, but these are typically set towards the highway. The land behind the farmhouse has a far more agricultural appearance. Indeed, the appeal site itself includes two large structures which appear to be of an agricultural nature. There is also a single storey dwelling to the rear of the appeal site, however, I do not know the circumstances that led to this being developed. In any case, the removal of the agricultural buildings and their replacement with a dwelling would clearly detract from the rural and agricultural character of the land surrounding the Farmhouse. The proposed development would also detract from the grandeur of the listed building, which at present appears to serve as a focal point and gateway to the rest of the site.
23. I accept that the buildings proposed for removal are very large and that a dwelling may be smaller, but the key difference is that they are of an agricultural character. Even if a dwelling was designed to reflect this character, it would inevitably function as a dwelling and there would be residential comings and goings and residential paraphernalia associated with it.
24. For these reasons I conclude that the proposed development would result in less than substantial harm (within the meaning of Framework Paragraph 202) to the setting and thereby the significance of Whitehouse Farmhouse.
25. The fact that the Previous Appeal did not address the impact of the development on heritage assets is not a consideration which outweighs my findings. Indeed, the Inspector may not have had information provided to them in order to establish the presence of the nearby listed buildings. In any case, it is my statutory obligation to consider the effect on the listed building.
26. Framework Paragraph 202 requires that less than substantial harm is weighed against the public benefits of a proposal including, where appropriate, securing the heritage asset's optimum viable use. The proposed development would include social and economic benefits associated with the increase in housing stock as a result of one new self-build dwelling. Notwithstanding my conclusions in relation to the first main issue, there would be a small increase

in support for local services and facilities further afield. There would also be some temporary economic and social benefits through support for construction jobs.

27. The appellant asserts that the proposal makes use of a brownfield site, however, the Framework Glossary specifically excludes land occupied by buildings last used for agriculture from the definition of previously developed land. The evidence before me indicates that the existing buildings are former agricultural buildings.
28. Given the relatively small scale of the development, these public benefits can only be attributed moderate weight⁵. Conversely, the less than substantial harm to the heritage assets should be afforded great weight, in line with the provisions of Framework Paragraph 199. The modest public benefits of the proposed development would therefore not outweigh the less than substantial harm.
29. The proposed development would therefore be contrary to saved Local Plan Policy HB1, which seeks in part to protect the setting of Listed Buildings.

Standard of Accommodation

30. The Council contends that the proximity of the appeal site to the adjacent Livery business would have a harmful impact on the living conditions of future occupiers of the proposed development. However, the proximity of the appeal site to the existing business is not a factor which, alone, clearly indicates any likely harm to the living conditions of future occupiers. Whilst I note that the existing business is relatively extensive, that does not necessarily mean that it would result in significant noise or disturbance. Indeed, given that the scheme is in outline it is possible that mitigating design measures could be secured at reserved matters stage and the dwelling could be sited in an area of the site which is further away from the business than is currently indicated on the site layout plan.
31. For these reasons, I consider that the proposed development would provide an acceptable standard of accommodation for future occupiers. It would therefore comply with Policy H17, which seeks in part to protect living conditions from noise, smell or other forms of pollution arising from nearby premises.

Other Matters

32. A letter of support has been provided from an interested party, which highlights various other consents located outside of the settlement boundaries. However, the circumstances which led to those consents are not before me and they do not provide a justification for the proposed development. Similarly, the appellant has presented the conclusions of Council Officer Reports in relation to two previous planning applications in Moats Tye, at least one of which he suggests was refused. However, again, I have not been provided with details to ascertain the precise site-specific circumstances which led to those conclusions and they do not therefore alter my findings in relation to this appeal.
33. The appellant has also provided an appeal decision made in 2016 in respect of development at a site known as Dotterell Farm Barns⁶. However, this relates to

⁵ Even if the appellant's assertion with regard to previously developed land were to be accepted

⁶ PINS Ref: APP/W0530/W/16/3152125

an instance where the Council could not demonstrate a five-year supply of deliverable housing sites. These are materially different circumstances to those which are relevant in relation to this current appeal and as such, this decision has no bearing on my conclusions.

Planning Balance

34. Core Strategy Policies CS1 and CS2, are inconsistent with the Framework, as they take a more restrictive approach to development in the countryside than advocated in the Framework. Saved Local Plan⁷ (1998) Policy H7 is also inconsistent with the Framework, as it takes an even more stringent approach to residential development in the countryside. As such, the most important policies in considering this appeal are out-of-date and Framework Paragraph 11d applies.
35. The Appellant contends that there is a Housing Land Supply (HLS) shortfall, primarily on the basis that he asserts that the latest housing delivery test results have not been published. I have not been provided with the HDT results but there is no evidence to indicate that the Council falls below the threshold such that paragraph 11d would be engaged for this reason. Furthermore, the HDT and HLS are two different measures, and the Council has provided evidence⁸ to indicate that the current HLS position exceeds 9 years. As such, in the absence of any substantive evidence to the contrary, whilst Paragraph 11d is engaged, this is not as a result of any HLS shortfall or failure to meet the HDT.
36. Framework Paragraph 11d(i) states that permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 clarifies that such policies include those relating to designated heritage assets. I have found that the proposed development would result in less than substantial harm to the setting of Whitehouse Farmhouse (Grade II Listed). I have also undertaken the test at Framework Paragraph 202 and concluded that the limited public benefits of the proposed development would not outweigh this harm. This therefore provides a clear reason for refusing the development within the context of Paragraph 11d(i).

Conclusion

37. The proposed development would conflict with the development plan taken as a whole. There are no other material considerations of sufficient weight, including the approach set out at Framework Paragraph 11, which indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

Luke Simpson

INSPECTOR

⁷ Mid Suffolk Local Plan (September 1998)

⁸ Mid Suffolk District Council Five-Year Housing Land Supply Position Statement 2021 (Published February 2022)