



Appeal Decision

Site visit made on 14 July 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 16th August 2022

Appeal Ref: APP/W3520/W/21/3282019

Broad View Farm, Lower Farm Road, Ringshall, IP14 2JF

- 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 Daniel Luther against the decision of Mid Suffolk District Council.
 - The application Ref. DC/21/03012 dated 17 May 2021, was refused by notice dated 12 July 2021.
 - The development proposed is the erection of 2 No. dormer style dwellings with associated detached garaging, and new vehicular access to highway.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 No. dormer style dwellings with associated detached garaging, and new vehicular access to highway at Broad View Farm, Lower Farm Road, Ringshall, IP14 2JF, in accordance with the terms of the application, Ref DC/21/03012, dated 17 May 2021, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this decision.

Preliminary matters

2. The application was in outline with only access to be considered at this stage. There were also plans that showed a possible layout, but these were submitted for illustrative purposes only. The description of the development given on the application form was: the erection of 2 No. dormer style dwellings with associated detached garaging, landscaping and new vehicular access to highway, but since landscaping is not to be considered at this stage, I have omitted it in the description set out above.

Main Issue

3. The main issue in this case is the suitability of the site for residential development in terms of the sustainability of the location.

Reasons

4. The statutory starting point when deciding a planning application is the policies of the development plan, which in this case comprises a combination of the Core Strategy 2008, the Core Strategy Focused Review 2012, and 'saved' policies of the Local Plan 1998. There is an emerging local plan, but it is not at a stage where more than limited weight can be given to its draft policies. The council accepts that the policies of the adopted development plan documents,

referred to above, which are most important for determining the application, are out of date. This is correct because they predate the National Planning Policy Framework (the Framework) and the more balanced approach to the location of residential development taken within it. Since the policies that would otherwise be relevant are out of date, the default position is that set out in paragraph 11d of the Framework. Paragraph 11d requires “*granting permission unless:*” i [not relevant here] or “*ii any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*”.

5. The council accepts that the proposed development has no visual impacts, being largely hidden from view; the site has 'defensible boundaries' being surrounded by other residential development and an existing access point; and has a clearly defined residential curtilage with well screened amenity land, contained within well-established curtilage boundaries. Thus the development would visually not intrude into open countryside. With the 2 proposed dwellings sitting comfortably on the plot, with generous amenity space provide for each dwelling, there is opportunity for further landscape planting. This could be taken forward in a manner that would further assist in assimilating the development into its surroundings. For these reasons any landscape harm would be limited. It is also accepted that there would not be any undue impact on the living conditions of neighbouring occupiers, that the access to the highway is policy compliant, whilst wildlife impacts could be managed by planning conditions.
6. The officer's report notes that the site is in open countryside for planning purposes, being outside defined settlement boundaries. The justification for the refusal is set out briefly, that environmental harm would arise owing to the site's location, being an unsustainable location, with traffic movements generated by the development causing environmental harm. Accordingly, the council contends that the proposal would not deliver sustainable development.
7. The appellant draws attention to a number of recent decisions by the council to grant permission for comparable development in the near vicinity. I take as the closest examples the dwellings permitted under references 18/03299 and 18/05632, both for 2 dwellings. The officer's report in the latter case states that the most relevant policies of the development plan are not fully in accord with the Framework, for the reasons set out in my paragraph 4 above. The report also states that, although in the countryside, the application site is well related to the Secondary Village of Ringshall, with a number of services including a village school and village hall. These 2 sites are approximately 200m from the appeal site, and now appear to form the beginning of the built-up area of the village.
8. Bearing these matters in mind, I will reach my conclusions on the basis of Framework paragraph 11dii. Framework paragraph 11 sets out the presumption in favour of sustainable development. Sub-paragraph 11b) includes the statement that “strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, ...” (emphasis added). In other words, such assessed housing numbers are not maximums.
9. The sustainability issue in question in this case is that the site is remote from local services, lacking accessible sustainable transport modes and therefore would be car dependant. In this respect the appellant makes the case that an

alternative mode of sustainable travel, in the form of the bus service 111, on a 'Hail and Ride' basis, stops outside the appeal site, as it has for the past 6 years. The Senior Infrastructure Officer at Suffolk County Council confirms this. I am told that the appellant's family use this bus service very regularly, and that it is a practical and convenient alternative mode of sustainable travel, linking the appeal site to, amongst other towns, Ipswich and Stowmarket.

10. As far as more locally sustainable travel is concerned, there is an edge of field footpath that goes into Ringshall village. This starts next to the house 'Border Cottage' adjoining the site. I saw at my site visit that there are substantial wooden planks laid across the ditch from the roadside up to this footpath. It is not clear whether this is a purely informal path, but I saw that it is 1m+ wide, appears to have been recently mowed, judging by grass-cuttings that I saw, and the ploughed edge of the field shows a sharp cut-off to the cultivated land. This path continues right to the edge of the built-up area, from where there is a continuous footway as part of the highway into the village. This point is beyond the 4 new houses mentioned in paragraph 7 above. From what I saw of the nature of Lower Farm Road, cycling into the village would not be too arduous or hazardous.
11. Ringshall is a Secondary Village with a number of services including a village school and village hall. The officer's report on the 2 houses permitted under application No. 18/05632 notes that sustainable transport services are likely to be more limited in rural areas. As Framework paragraph 105 puts it, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. The proposed dwellings would offer support to services in Ringshall, regardless of how they are accessed, but given that the proposal relates to two dwellings the support is such that this is a small benefit.

Conclusions

12. The site is a short distance from the Secondary Village of Ringshall that has a number of services. Walking along the field-edge footpath, and cycling along Lower Farm Road are 2 sustainable forms of gaining access into the village. In addition, there is a bus service which, although not as frequent and regular as would be expected in an urban area, provides sustainable travel to Ipswich and Stowmarket, the latter being under 5 miles away, as the crow flies. The site is visually well contained and would not be additional development perceived from either the road or the countryside. Nor could it reasonably be taken as a precedent leading to further ribbon development out of Ringshall along Lower Farm Road. I conclude that the close proximity of the site to Ringshall and the factors that I have dealt with lead to the conclusion that the relative lack of readily available sustainable modes of transport is not sufficient to tilt the balance against the grant of planning permission. I will therefore allow the appeal.

Conditions

13. The Council has suggested a number of conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG I have amended some of the text. Conditions 1, 2 and 3 are required by legislation. I consider that the

other conditions should be imposed for the following reasons: condition 4 is required to enable control of further development that might otherwise be 'permitted development', because of the position of the development behind existing dwellings, in the interests of the living conditions and heritage value of those dwellings; conditions 5, 6 and 7 are to ensure the conservation of protected and priority species in order to discharge the duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species); conditions 8, 9, 10 and 11 are required in the interests of the safety and convenience of highway users; and condition 12 is to protect occupiers of the dwellings hereby permitted and of other dwellings in the vicinity from injury or harm due to contamination

14. I am not imposing the conditions suggested by the council in respect of external materials, or that concerned with manoeuvring and parking areas. In relation to both of these, they relate to matters that are reserved for later approval

Terrence Kemmann-Lane

INSPECTOR

Schedule of Conditions

- 1) Details of the 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 reserved matters must be made not later than the expiration of 3 years beginning with 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) Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of Article 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order with or without modification) no garage, car port, fence, gate, wall or any other means of enclosure, building or structure shall be erected on the site, except pursuant to the grant of planning permission on an application made in that regard.
- 5) Prior to the first occupation of the dwellings hereby approved, all the mitigation measures and/or works shall be carried out in accordance with the Ecology report (Finnemore Associates, April 2021), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination, in full accordance with the details contained therein.
- 6) Prior to any development hereby permitted above slab level, a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority, following the details contained within the Ecology report (Finnemore Associates, April 2021).
The content of the Biodiversity Enhancement Strategy shall include the following:
 - a) Purpose and conservation objectives for the proposed compensation and enhancement measures;
 - b) detailed designs to achieve stated objectives;
 - c) locations of proposed enhancement measures by appropriate maps and plans;
 - d) persons responsible for implementing the compensation and enhancement measures;
 - e) details of initial aftercare and long-term maintenance (where relevant).The works shall be implemented in accordance with the approved details prior to the first occupation of the dwellings hereby permitted and shall be retained in that manner thereafter.
- 7) Prior to the first occupation of the dwellings hereby permitted, a lighting design scheme for biodiversity shall be submitted to and approved in

writing by the local planning authority and installed. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme, and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

- 8) Prior to the first occupation of the dwellings hereby permitted, the vehicular access shall be laid out and completed in all respects in accordance with Drawing No. DM01 and with an entrance width of 4.5m and made available for use prior to occupation. Thereafter the access shall be retained in the specified form.
- 9) Prior to the first occupation of the dwellings hereby permitted, the vehicular access onto the highway shall be properly surfaced with a bound material for a minimum distance of 5 metres from the edge of the metalled carriageway, in accordance with details previously submitted to and approved in writing by the local planning authority.
- 10) Before the access is first used visibility splays shall be provided as shown on Drawing No. 03 Rev. B with an X dimension of 2.4m and a Y dimension of 215m and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted, or permitted to grow within the areas of the visibility splays.
- 11) The area to be provided for storage of Refuse/Recycling bins as shown on Drawing No. 03 Rev. B shall be provided in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.
- 12) In the event of unexpected contaminated ground conditions being encountered during construction, all site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department shall be notified as a matter of urgency.
 - i. A suitably trained geo-environmental engineer shall assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
 - ii. The suspected contaminated material shall be investigated and tested appropriately in accordance with assessed risks. The investigation works shall be carried out in the presence of a suitably qualified geoenvironmental engineer. The investigation works shall involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.

- iii. The unexpected contaminated material shall either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
- iv. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
- v. Test results shall be compared against current assessment criteria suitable for the future use of the area of the site affected.
- vi. Where the material is left in situ awaiting results, it shall either be reburied or covered with plastic sheeting.
- vii. Where the potentially contaminated material is to be temporarily stockpiled, it shall be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
- viii. Any areas where unexpected visual or olfactory ground contamination is identified shall be surveyed and testing results incorporated into a Verification Report.
- ix. A photographic record shall be made of relevant observations.
- x. The results of the investigation and testing of any suspect unexpected contamination shall be used to determine the relevant actions. After consultation with the Local Authority, materials shall either be: • re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or • treatment of material on site to meet compliance targets so it can be re-used; or • removal from site to a suitably licensed landfill or permitted treatment facility.
- xi. A Verification Report shall be produced for the work.