
Appeal Decision

Site visit made on 26 July 2022

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022.

Appeal Ref: APP/W3520/W/22/3295335

Rookery Farm, Ashfield Road, Norton IP31 3ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs G Walton against the decision of Mid Suffolk District Council.
 - The application Ref DC/21/04065, dated 19 July 2021, was refused by notice dated 14 December 2021.
 - The development proposed is erection of dwelling following demolition of existing buildings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the suitability of the location for the proposed dwelling, in particular whether its occupants would have adequate access to services and facilities without undue reliance on private vehicle use;
 - the effect on the living conditions of neighbouring residents, with regard to noise, disturbance and pollution; and
 - the effect on highway safety.

Reasons

3. Rookery Farm is a detached farmhouse in a rural village setting. The appeal site comprises land to the rear of the farmhouse, behind properties on Rookery Drive. The site is currently occupied by a number of agricultural buildings. A new access would be created onto Ashfield Road, utilising part of the existing driveway that currently provides access to the appeal site.

Suitability of the Location

4. Policy CS1 of the Mid Suffolk Core Strategy (2008) concerns the settlement hierarchy and designates Norton as a primary village, where some provision will be made to meet local housing needs. However, the majority of new development will be directed to towns and key service centres.

5. The appeal site is situated in countryside beyond Norton's settlement boundary. Policy CS2 of the Core Strategy says that development in the countryside will be restricted to defined categories, none of which apply to the appeal proposal. Similarly, Policy H7 of the Mid Suffolk Local Plan says that outside settlement boundaries there will be strict control over proposals for new housing.
6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is a material consideration in planning decisions¹. The Framework says that policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account².
7. I note that both main parties assess the appeal proposal against each of the three objectives of sustainable development. However, the Framework says that these objectives are not criteria against which every decision can or should be judged³. The principal focus for this main issue, therefore, is whether occupants of the proposed dwelling would have adequate access to services and facilities without undue reliance on private vehicle use.
8. The appeal site is close to the Norton settlement boundary and other residential development, and is some 400 metres from the village centre. This includes a small shop and petrol filling station, a public house and pre-school and primary school. A footpath close to the appeal site provides good access to the centre, which would also be accessible by bicycle. Consequently, some facilities necessary for day-to-day living are available within walking and cycling distance. There are also bus stops in the village centre providing a daily service to Bury St Edmunds.
9. I am unaware from the appeal submissions of the distance to the nearest key service centre or town, which will provide a greater range of services and facilities. I acknowledge also that employment opportunities within Norton and its immediate surrounds will be limited. However, given the existing village facilities and some public transport provision, the addition of a small single dwelling with limited occupation would not significantly add to the journeys by private vehicle that already occur from the other nearby dwellings.
10. There is, however, a policy conflict due to the proposal's location outside the settlement boundary and I acknowledge the intention behind the development plan policies referred to above, in support of the settlement hierarchy and development strategy. However, in the particular circumstances of this case no material harm would result from a single small dwelling, which is close to the Norton settlement boundary and other dwellings, and has access by sustainable means to some facilities necessary for day-to-day living. Moreover, the Framework does not preclude residential development in the circumstances of this case.
11. Reference is made to the emerging Babergh and Mid Suffolk Joint Local Plan (JLP), in particular that it includes a proposal to reduce Norton's status in the

¹ Paragraph 2.

² Paragraph 9.

³ Ibid.

settlement hierarchy. However, it appears that the JLP is at examination stage and I am unaware whether there are unresolved objections to relevant policies. As such, I give the emerging JLP limited weight for the purposes of this appeal and have instead relied on policies referred to from the adopted development plan⁴.

12. The appellants contend that the development plan policies referred to above are out-of-date and, therefore, regard should not be had to them. However, such matters are properly considered as part of the planning balance concerning the presumption in favour of sustainable development included in the Framework, which is separate to consideration of the main issues against relevant development plan policies as required by Section 38(6).

13. Therefore, taking these findings as a whole, I conclude that the location would not be unsuitable for the proposed dwelling. Consequently, any conflict with Policies CS1 and CS2 of the Mid Suffolk Core Strategy and Policy H7 of the Mid Suffolk Local Plan is outweighed by the material considerations set out above for the reasons given.

Living Conditions

14. The Council's principal concern is the proximity of the driveway to neighbouring properties. Based on the site inspection, however, there is a good degree of separation between the properties to either side of the proposed driveway. Rookery Drive provides a buffer between the three properties to the west, while Rookery Farm to the east is also set well away from the proposed driveway. Any concerns about noise and disturbance from construction traffic could be addressed by a condition requiring a construction management plan to be submitted and approved. Moreover, any effects would be for a limited period.

15. I have had regard to representations from interested parties concerning this main issue. No 3 Rookery Drive shares a boundary with the appeal site. No 3's garden area to the north of the boundary is of limited depth and, consequently, this and No 3's rear elevation are in close proximity to the location of the two parking spaces to serve the new dwelling. While I accept that vehicle movements to and from the new dwelling are likely to be limited, the degree of proximity to No 3's garden means that vehicle noise, car doors and related background noise would be readily apparent from the neighbouring garden and house. Such noise would be particularly apparent during the summer months when windows and doors are open and the garden is most likely to be in regular use.

16. This is in contrast to the general layout of surrounding development where parking occurs to the front or side of dwellings and is not in close proximity to rear gardens. While I have had regard to the appellants' traffic count, any vehicle noise in this backland location away from Ashfield Road is not comparable to noise arising closer to the road. Rookery House has a much larger garden with greater separation from the parking area. As such, no harm would arise with regard to this property.

17. Therefore, for the reasons given above, I conclude that the proposal would result in unacceptable harm to the living conditions of the occupiers of No 3

⁴ In accordance with paragraph 48 of the National Planning Policy Framework.

Rookery Close, with regard to noise, disturbance and pollution. As such, the proposal is contrary in this regard to Policy H16 of the Mid Suffolk Local Plan, which requires development proposals to protect existing residential amenity. It is also contrary to the Framework, concerning the quality and effects of new development⁵. Policy GP1 of the Local Plan is not directly relevant to this issue in my reading of it.

Highway Safety

18. The Highway Authority (HA) refers to the proposed new access causing confusion to road users due to the proximity to the existing access serving Rookery Drive. However, without further elaboration of the effect of such confusion on highway safety, it is difficult to establish what the HA's specific concerns are. Therefore, in the absence of any further details or evidence, this specific matter should not weigh against the proposal.
19. With regard to visibility splays, I note the appellants' suggestion that this should be the subject of a condition, to require submission and approval of these access details. However, I share the HA's concerns that it is not clear whether adequate visibility can be achieved within the plot frontage and in particular within land that is in the appellants' control. As such, there is no certainty that the access would be deliverable within the time-limit of a permission. Consequently, in these circumstances, I must find that it is not appropriate to impose a condition concerning the access details. The appellants refer to the Rookery Drive access being approved with limited visibility, but I have no further details. Reference is also made to further information being provided in an email of 30 November 2021, but this has not been provided as part of the appeal submissions. As such, I give these matters limited weight.
20. Accordingly, in the absence of certainty that the requisite visibility splays could be achieved, there is no basis to conclude that the proposal would not have a materially harmful effect on highway safety. For this reason, it is contrary to Policy T10 of the Mid Suffolk Local Plan, which requires amongst other matters the provision of safe access to and egress from the site. It is also contrary to the Framework, concerning the effects of development on highway safety⁶. Policy T9 is not relevant to this issue as it concerns parking standards.

Other Matters

21. 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 matters that are properly outside the scope of this appeal, which is concerned with the planning merits of the proposal.
22. The Framework requires that plans and decisions should apply a presumption in favour of sustainable development⁷. The Council indicates that it can demonstrate a five year supply of housing land. The appellants question this, including that relevant documentation has not been provided, but I have no substantive evidence to suggest that the requisite land supply cannot be met.

⁵ Paragraph 130.

⁶ Paragraph 111.

⁷ Paragraph 11.

Consequently, the presumption is not engaged as a result of housing under-supply.

23. The Framework also requires consideration of whether policies which are most important for determining the application are out-of-date. The most important policies are included in the Mid Suffolk Core Strategy and Local Plan, both of which pre-date the Framework. However, the Framework is clear that existing policies should not be considered out-of-date simply because they were adopted prior to the Framework's publication. Due weight should be given to them according to their degree of consistency with the Framework⁸.
24. Policies CS1, CS2 and H7 referred to above all place restrictions on development in the countryside outside settlement boundaries and there is general agreement that these are not wholly consistent with the Framework, which only applies such restrictions to isolated homes in the countryside. Consequently, for the purposes of this appeal, these policies should be considered to be out-of-date and, therefore, the presumption in favour of sustainable development is engaged. The presumption requires that 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 Framework as a whole⁹.
25. Although the proposal would provide an additional dwelling in a suitable location, would provide some economic benefits from its construction and would support local services, it would also have an unacceptably harmful effect on the living conditions of neighbouring residents; and there is no certainty that it would not be harmful to highway safety. As a result, it is contrary to the development plan and to the Framework, as described above. I consider that such an adverse impact would significantly and demonstrably outweigh the benefits of this scheme, as assessed against the Framework as a whole. Accordingly, the presumption in favour of sustainable development does not apply.

Conclusion

26. I have found in the appellants' favour with regard to one main issue, concerning the suitability of the location. However, this does not outweigh the fact that the proposal is contrary to development plan policies and to the Framework as it would cause unacceptable harm with regard to its effect on neighbouring residents' living conditions and highway safety in the absence of further information. 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

⁸ Paragraph 219.

⁹ Paragraph 11d) ii.