



Appeal Decision

Site visit made on 2 August 2022

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2022

Appeal Ref: APP/W3520/W/21/3280981

Land North-East of Flordon Road, Creeting St Mary, Suffolk IP6 8NH

- 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 P Brown of Linhay Fine Homes Ltd against the decision of Mid Suffolk District Council.
 - The application Ref DC/21/02298, dated 14 April 2021, was refused by notice dated 29 July 2021.
 - The development proposed is erection of six dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of six dwellings at Land North-East of Flordon Road, Creeting St Mary, Suffolk IP6 8NH in accordance with the terms of the application, Ref DC/21/02298, dated 14 April 2021, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues in the appeal are:
 - i) the effect of the development on the character and appearance of the area; and
 - ii) its effect on ecology.

Reasons

Character and Appearance

3. The site forms part of a field which lies between Flordon Road and the A14. It is adjacent to a row of single storey dwellings along one side of Flordon Road. The site is within the open countryside and outside any settlement boundary as defined in the development plan.
4. Planning permission¹ was granted for 3 detached dwellings on the site together with industrial units on the adjacent land on 7 May 2020 and that permission is extant. The proposed development is an alternative to the approved detached dwellings.
5. Policy CS1 of the Core Strategy² (CS) sets out the settlement hierarchy and states that development will be restricted in the countryside. Policy CS2 of the CS sets out the categories of development that are permissible in the

¹ DC/19/00301

² Mid Suffolk Core Strategy (2008)

countryside. These policies have been found to be out-of-date in a previous appeal decision³ because the National Planning Policy Framework (the Framework) allows for development to take place in the countryside in a wider range of circumstances than allowed by those policies. For the same reasons, Policy H7 of the Local Plan⁴ (LP) which strictly controls new housing development in the countryside is out-of-date. While the proposal conflicts with those policies, they can only be given limited weight. Furthermore, the principle of residential development of the site has been established by the extant permission.

6. The basis for the Council's first reason for refusal is that the proposal would be more intensive and taller than the approved development and that it would not be in keeping with the neighbouring development on Flordon Road. This consists of a row of detached and semi-detached bungalows, which are set back from the road by varying distances and some development which has taken place to the rear of the frontage development. There are varied gaps between these dwellings and in some cases, they are joined together by garages.
7. The approved plan shows three dwellings together with two garages accessed via a shared drive with a single point of access to Flordon Road. The approved industrial units would be to the rear, and south-east of the dwellings and would be separated from them by landscaped buffers. No details of the appearance of the approved dwellings are before me but I understand from the submissions that they would be of chalet style design and 1.5 storeys in height.
8. In terms of the extent of built development, the proposed scheme would be broadly similar to that of the approved development. The gaps between the dwellings would be limited but generous amounts of space would be left on both sides. The proposed access arrangement would be similar to that in the approved scheme and a good level of landscaping would be provided. The spaces provided to each side of the development and at the front and rear of the dwellings would be in keeping with the spacious character of the area. These aspects would accord with the requirements of Policy GP1 of the LP in terms of creating and maintaining open space, giving attention to boundaries, access requirements and landscaping.
9. While the dwellings would be two storeys in height, the eaves would be below the upper level of the first floor windows and the roof heights would be moderate. The design of the dwellings would be traditional and appropriate for the rural location, in accordance with Policy GP1. Given that there is already variation in terms of detached and semi-detached dwellings along the frontage and varied gaps between dwellings, the proposal would not be out of character. The height of the dwellings would exceed those of the existing bungalows, but this would be in the context of the adjacent approved industrial development.
10. For the reasons given the proposal would respect the scale and density of the existing development. It would be consistent with the existing pattern of development. These are requirements of policies GP1 and H15 of the LP.
11. Development plan policies also require new development to retain local distinctiveness, to achieve a high standard of design and to maintain or

³ 3194926

⁴ Mid Suffolk Local Plan (1998)

enhance the character and appearance of their surroundings. Policy CS5 of the CS and policies GP1, H13, H16 and SB2 of the LP have these requirements. For the reasons given the proposal would accord with those policies.

12. In coming to this conclusion, I have taken into account the prominent location of the site and its visibility from the bend in the road. The woodland around the outer edge of the bend would however partially screen and soften the appearance of the development when approaching from the south.
13. For the reasons given, the development would be in keeping with, and would not adversely affect, the character and appearance of the area.

Ecology

14. The Council's second reason for refusal is based on the appellant's Reptile and Botany Survey and Preliminary Ecological Appraisal, which were both dated September 2019, being out of date.
15. The appellant has submitted an updated Preliminary Ecological Appraisal, the survey having been carried out on 30 April 2021. This recommends mitigation measures in order to safeguard species including reptiles. It also recommends measures to enhance biodiversity. These measures can be secured by planning conditions.
16. The updated appraisal demonstrates that the development would adequately safeguard ecological interests and would provide enhancement. The development would accord with Policy CS5 of the Core Strategy which requires protection, management and enhancement of biodiversity.

Planning Balance

17. Policies CS1 and CS2 of the CS and Policy H7 of the LP are policies which are most important for determining the application and these are out-of-date. On this basis paragraph 11(d) of the Framework states 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 taken as a whole.
18. There would be social and economic benefits from the proposed dwellings, including from provision of smaller units of housing and the attendant benefits to the economy from construction and the future expenditure of the occupants. There would also be some ecological benefit from biodiversity enhancements. There would be no appreciable harm arising from the proposal and the weight that can be given to conflict with planning policies that control development in the countryside is limited. This limited weight does not significantly and demonstrably outweigh the benefits of the scheme to which significant weight can be given.

Conditions

19. With the following exception, I have imposed the conditions recommended by the Council with minor changes to ensure that they meet the tests set out in the Framework. I have not imposed the suggested condition that would remove permitted development rights for development within the curtilages of the dwellings and means of enclosure. While I note the Council's concern

about intensification, I find there is no justification to restrict the rights of future residents in terms of extensions, outbuildings or means of enclosure.

20. It is necessary to specify the approved plans in order to ensure certainty. A condition to secure approval of external materials is necessary to ensure the appearance of the development is acceptable.
21. Provision of the means of access in accordance with the required standards, visibility splays, parking and manoeuvring areas are necessary in the interest of highway safety. A construction management plan is also necessary to ensure there are no adverse effects on highway safety, biodiversity or the living conditions of neighbours during construction.
22. Provision of electric vehicle charging points and storage facilities for bicycles is necessary to ensure that means of sustainable transport are provided for. Bin storage and presentation areas are necessary in the interest of sustainable waste collection and to ensure access is not obstructed.
23. It is necessary to ensure that the ecological mitigation and enhancement measures as set out in the Preliminary Ecological Appraisal are secured in order to protect and enhance biodiversity.
24. Finally, it is necessary to require sound mitigation measures for the internal accommodation and the external garden areas to protect against unacceptable noise from traffic accessing the approved industrial development and from industrial processes. These conditions were recommended by the Environmental Health Officer.

Conclusion

25. For the reasons given, I conclude that the appeal should be allowed.

Nick Palmer

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1907/21/02, 1907/21/03A, 1907/21/04A, 1907/21/05B, 1907/21/06, Hedge Plan, Shrub Plan, Tree Plan and Main View (Main Landscaping Plan) by Horizon Landscapes.
- 3) No development shall take place above slab level until details of the external facing and roofing materials to be used have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Before the development is commenced, details of the access and associated works (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) Before the residential access is first used visibility splays shall be provided with an X dimension of 2.4m and a Y dimension of 59m and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town and 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.
- 6) The use shall not commence until the areas within the site shown on drawing No. 1907/21/05B for the purposes of manoeuvring and parking of vehicles has been provided and thereafter those areas shall be retained and used for no other purpose.
- 7) Before the development is commenced, details of the areas to be provided for electric vehicle charging units and secure cycle storage shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.
- 8) The areas to be provided for presentation and storage of refuse/recycling bins as shown on drawing No. 1907/21/05B shall be provided in their entirety before the development is brought into use and shall be retained thereafter for no other purpose.
- 9) Before the development hereby permitted is commenced, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. Construction shall be carried out in accordance with the approved plan. The Construction Management Plan shall include the following matters:
 - measures to ensure that the Roadside Nature Reserve opposite the site entrance is not impacted by incidental vehicle disturbance and other potentially damaging impacts such as dust or pollution during construction;

- a photographic survey to determine the condition of the carriageway and footways;
 - means of access for construction traffic;
 - haul routes for construction traffic on the highway network and monitoring and review mechanisms;
 - provision of boundary hoarding and lighting;
 - details of proposed means of dust suppression;
 - details of measures to prevent mud from vehicles leaving the site during construction;
 - details of times of deliveries to the site during construction;
 - details of provision to ensure pedestrian and cycle safety;
 - a programme of works (including measures for traffic management and operating hours);
 - parking and turning for vehicles of site personnel, operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials;
 - maintenance of a register of complaints and record of actions taken to deal with such complaints at the site office throughout the construction period.
- 10) Before the development hereby permitted is commenced, a working Mitigation Method Statement for reptiles shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 11) The development shall be carried out in accordance with the mitigation and enhancement measures recommended in the Preliminary Ecological Appraisal by Robson Ecology Ltd reference REP19015A.
- 12) The residential accommodation shall be constructed so as to provide sound insulation against external road traffic and industrial noise to achieve internal noise levels not exceeding 30 dB LAeq (night) and 45 dB L_{Amax} (measured with F time weighting) for bedrooms, and 35 dB LAeq (day) for other habitable rooms, with windows shut and other means of ventilation provided. Development shall not take place above slab level until a scheme demonstrating the achievement of these standards has been submitted to and approved in writing by the local planning authority.
- 13) Development shall not take place above slab level until a scheme of sound mitigation for the external garden areas of the dwellings has been submitted to and approved in writing by the local planning authority. The scheme shall make provision for any necessary acoustic barrier(s) and shall demonstrate that noise from road traffic and industrial noise will not exceed 55 dB LAeq (day) in the garden areas.