

Appeal Decision

Site visit made on 26 August 2022

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2022

Appeal Ref: APP/X3540/W/22/3296680

Land West of Highfields, Davey Lane, Charsfield IP13 7QG

- 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 John Lepper against the decision of East Suffolk Council.
 - The application Ref DC/21/5042/FUL, dated 5 November 2021, was refused by notice dated 23 March 2022.
 - The development proposed is three bedroom one and a half storey residential dwelling with separate garage.
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Decision

1. The appeal is allowed and planning permission is granted for a three bedroom one and a half storey residential dwelling with separate garage at land West of Highfields, Davey Lane, Charsfield IP13 7QG. The permission is granted in accordance with the terms of the application Ref DC/21/5042/FUL, dated 5 November 2021, subject to the conditions included in the Schedule at Annex A.

Main Issue

2. The main issue is the suitability of the location for the proposed dwelling, with particular regard to development plan policies concerned with housing in the countryside.

Reasons

3. The appeal site is an area of open, undeveloped land bounded by hedgerows and trees with a frontage on and access to Davey Lane. The site is bounded to the east and west by residential properties, with a linear pattern of dwellings to the south-west on the same side of Davey Lane.
 4. Charsfield is designated as a Small Village in the settlement hierarchy by Policy SCLP3.2 of the East Suffolk (Suffolk Coastal) Local Plan (2020). The appeal site is, however, outside the settlement boundary and, as such, is defined as countryside in accordance with Policy SCLP3.3 of the Local Plan. This policy says that new residential development will not be permitted in the countryside unless specific policies indicate otherwise. Policy SCLP5.3 is relevant in this regard as it sets out the types of housing development acceptable in the countryside, which includes limited development within existing clusters, in accordance with Policy SCLP5.4.
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5. Policy SCLP5.4 says that proposals will be supported for up to three dwellings, within a cluster of five or more dwellings. It indicates that a 'cluster' in the context of the policy consists of a continuous line or close group of existing dwellings adjacent to an existing highway; and contains 5 or more dwellings. The appeal site sits within a continuous line of only 4 dwellings, Highfields to the east and Nos 2 and 3, and April House to the west. Beyond this is a gap in built development with Ivy Cottage and two other dwellings beyond this to the junction of Davey Lane with Monewden Road.
6. The alternative to a cluster comprising a continuous line is that it forms a 'close group' of 5 or more dwellings. The supporting text to Policy SCLP5.4 indicates that a close group is one where dwellings are considered to be adjacent to each other and not separated by extensive areas. This could include gardens or other buildings, whereas separation by fields or open land would not constitute a close group. The appellant indicates that the area of land between Ivy Cottage and April House is garden land and, therefore, the wider group of 7 dwelling constitutes a close group and, therefore, meets the definition of a cluster.
7. This area directly north of Ivy Cottage is relatively large in comparison with the plot sizes of the dwellings to either side, but it is clearly not a field and does not in my view represent an extensive area of land. Moreover, Davey Lane is a short road, which is punctuated at either end by its junctions with Hoo Road and Monewden Road. The existing dwellings follow the curve of the road from Highfields at the northern end to Walnut Tree Cottage at the southern. While I acknowledge that the layout is linear, the dwellings nonetheless comprise a distinct group that is limited to Davey Lane and despite the two existing gaps can reasonably be considered to be a 'close group' of dwellings in the terms of Policy SCLP5.4.
8. Both main parties refer to an extant outline permission for two dwellings on the gap between Ivy Cottage and April House¹. Completion of these dwellings would result in the appeal site becoming part of a continuous line of at least 5 dwellings. Based on the appeal submissions I have no basis to find that the extant permission will not be implemented. Moreover, the appeal proposal would not be contrary to the other criteria in Policy SCLP5.4 as it would be located adjacent to existing development on two sides, would not represent an extension of the built up area into the countryside and would not result in harmful visual intrusion in this location.
9. The Council also concludes that the proposal would result in an unsustainably located dwelling, with occupants heavily reliant on private vehicle use to access services and facilities. However, I find this conclusion inconsistent with the recent grant of permission for two dwellings along Davey Lane and, therefore, give it limited weight for the purposes of this appeal.
10. I acknowledge that there is a policy conflict with Policy SCLP5.4 insofar as the appeal site is not currently part of a continuous line of at least 5 existing dwellings. However, in the particular circumstances of this case, where the properties along Davey Lane form a self-contained group, there is an extant permission for two dwellings that would result in the requisite continuous

¹ Ref DC/20/5002/OUT.

number of dwellings and there is no other policy conflict, I find that no material harm would result from the appeal proposal.

11. Accordingly, taking these findings as a whole, I conclude that the location would not be unsuitable for the proposed dwelling and it would not result in any material harm. Consequently, any conflict with Policies SCLP3.3, SCLP5.3 and SCLP5.4 of the East Suffolk (Suffolk Coastal) Local Plan, as described above, and Policies SCLP5.7 and SCLP7.1 of the Local Plan which, respectively, concern infill and garden development, and sustainable transport is outweighed by the considerations set out above for the reasons given.
12. There is also no conflict with the National Planning Policy Framework (the Framework). While I acknowledge that the Council can demonstrate a more than five year housing land supply, the Framework does not preclude additional dwellings where the five year minimum supply is met or exceeded, particularly bearing in mind the national objective of significantly boosting the supply of homes.

Conclusion and Conditions

13. For the reasons given above, the appeal should succeed.
14. Of the Council's suggested conditions I have imposed the standard time condition and, to ensure the proper implementation of development in accordance with the submitted details, one requiring development to be carried out in accordance with the approved plans. A condition requiring provision and retention of appropriate materials and finishes is necessary as are landscaping conditions, in the interests of the character and appearance of the dwelling and street scene.
15. A land contamination condition is necessary to ensure that any unexpected contamination on the site is addressed appropriately. Conditions related to the site access, including surface water discharge and construction over the ditch, are necessary in the interests of highway safety. Cycle storage and electric vehicle charging infrastructure should be secured by condition in the interests of sustainable development. Provision and retention of the areas for bin storage and collection should be controlled by condition to prevent these uses occurring inappropriately elsewhere.
16. Three of the suggested conditions are pre-commencement conditions. The appellant has provided a substantive response that these conditions are not necessary and, therefore, in accordance with the relevant legislation they cannot be imposed². I agree, therefore, with the suggested alternative approach, that submission of the relevant details in each case should be required within three months of commencement of the development.

J Bell-Williamson

INSPECTOR

² The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018.

Annexe A

Schedule – conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LP02 (location plan), SP01 Rev G (proposed site plan), X01 Rev C (floor plans and elevations), G01 Rev E (garage floor plan and elevations).
- 3) The materials and finishes shall be as indicated within the submitted application and thereafter retained as such, unless otherwise agreed by the Local Planning Authority.
- 4) No later than three months following the commencement of the development hereby permitted, details of a scheme of all landscaping works (which term shall include tree and shrub planting, grass, earthworks, driveway construction, parking areas, patios, hard surfaces etc, and other operations as appropriate) at a scale not less than 1:200 shall be submitted to and subsequently approved in writing by the Local Planning Authority.
- 5) The approved landscaping scheme shall be implemented not later than the first planting season following commencement of the development (or within such extended period as the Local Planning Authority may allow) and shall thereafter be retained and maintained for a period of 5 years. Any plant material removed, dying or becoming seriously damaged or diseased within 5 years of planting shall be replaced within the first available planting season and shall be retained and maintained.
- 6) In the event that contamination which has not already been identified to the Local Planning Authority (LPA) is found or suspected on the site it must be reported in writing immediately to the LPA. Unless agreed in writing by the LPA no further development (including any construction, demolition, site clearance, removal of underground tanks and relic structures) shall take place until this condition has been complied with in its entirety.

An investigation and risk assessment must be completed in accordance with a scheme which is subject to the approval in writing of the LPA. The investigation and risk assessment must be undertaken by competent persons and conform with prevailing guidance (including BS 10175:2011+A1:2013 and CLR11) and a written report of the findings must be produced. The written report is subject to the approval in writing of the LPA.

Where remediation is necessary a detailed remediation method statement (RMS) must be prepared, and is subject to the approval in writing of the LPA. The RMS must include detailed methodologies for all works to be undertaken, site management procedures, proposed remediation objectives and remediation criteria. The approved RMS must be carried out in its entirety and the LPA must be given two weeks written notification prior to the commencement of the remedial works.

Following completion of the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation must be submitted to and approved in writing by the LPA.

- 7) Before the access is first used, vehicular visibility splays shall be provided as shown on Drawing No. 'SP01 Rev. G' with an X dimension of 2.4 metres and a Y dimension of 33.2 metres in the East direction and 25.8 metres in the West direction to the nearside edge of the carriageway and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction to visibility shall be erected, constructed, planted or permitted to grow over 0.6 metres high within the areas of the visibility splays.
- 8) No other part of the development hereby permitted shall be commenced until the new vehicular access has been laid out and completed in all respects in accordance with Drawing No. 'SP01 Rev. G' with an entrance width of 3 metres for a distance of 5 metres measured from the nearside edge of the carriageway. Thereafter, it shall be retained in its approved form. Prior to the new access being brought into use, all other means of vehicular access into the site from Davey Lane shall be effectively stopped up and closed in complete accordance with a scheme which shall have been submitted to and approved in writing by the Local Planning Authority.
- 9) Prior to the dwelling hereby permitted being first occupied, the new access onto the highway shall be properly surfaced with a bound material for a minimum distance of 5 metres measured from the nearside edge of the metalled carriageway, in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority.
- 10) Prior to the dwelling hereby permitted being first occupied, the areas within the site shown on Drawing No. 'SP01 Rev. G' for the purposes of manoeuvring and parking of vehicles shall be provided and thereafter those areas shall be retained and used for no other purposes.
- 11) No later than three months following the commencement of the development hereby permitted, details of secure cycle storage and electric vehicle charging infrastructure shall be submitted to and subsequently 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.
- 12) Before the dwelling is occupied, details of the areas to be provided for the storage and presentation for collection/emptying of refuse and recycling bins 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 for no other purpose.
- 13) No later than three months following the commencement of the development hereby permitted, details shall be submitted to and subsequently approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway including any system to dispose of the water. The approved scheme shall be carried out

in its entirety before the access is first used and shall be retained thereafter in its approved form.

- 14) Prior to the access being constructed the ditch beneath the proposed access shall be piped or bridged in accordance with details that previously shall have been submitted to and approved in writing by the Local Planning Authority. The piped or bridged ditch shall be retained thereafter in its approved form.

[End of Schedule]