



Appeal Decision

Site visit made on 6 September 2022

by Philip Mileham BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th October 2022

Appeal Ref: APP/F3545/W/22/3291947

Land North of Willow Tree Farm, Mill Road, Brockley IP29 4AT

- 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 Mrs Felicity Driver against the decision of West Suffolk Council.
 - The application Ref DC/21/1637/FUL, dated 9 August 2021, was refused by notice dated 19 January 2022.
 - The development proposed is the erection of a single storey detached dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey detached dwelling at Land North of Willow Tree Farm, Mill Road, Brockley IP29 4AT in accordance with the terms of the application, Ref DC/21/1637/FUL, dated 9 August 2021, subject to the conditions set out in the schedule at Appendix A.

Preliminary Matters

2. The appeal has been made against the decision of West Suffolk Council. West Suffolk Council was created on 1st April 2019 as a result of the merger of Forest Heath District Council and St. Edmundsbury Borough Council. The appeal proposal is located in the former St. Edmundsbury Borough Council area, and as such, a number of policies from the St. Edmundsbury Borough Council Core Strategy (2010) (SEBCCS) remain relevant. The two Councils have also prepared a Joint Development Management Policies Document (2015) (JDMPD) covering both administrative areas and a number these policies are also relevant to this appeal.
3. The description of development on the Council's decision notice differs from that of the original planning application. The description of development on the application appropriately describes the development applied for and I have utilised this wording in my decision.

Main Issues

4. The main issues are:
 - Whether the proposed development is in a suitable location for a new dwelling having regard to local and national policy; and
 - The effect of the proposed development on the character and appearance of the area.

Reasons

Suitable location

5. The appeal proposal is located on an area of agricultural land at Mill Road. The proposed development would be sited adjacent to residential development on either side with other dwellings on the opposite side of the road.
6. Policy RV3 of the adopted Rural Vision Document (2014) (the RVD) indicates that settlement boundaries are defined and that proposals within them will be permitted where there are no contrary policies in the plan. The site would be outside of any settlement boundary and would be within the countryside. The village of Brockley is not identified as an 'other village' within policies CS1 or CS4 of the SEBCCS and is therefore considered to be within the countryside for the purposes of the strategy for the area. Policy CS13 of the SEBCCS indicates that development outside the settlements will be strictly controlled and that policies in the JDMPD will set out the detailed uses which are appropriate in rural areas.
7. Policy DM5 of the JDMPD sets out the circumstances within which new buildings would be acceptable in the countryside. Whilst the Council has indicated that the appellant has not demonstrated any special circumstances required by policy DM5, criterion f) nonetheless allows for small scale residential development of a small plot in accordance with policy DM27 of the JDMPD. There is no indication that further justification other than compliance with DM27 of the JDMPD is required in the first instance.
8. Policy DM27 of the JDMPD indicates that proposals for residential dwellings in the countryside will be permitted subject to criteria. Criterion a) of DM27 requires development to be within a closely knit cluster of 10 or more existing dwellings. There is dispute between the parties as to whether Mill Road would qualify as a cluster of development for the purposes of policy DM27. Although the existing dwellings in the vicinity of the appeal site are more spacious, Mill Road nonetheless contains at least 10 dwellings including those adjacent to the appeal proposal as well as those to the east of the site. As such, I consider the proposal would accord with policy DM27(a).
9. Criterion (b) of DM27 requires the infilling of a small undeveloped plot by 1 dwelling or a pair of semi-detached dwellings commensurate with the scale and character of the existing dwellings in an otherwise continuous frontage. The note to policy DM27 indicates a small undeveloped plot is one that could be filled by a detached dwelling or a pair of semi-detached dwellings. The appeal proposal, whilst providing a relatively wide frontage, is for a single dwelling. Mill Road has a mixed character but the proposed development would be of a similar scale to other nearby dwellings and it would infill the otherwise continuous linear development along that side of Mill Road. As a result, I consider it would accord with DM27(b) in this regard.
10. The site is located in a gap between existing residential dwellings. Although the gap is relatively wide, the overall plot is of a similar size to the adjacent pair of semi-detached dwellings. At the time of my visit, the site appeared to be in agricultural use, and whilst the gap contributes provides separation between the adjacent dwellings known as 'Ashlea' to the west, and 'Skylark Barn' to the east, I do not consider it to be visually important to the extent of making a contribution to local distinctiveness.

11. There is no evidence before me that there are a range of day-to-day services and facilities in the village that would support future residents. The appellant has indicated that bus services to higher order centres are available from the nearby B1066. Therefore, whilst it is likely that the majority of trips to access services and facilities will be undertaken by private vehicular transport, there would be some opportunities to access public transport within a short distance of the appeal site. As a result, I consider the extent of private vehicle trips would not be at a level that would be harmful.
12. In light of the above, I conclude that the proposed development would be in a suitable location for a new dwelling. It would therefore accord with policies DM5, DM27 of the JDMPD and policies CS1, CS4 and CS13 of the SEBCCS and policy RV3 of the RVD which collectively seek to define the strategy for the area, protect the countryside and allow for infilling within small clusters of development.
13. The proposal would also accord with paragraph 79 of the Framework which seeks to, amongst other things, locate housing where it will enhance or maintain the vitality of communities.

Character and appearance

14. The appeal site is located on an area of agricultural land between the dwellings known as 'Ashlea' and 'Skylark Barn'. The surrounding area has a mixed character comprising of detached and semi-detached properties with those in the vicinity of the appeal site having more generous plot sizes than those further along Mill Road to the east of the site.
15. Policy DM2 of the JDMPD seeks that proposals do not involve the loss of important open areas which make a significant contribution to the character and appearance of a settlement. Policy DM13 of the JDMPD also requires that development proposals demonstrate that their location, scale design and materials will protect and where possible enhance the character of the landscape. The proposal would develop on the gap between the dwellings known as 'Ashlea' and 'Skylark Barn' which currently allows views across the field. However, the gap is relatively limited in size and is framed by the adjacent development. The gap in the built form does not perform a wider role in terms of any formally defined locally important views its loss would not harm the character of the area.
16. The gap is located where the pattern of development along Mill Road becomes looser and less formal. Whilst the gap makes a contribution to the loose pattern of development in this part of the street, recent developments in the vicinity of the site have resulted in the gap having a limited contribution to the character of the area. There is no evidence before me of any reasons that the gap makes a significant contribution to the character or appearance of the settlement that policy DM2 requires. As a result, I do not consider its loss would conflict with policy DM2 in this regard.
17. The proposed development would continue the existing linear pattern of development along the road frontage and would be located broadly centrally on the plot. The proposal would retain the spacious feel of the dwellings in the vicinity of the appeal site through the wider spacing between the dwelling and its plot boundaries. The proposal's siting would accord with the looser pattern

of residential development at this end of Mill Road maintaining the character of the nearby dwellings which have larger plots.

18. The proposed dwelling's design, combined with its single storey height and layout would assimilate positively into the street scene. The broad footprint of the proposal has similarities with the adjacent semi-detached properties, which along with its architectural features would accord with the more mixed character in this part of Mill Road. The proposed development would retain an existing recently planted copse, which combined with the additional planting would provide appropriate landscape screening when viewed from the road as well as maintaining the more rural character of this part of the street. As a result, I consider the proposal would accord with the overall pattern of development and protect the character of the area.
19. In light of the above, I conclude that the proposal would not result in harm to the character and appearance of the area. It would thereby accord with policies CS3 and CS4 of the SEBCCS, policies DM2, DM13 and DM22 of the JDMPD which collectively seek to amongst other things, maintain a sense of place, contribute to a high quality environment, protect and where possible enhance the character of the area.

Other Matters

20. The proposed development would result in a number of benefits. Economic benefits would arise as a result of jobs created or retained as part of the dwellings' construction and in the accompanying materials supply chain. Social benefits would arise as a result of future occupiers utilising services and facilities in the village and in other larger settlements nearby. Environmental benefits would arise as a result of the additional planting proposed by the development along with other biodiversity enhancement measures which would be secured via planning conditions. The proposal would also make a contribution towards housing needs in the area.

Conditions

21. The Council has suggested conditions which the appellant has had the opportunity to comment on. I have considered these against the advice in the NPPF and the Planning Practice Guidance and have only imposed them where I consider them to meet the tests, amending them where necessary for the sake of clarity and precision.
22. In addition to the standard time limit, in the interests of certainty I have imposed a condition specifying that the development is carried out in accordance with the submitted plans.
23. In the interests of the use of water, a condition is required to limit the optional water consumption requirement within the building regulations as specified by policy DM7 of the JDMPD.
24. A condition has been sought requiring an operational electric vehicle charging point. However, since June 2022, this requirement has formed part of the Building Regulations. As such, it is not necessary to make the development acceptable in planning terms and is therefore not imposed.
25. In the interests of highway safety, conditions are imposed to secure visibility splays and that bound material is used for the first 5 metres of the access

drive. For the same reason, a condition is required for the laying out of the entrance access prior to the commencement of any other part of the development as the access will be required for use by construction vehicles. A condition is required for the parking area to be implemented and retained and I have amended the condition to being required to be laid out prior to the occupation of the development. A further condition is also necessary for refuse storage to ensure refuse bins do not obstruct the highway.

26. In order to comply with adopted policy and design guidance in relation to cycle storage, a condition is required to provide the details of secure cycle storage.
27. In the interests of the living conditions of nearby residents, a condition is required to limit the hours of construction. For the same reason a condition is required for the submission of details and subsequent implementation of boundary treatments.
28. In order to ensure that the character and appearance of the area is maintained, conditions are required for the submission and subsequent implementation of suitable soft and hard landscaping schemes and boundary treatments.
29. In the interests of ecology and the protection of priority species and habitats, a condition is required to ensure the implementation of ecological mitigation works in accordance with the updated Preliminary Ecological Appraisal. A pre-commencement condition is also required to secure Biodiversity Mitigation Statement is submitted to the Council. This is required to be pre-commencement as priority species could be impacted by the commencement of development.
30. A condition is required for the provision of a biodiversity Enhancement Layout in order to enhance protected and priority species. A further condition is required to secure and implement a lighting scheme for biodiversity in order to accord with the Conservation of Habitats and Species Regulations and the JDMPD.
31. A condition was sought prior to commencement for the details and implementation of a scheme to prevent surface water from the development on to the highway. Whilst it may be desirable to be pre-commencement, it is not necessary for it to be pre-commencement and as such, I have amended the condition to require the details prior to any development above ground level and for it to be implemented in full prior to the occupation of the development.

Conclusion and planning balance

32. I conclude that the proposed development would accord with the development plan for the area when read as a whole. Whilst the proposal would result in a number of private vehicle movements, the extent of these would be limited as the proposal is for a single dwelling and not at a level that would be harmful. Furthermore, the proposal would provide a number of benefits as set out above which also weigh in its favour.
33. Therefore, for the reasons set out above the appeal is allowed.

Philip Mileham

INSPECTOR

Appendix A – 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:
 - 000 - Site Location Plan
 - 001 - Proposed Block Plan
 - 002 - Rev1 Visibility Splays Plan
 - 100 - Proposed Floor Plan
 - 200 - Proposed Elevations
 - 300 - Section Plan
- 3) No individual dwelling hereby approved shall be occupied until the optional requirement for water consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with for that dwelling.
- 4) Before the access is first used visibility splays shall be provided as shown on Drawing No. 002 REV 1 with an X dimension of 2.4 metres 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.
- 5) 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. 002, Rev. 1 with an entrance width of 3 metres for a single access. Thereafter it shall be retained in its approved form.
- 6) Prior to the development hereby permitted being first occupied, the new vehicular 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.
- 7) The development shall not be occupied until the areas within the site shown on Drawing No. 001 - Proposed Block Plan for the purposes of manoeuvring and parking of vehicles has been provided and thereafter that those areas shall be retained and used for no other purposes.
- 8) Prior to first occupation of the dwelling details of the areas to be provided for 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.

- 9) The areas to be provided for storage of Refuse/Recycling bins as shown on Drawing No. 001 shall be provided in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.
- 10) The site preparation and construction works shall be carried out between the hours of 8am to 6pm Mondays to Fridays and between the hours of 8am to 1:30pm Saturdays and at no time on Sundays or Bank Holidays without the prior written consent of the Local Planning Authority.
- 11) The dwelling hereby approved shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority a scheme of soft landscaping for the site drawn to a scale of not less than 1:200. The soft landscaping details shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant sizes and proposed numbers/ densities. The approved scheme of soft landscaping works shall be implemented not later than the first planting season following commencement of the development (or within such extended period as may first be agreed in writing with the Local Planning Authority). Any planting removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation.
- 12) No development above ground level shall take place until details of a hard landscaping scheme for the site have been submitted to and approved in writing by the Local Planning Authority. These details shall include proposed finished levels and contours showing earthworks and mounding; surfacing materials; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulations areas; hard surfacing materials; minor artefacts and structures (for example furniture, play equipment, refuse and/or other storage units, signs, lighting and similar features); proposed and existing functional services above and below ground (for example drainage, power, communications cables and pipelines, indicating lines, manholes, supports and other technical features); retained historic landscape features and proposals for restoration where relevant. The scheme shall be implemented prior to the occupation of any part of the development (or within such extended period as may first be agreed in writing with the Local Planning Authority).
- 13) No development above ground level shall take place until details of the treatment of the boundaries of the site have been submitted to and approved in writing by the Local Planning Authority. The details shall specify the siting, design, height and materials of the screen walls/fences to be constructed or erected and/or the species, spacing and height of hedging to be retained and / or planted together with a programme of implementation. Any planting removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by soft landscaping of similar size and species to those originally required to be planted. The works shall be completed prior to first use/occupation in accordance with the approved details.

- 14) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Updated Preliminary Ecological Appraisal (Skilled Ecology Consultancy Ltd., October 2021), as submitted with the planning application. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.
- 15) No development shall take place (including any demolition, ground works, site clearance) until a Biodiversity Mitigation Method Statement for Protected and Priority species, including bats, amphibians and hedgehogs, and the hedgerow and ditch, has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the following:
 - a) purpose and objectives for the proposed works;
 - b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
 - c) extent and location of proposed works shown on appropriate scale maps and plans;
 - d) timetable for implementation;
 - e) persons responsible for implementing the works;
 - f) disposal of any wastes arising from works.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.
- 16) Prior to any development above ground level, a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Update of Preliminary Ecological Appraisal (Skilled Ecology Consultancy Ltd., May 2021) shall be submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.
- 17) Prior to occupation of the dwelling hereby approved, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. 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.
- 18) Prior to any development above ground level, details shall be submitted to and 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 development is first occupied and shall be retained thereafter in its approved form.