



Appeal Decision

Site visit made on 27 September 2022

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2022

Appeal Ref: APP/W3520/W/22/3290858

Land off Ashfield Road, Ashfield Road, Norton Little Green IP31 3NN

- 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 Ms P Wilding and A Bott against the decision of Mid Suffolk District Council.
 - The application Ref DC/21/02811, dated 12 May 2021, was refused by notice dated 4 August 2021.
 - The development proposed is described as outline planning application for the erection of two detached dwellings with details of access included. Matters of appearance, landscaping, layout and scale reserved.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application which is the subject of this appeal was made as an outline application with all matters apart from access (appearance, landscaping, layout and scale), reserved for future consideration. As such I have considered the appeal on this basis.

Main Issues

3. The main issues are:
 - whether the proposed development would be in a suitable location for new housing with regard to the local development strategy and accessibility to services and facilities;
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - the effect of the proposed development on biodiversity; and
 - the effect of the proposed development on the setting and significance of the grade II listed building, High Hall.

Reasons

Location

4. The appeal site is located on the northern side of Ashfield Road, adjacent to two dwellings on a site known as Southleigh, in the small countryside village of Norton Little Green and outside of any defined settlement boundaries. It currently forms part of an uncultivated paddock, with no previous development

on the site apart from an existing unused access adjacent to a public footpath on the western side of the site.

5. The reasons for the refusal cite conflict with Policy CS1 and CS2 of the Mid Suffolk Core Strategy 2008 (the CS) and Policy H7 of the Mid Suffolk Local Plan 1998 (the LP), which addresses settlement boundaries and development in countryside villages. Policy CS1 states that areas outside the listed settlements will be designated countryside and countryside villages and development will be restricted to particular types to support the rural economy, meet affordable housing, community needs and provide renewable energy. With Policy CS2 listing the types of development which could be considered acceptable in such locations and Policy H7 stating that there will be strict control over proposals for new housing outside settlement boundaries.
6. As highlighted in a previous appeal decision¹, these policies take a more protective rather than the positive approach to appropriate development being taken within the National Planning Policy Framework (the Framework). The Council also acknowledge this within the officer's reports for two planning applications² for nine new dwellings and two new dwellings respectively, stating that many of the development plan policies most important for determining residential applications are considered to be out of date on the basis of not being entirely consistent with the policies of the Framework. Nevertheless, the protection and enhancement of the natural environment remains an important part of the environmental dimension of sustainable development set out in the Framework.
7. This is not an isolated site, as it is located adjacent to a number of other dwellings within Norton Little Green. Therefore, paragraph 80 of the Framework is not applicable. However, paragraph 79 of the Framework highlights that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. This should include consideration of providing support for local services even in a village nearby. There are no local services or facilities for the future occupiers of the proposed dwellings within Norton Little Green or in close proximity to the appeal site. However, the villages of Norton and Elmswell have a number of facilities, such as shops and primary schools.
8. Although the appellant states there is a daily school bus, the public bus service from Norton Little Green is limited and would not provide a reliable service to the future occupiers of the dwelling to the services and facilities they require on a day to day basis. Furthermore the train station, and other facilities, in Elmswell are a considerable distance from the appeal site and is not easily accessible on foot for the majority of people, due to the considerable distance and the lack of public footways to provide a safe thoroughway. Norton is also a substantial distance from the appeal site, with the only accessible walking routes along Ashfield Road, which does not benefit from a public footway. Although a lack of footways may be common in rural areas, it would result in a route which pedestrians would be reluctant to use due to safety concerns, particularly after dark. A network of public footpaths have been highlighted by the appellant. However, no particular route has been highlighted between the appeal site and these two villages, which could be used by future occupiers, or

¹ APP/W3520/W/18/3194926 (Land on East Side of Green Road, Woolpit, Suffolk IP30 9RF)

² DC/19/02829 (Beyton Nurseries, Tostock Road, Beyton, Bury St Edmunds, Suffolk IP30 9AG) and DC/19/01876 (Hedgerows, Grove Lane, Elmswell, Bury St Edmunds Suffolk IP30 9HN)

how accessible they are. Cycling would also be an unlikely option for regular travel to either of these villages due to the lack of streetlighting, making these routes less accessible after dark. As such, the occupiers of the proposed dwelling would be reliant on the use of a car to access nearby amenities in neighbouring towns and villages.

9. Whilst paragraph 105 of the Framework indicates that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, this does not negate the requirement to offer a genuine choice of transport modes and ensure that safe and suitable access to the site can be achieved for all users. Furthermore, due to the scale of the development as a single dwelling, the benefit to sustaining services within villages nearby would be limited. Therefore, the proposed development would be given limited weight in relation to paragraph 79 of the Framework.
10. In conclusion, although the appeal site is not isolated, it would be remote from the necessary services and facilities which would be required by the future occupiers. The occupiers would therefore be reliant on the use of a car to serve their day to day needs, resulting in significant environmental harm. Consequently, the proposed dwelling would not be located within a socially or environmentally sustainable location and would not be an appropriate location for new housing.
11. Therefore, the proposed development would conflict with Policies CS1 and CS2 of the CS and Policy H7 of the LP. These policies seek to direct the majority of new development to existing settlements. It would also be contrary to the relevant sections of the Framework which promote sustainable development in rural areas.
12. The appellant has indicated that the proposed development is consistent with the emerging Local Plan, where Norton Little Green is classified as a settlement. However, no specific policies have been highlighted and no evidence has been provided to suggest that the proposed development would be within the boundaries of this settlement. Nevertheless, as this plan has not yet been adopted, I have attributed limited weight to the policies within it.

Character and Appearance

13. As an undeveloped and open site with well-established trees and hedging on the boundaries, the current verdant and rural character of the appeal site contributes positively to the overall character and appearance of the area and the wider landscape. Although the site is self-contained, with trees and hedging delineating it from the surrounding agricultural land, it represents the end of the built form on this side of Ashfield Road and demarks the transition from the dwellings within the village of Norton Little Green to undeveloped countryside. Therefore, visually, the addition of two new dwellings on the site would result in the extension of built form into the countryside.
14. Whilst the appeal site is partially screened from the road by existing trees and hedging, the addition of two new dwellings on the site and any associated domestic paraphernalia would still be visible from the public realm via the proposed access and a public footpath which runs through the site. Although a low density scheme could be easily accommodated on this relatively large site, the proposal would introduce built form onto a currently open and undeveloped site. Regardless of the matters which are reserved for future consideration, the

likely scale and domestic nature of these buildings, unlike that which would usually be seen on a typical paddock, would be a prominent addition to the site and an intrusive and incongruous feature to the detriment of its current rural and open character.

15. Furthermore, whilst the majority of trees surrounding the site would be retained, including the three high quality oak trees adjacent to the road, a section of well-established hedging on the front boundary would be lost to accommodate the proposed access. Whilst the tree survey submitted by the appellant identifies this as being of moderate quality, its loss would add to the domestic appearance of the site and further erode its rural character.
16. It is noted that the neighbouring site, Southleigh, has already extended the line of built form to the north and that the village extends further eastward on the other side of Ashfield Road. However, extensions to the village boundaries elsewhere do not result in the proposed development being a logical infill extension and does not alter the harmful impact of the proposed development in this particular location.
17. The appellant has confirmed that the proposed development would preserve and maintain the public right of way which runs through the appeal site. Landscaping on the site is reserved for future consideration and therefore the Council can ensure that the rural character of this footpath would be retained at the reserved matters stage.
18. Nevertheless, the proposed development would have a significant detrimental impact on the character and appearance of the surrounding area and would be contrary to Policy CS5 of the CS and Policy H7 of the LP. These policies collectively seek to protect the existing character and appearance of the countryside, protecting and conserving landscape qualities and retaining the local distinctiveness of the area.

Biodiversity

19. As part of the appeal, an ecology report has been submitted by the appellant. This states that the rough grassland on the appeal site provides a moderately suitable commuting and foraging habitat for amphibians and that further surveys are required to confirm if great crested newts, a European protected species, are using any of the ponds within 250 metres of the appeal site for breeding. Alternatively, a Natural England District Level Licensing scheme can be used to mitigate the impact upon the identified species. Consequently, a 'Great Crested Newt District Level Licensing Impact Assessment and Conservation Payment Certificate' has been submitted by the appellant signed by Natural England on 11 January 2022.
20. The submitted certificate is not a license granted under regulation 55 of the Conservation of Habitats and Species Regulations 2017. However, in signing the certificate Natural England has considered that these proposals will not be detrimental to the maintenance of the population of great crested newts at a favourable conservation status in their natural range. Natural England can only issue a license subject to three tests. These include whether the development is necessary for preserving public health or public safety or other imperative reasons of overriding public interest, where there is no satisfactory alternative and where the action will not be detrimental to maintaining the population of species concerned at a favourable conservation status in its natural range. The

certificate signed by Natural England would satisfy the third test, however I am not persuaded that the proposed development would meet the other two tests.

21. The decision about whether a license can be granted is the responsibility of Natural England and is separate from the decision to authorise planning permission. However, the government circular 06/2005 requires that when effects on European protected species are being considered in appeals, decision makers should have regard to the three tests that are used when licenses are being determined. As, due to the first two tests, Natural England would be unlikely to issue a license, I do not consider that this can be used to mitigate the impact upon the identified species.
22. In accordance with the circular 06/2005 the survey recommended in the Ecology Report, to confirm if great crested newts are using any of the ponds within 250 metres of the appeal site for breeding, should be carried out before planning permission is granted, with surveys only being secured by condition in exceptional circumstances. There are no exceptional circumstances to secure a survey via condition in this instance. Therefore, as it was found that a legally protected species may be using the appeal site for commuting and foraging and supported by the surrounding ponds for breeding, with inadequate survey information to suggest otherwise and no suitable mitigation provided, I cannot conclude that the proposed development would not have a harmful effect on biodiversity.
23. The ecology report makes other general recommendations in relation to the protection of boundary trees and hedgerows, amphibians and reptiles, bats and nesting birds, along with biodiversity enhancement opportunities. These recommendations and enhancements can be secured by condition should planning permission be granted.
24. Although a condition could be used to secure the recommendations outlined above, the recommended survey has not been provided in relation to the presence of great crested newts on the appeal site and in the surrounding area. Furthermore, the issuing of a district level license by Natural England, to mitigate the impact on the identified species, is unlikely. Therefore, without adequate information to demonstrate the contrary, the proposed development would have a harmful effect on biodiversity and would not comply with Policy CS5 of the CS which seeks to ensure that Mid Suffolk's biodiversity is protected, managed and enhanced.

Listed Building

25. A grade II listed building, High Hall, is located to the east of the appeal site, further along Ashfield Road. Although limited information has been submitted regarding this building and its listing, from my observations on site it would appear that its significance is derived, at least in part, from the antiquity of the structure and from its status as a well preserved example of a vernacular building of its age and type. The immediate garden setting and the open and rural nature of the land surrounding High Hall contributes to how the asset is appreciated and this the setting makes a positive contribution to the significance of the listed building.
26. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for the development which affects a listed building or its setting, to

have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest.

27. Although the appeal site contributes to the open and rural nature of the area surrounding the listed building, the two plots are separated by a substantial distance and there are limited views between the two. The proposed development would bring the edge of the built form on the north side of Ashfield Road, and the access to the appeal site, closer to this listed building. However, due to the visual and physical separation between High Hall and the proposed development, it would not impact on its immediate setting nor erode the rural character of its wider setting.
28. Although the appearance and scale of the proposed dwellings are reserved for future consideration, two dwellings on the appeal site could be suitably designed to ensure that they do not detract from or harm the setting or significance of the listed building. Therefore, the appeal proposal would have a neutral impact on the setting and significance of the heritage asset.
29. Consequently, I conclude that the development does not have a harmful impact on the setting or significance of the grade II listed building, High Hall and is not contrary to Policy HB1 of the LP. This policy states that particular attention will be given to protecting the setting of listed buildings.

Other Matters

30. The appellant has brought to my attention a number of decisions made by the Council and at appeal for new residential development outside of the settlement boundary. Planning approval was granted for a replacement dwelling and one new dwelling at Southleigh, Ashfield Road, next to the proposed development, and for a new dwelling at Land East of Moss Chase, Ashfield Road. However, these developments were granted planning permission when the Council could not demonstrate a five year housing land supply. Therefore, great weight was given to the provision of a new dwelling. Whilst limited information has been provided, an appeal for a new dwelling at Manor Lodge, Norton Little Green was also determined when the Council could not demonstrate a five year housing land supply.
31. Planning approval was also granted for two dwellings at Land South of 1 Oak Lane in Woolpit. The Council's report highlights that the development plan policies most important for determining the application were out of date. However, the Council found limited harm from the proposal and therefore the balance weighed in favour of the benefits of providing new dwellings. An appeal decision for a new dwelling at Pine Trees on Ashfield Road also acknowledges that the most important policies for the determination of the appeal were out of date. However, due to limited harm to the character and appearance of the area, the balance also weighed in favour of the benefits of a new dwelling.
32. Three applications³ for new dwellings outside of the settlement boundary of Elmswell, have also been highlighted by the appellant. However, unlike the appeal site, these are located directly adjacent to the settlement of Elmswell and the services and facilities which it contains. Therefore, the developments put forward by the appellant are all materially different to the appeal proposal

³ DC/18/04264, DC/20/01999 and DC/21/05976

before me and do not set a precedent to grant planning permission for residential development outside of the settlement boundary in this location.

33. The Council raised no objection to the proposed access and no objections were received from the Highways Authority. However, this is a neutral factor in the consideration of the appeal and would not alter my overall conclusions.

Planning Balance

34. Whilst the Council can demonstrate over a five year supply of deliverable housing sites, they have also indicated that the policies which are most important for determining the application are out of date due to inconsistencies with the Framework. On this basis, the test in paragraph 11(d) of the Framework should be applied.
35. In the context of the development, I have found that the proposal would be contrary to policies CS1, CS2 and CS5 of the CS and policy H7 of the LP. It would result in significant environmental harm from the likelihood of a dependency on the use of a car for access to services due to its location outside of a settlement, along with significant harm to the character and appearance of the surrounding area and biodiversity. The countryside is not protected for its own sake by the Framework but its intrinsic character and beauty is recognised. Development in rural areas is not precluded but the Framework indicates that great weight should be given to the benefits of using suitable sites within settlements for homes and therefore supports the general aims of the Local Plan in terms of the location of housing. The Framework also expects development to prioritise pedestrian and cycle movements. Therefore, as these policies would not be wholly consistent with the aims of the Framework, I attach moderate weight to the conflict with them.
36. The development would provide one additional dwelling contributing to the overall housing land supply in the area, along with the social, economic and environmental benefits which arise from this. However, given the scale of the scheme, any such benefits would be relatively small.
37. Therefore, whilst I only give moderate weight to the conflict with the development plan policies, I have found significant environmental harm due to the likelihood of a dependency on the use of a car for access to services and facilities, along with significant harm to the character and appearance of the surrounding area and biodiversity from the proposed development. Therefore, the adverse impacts of granting permission would significantly and demonstrably outweigh the limited benefits of one dwelling when considered against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposal.

Conclusion

38. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and there are no other considerations, including the provisions of the Framework which outweigh this finding. Therefore, the appeal should be dismissed.

E Grierson

INSPECTOR