



Appeal Decision

Site visit made on 8 November 2022

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2022

Appeal Ref: APP/F3545/W/21/3288778

**Mortlocks Farm, Mortlocks Farmhouse, Brockley Green, Hundon, Suffolk
CO10 8DT**

- 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 M Carpenter against the decision of West Suffolk Council.
 - The application Ref DC/21/1398/FUL, dated 2 July 2021, was refused by notice dated 4 November 2021.
 - The development proposed is demolition of agricultural buildings and erection of 2 detached dwellings with garages and erection of garage for existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of agricultural buildings and erection of 2 detached dwellings with garages and erection of garage for existing dwelling at Mortlocks Farm, Mortlocks Farmhouse, Hundon CO10 8DT in accordance with the terms of the application, Ref DC/21/1398/FUL, dated 2 July 2021, subject to the conditions set out in the attached Schedule.

Main Issue

2. The main issue in this appeal are:
 - Whether the development is in a suitable location for housing, having regard to the local development strategy for the area; and
 - Whether there are any material considerations which indicate a decision otherwise than in accordance with the development plan.

Reasons

Suitability of Location

3. The appeal site includes a farmhouse and two barns to the rear. The proposal would involve the demolition of the existing barns and the erection of two dwellings and detached garages to serve each new dwelling and the existing farmhouse.
4. The appeal property is located within a row of large dwellings located on spacious plots along one side of a narrow rural lane. Collectively, this group of dwellings is known as Brockley Green and is situated within an open, rural landscape surrounded by agricultural fields.

5. The appeal site is located outside of the development boundary. Such areas are classified as the 'countryside' by the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document 2015 (JDMPD).
6. JDMPD Policy DM5 seeks to balance the need to protect the countryside's quality and character with the need to support and facilitate development which supports the countryside's management and economic needs. The policy sets out the types of development considered suitable in the countryside which generally relate to a range of rural activities and enterprises.
7. Of particular relevance to the proposal is Policy DM5's support for small-scale residential development, where such development meets the requirements of JDMPD Policy DM27. Whilst there is disagreement between the parties as to whether the row of dwellings at Brockley Green constitutes a 'closely knit cluster' and its proximity to the highway in the context of Policy DM27, the scale of the proposal would exceed the policy's threshold of one dwelling or a pair of semi-detached dwellings and would thus conflict with the policy.
8. I have given careful consideration to other JDMPD policies which support certain forms of development in the countryside but conclude that these are not applicable to the proposal. Namely, Policy DM28 supports the residential use of redundant buildings in the countryside. The policy is of limited relevance to the proposal which relates to the construction of new dwellings and does not involve the conversion of existing buildings. In addition, Policy DM33 supports the replacement of buildings in the countryside where the replacement would result in a more acceptable and sustainable development than might be achieved through conversion and where the replacement building would restore the visual, architectural or historical coherence. The Council indicates that the replacement of buildings permitted by Policy DM33 is limited to employment uses only. Whilst this limitation is discussed in the supporting text, it is not stated within the policy itself. However, the proposal does not provide justification as to how it would provide a more acceptable form of development than the existing agricultural barns which would be replaced as a result of the development. Therefore, the exceptional circumstances set out in Policy DM33 for the replacement of existing buildings in the countryside do not apply.
9. In conclusion, the proposed development would not be of a type which is expressly supported by the development plan and would therefore undermine the development strategy for the area. The proposal would conflict with JDMPD Policy DM27 which, as discussed above, requires new housing development in the countryside to be more limited in scale. Consequently, the appeal site would not be a suitable location for the proposed scheme and would therefore conflict with JDMPD Policy DM5 which seeks to conserve the rural character of the countryside and would not accord with paragraph 80 of the National Planning Policy Framework (the Framework) which states that decisions should avoid the development of isolated homes in the countryside.

Other material considerations – existing planning permission

10. The Council granted prior approval in 2020 for change of use of the two agricultural buildings to create two dwellings under associated operational development Class Q of the Town and Country Planning (General Permitted

Development) (England) Order 2015 (as amended)¹. The planning permission therefore remains extant at the time of this decision.

11. The two conditions which required approval prior to commencement of the Class Q scheme were discharged by the Council in September 2020². From the evidence before me I consider that were this appeal not to succeed, there is a realistic prospect that the extant Class Q scheme would be implemented.
12. The existing barns are situated to the rear of the appeal site and are relatively close together. Set back from the lane, the barns are not prominent in the street scene, and are generally concealed by the main dwelling and the site's side boundary treatments. The barns are visible along the site's driveway access, located to the side of the main dwelling.
13. The left-hand barn is constructed from a steel frame with corrugated panels along the outer side and roof, and with the inner side remaining open. The right-hand barn is larger and more substantial in construction, with a timber and steel frame, with block and corrugated sheet metal walls, a corrugated roof, and wooden doors and windows. Both barns appear to be of modern construction but with a somewhat tired appearance.
14. The appellant's statement indicates that the proposed new dwellings would deliver a higher standard of design than the conversion of the existing barns, which would be more energy efficient and more architecturally and historically appropriate to the location.
15. No evidence providing comparison of the resource efficiency of the Class Q or appeal scheme has been supplied. In the absence of such evidence, the suggestion that new dwellings would be more efficient does not weigh in favour of the proposal.
16. The dwellings in the area around the appeal site have been constructed in differing styles and using a range of materials. The appeal property is a tall, two storey dwelling with a hipped roof. The front elevation is faced with knapped flint and brick, with the sides and rear painted white. In contrast, the immediate neighbouring dwelling has the appearance of a traditional barn with a red, pitched, tiled roof and clad with stained black timber. The design of the proposed dwellings would appear similar to a traditional barn, with clay pantile, pitched roofs, projecting gables, and black timber boarding. Likewise, the proposed garages would use materials matching the proposed dwellings.
17. Conversely, the dwellings approved through the extant Class Q scheme would appear of modern design. The extensive glazing, zinc standing seam roof and vertical cladding would give each barn conversion a contemporary appearance. The left-hand barn would have a low-pitched roof and an elongated footprint with a flat roofed projection and car port. The right-hand dwelling would be of asymmetric design with large windows at both the ground floor and first floors.
18. The overarching purpose of JDMPD Policy DM5 is to conserve the rural character of the countryside. Through the construction of dwellings which have been designed with a more traditional appearance, the proposal would better accord with the character and appearance of the area than the contemporary

¹ LPA's application reference: DC/20/0531/P3QPA

² LPA's application reference: DCON(A)/20/0531

appearance of the Class Q scheme. The proposal would therefore result in significant enhancement compared to the extant Class Q scheme.

Planning Balance

19. The site is located in the countryside where the development plan provides more limited opportunities for development than within settlements. As set out above, the proposal would conflict with the development plan taken as a whole.
20. The Class Q process does not allow for the consideration of the local development strategy regarding the location of development. The site's extant Class Q permission presents a realistic fallback position which would provide the same amount of housing within the same site. On this basis, I consider the conflict with the development plan carries moderate weight.
21. I have found that the proposal would deliver benefits through providing dwellings which would be of a design which is more sympathetic to the character and appearance of the area compared to the Class Q permission. This carries significant weight in favour of the appeal proposal.
22. Overall, I find that the benefits of the proposed development compared to the identified fallback position outweighs the conflict with the development plan.

Conditions

23. The Council has supplied a list of conditions which I have considered carefully against the Framework's tests. I have attached a condition specifying the approved plans in the interests of providing certainty.
24. To ensure the proposal meets sustainability requirements of JDMPD Policy DM7 and conserves water supply in accordance with paragraph 153 of the Framework, the higher standard for implementation of water efficiency measures set out in the Building Regulations is required. I have therefore specified this requirement in a planning condition.
25. In the interests of highway safety, a condition is necessary to ensure that sufficient space for the on-site parking of vehicles is provided and maintained. In addition, I have included a condition to secure appropriate improvements to the existing vehicular access and to prevent hazards caused by loose materials being carried out into the highway.
26. In the interests of maintaining and enhancing local character and appearance, in accordance with JDMPD policies DM2 and DM13, I have included a condition requiring the submission, written approval and implementation of a scheme of landscaping.
27. To safeguard the living conditions of the occupants of surrounding dwellings, I have imposed a condition which specifies the hours that construction and related activities may take place.
28. I have included a condition requiring ecological mitigation measures to be carried out as per the details contained in the Preliminary Ecological Appraisal, and a further condition requiring submission and written approval of a Biodiversity Enhancement Scheme to conserve protected and priority species and allow the Council to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended, s40 of the NERC Act 2006 (Priority habitats & species).

29. At the time of this decision, the provision of charging points for electric vehicles is required through Building Regulations. The Council's suggested condition relating to this matter is therefore no longer necessary.
30. I have not included the Council's suggested condition which seeks to restrict the extension or erection of structures within the curtilage of the proposed dwellings. Such a condition would conflict with paragraph 54 of the Framework which states that national permitted development rights should not be restricted by condition unless there is a clear justification to do so. Whilst I understand the purpose of the condition is to ensure the character of the area is not adversely affected by further development, it is by no means certain that such works would result in harm. I therefore consider that such a condition would not be reasonable in the context of the Framework's tests.
31. In addition, I have not included the Council's suggested condition requiring written details regarding the storage of refuse and cycles. The proposal includes the construction of double garages for each dwelling, and therefore I am content that the proposal would provide adequate storage to meet the requirements of the development plan and that such a condition is not necessary.

Conclusion

32. For the reasons given above, the benefits of the proposed development compared to the identified fallback position are a material consideration which outweighs the conflict with the development plan and justifies granting planning permission for the proposal. I conclude that the appeal should succeed.

E Dade

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: 4448 01 Location & Block Plan, 4448 02A Proposed Floor Plans Plot 1, 4448 03 Proposed Elevations Plot 1, 4448 04 Ground Floor Plan Plot 2, 4448 05 Proposed First Floor Plan Plot 2, 4448 06 Proposed Elevations Plot 2, 4448 07 Garaging Floor Plans & Elevations.
- 3) The dwellings shall not be occupied until the Building Regulations Optional requirement for water consumption (not exceeding 110 litres per person per day) in part G of the Building Regulations has been complied with.
- 4) Prior to first use of the development hereby permitted, the areas within the site shown on drawing No. 4448 01 Location & Block Plan dated March 2021; for the purpose of loading, unloading, manoeuvring and parking of vehicles shall be provided. Thereafter the areas shall be retained and used for no other purpose.
- 5) Prior to first use of the development hereby permitted, the vehicular accesses onto the site shall be properly surfaced with a bound impervious material for a minimum distance of five metres from the edge of the metalled carriageway, in accordance with details previously submitted to and approved in writing by the local planning authority.
- 6) No development above ground level shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. All planting comprised in the approved details of landscaping shall be carried out in the first planting season following the 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.
- 7) The site demolition, preparation and construction works, including deliveries to the site and the removal of excavated materials and waste from the site shall only be carried out between the hours of 08:00 to 18:00 Mondays to Fridays and 08:00 to 13:30 Saturdays and at no time on Sundays or Bank Holidays.
- 8) All ecological mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Practical Ecology Ltd, Version 2, June 2020). 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.
- 9) A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:
 - a) Purpose and conservation objectives for the proposed enhancement measures;
 - b) detailed designs to achieve stated objectives;

- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.