



Appeal Decision

Site visit made on 8 February 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 MARCH 2023

Appeal Ref: APP/W3520/W/22/3305269

Highbanks, Back Lane, Badwell Ash IP31 3DW

- 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 Mr Melvyn Robbins against the decision of Mid Suffolk District Council.
 - The application Ref DC/21/05933, dated 25 October 2021, was refused by notice dated 13 May 2022.
 - The development proposed is the erection of No.1 dwelling and new vehicular access.
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Decision

1. The appeal is allowed, and outline planning permission is granted for the erection of No.1 dwelling and new vehicular access at Highbanks, Back Lane, Badwell Ash IP31 3DW, in accordance with the terms of the application, Ref DC/21/05933, dated 25 October 2021, subject to the conditions set out in the attached schedule.

Procedural Matters

2. Different names appear on the application and appeal forms. The agent has confirmed that the applicant and appellant are the same person, Mr Melvyn Robbins.
3. The description of development on the application form included additional detail and explanatory information that was superfluous. However, the appellant amended this on their appeal form to "*Erection of No1 dwelling and new vehicular access*". Notwithstanding the fact that the vehicular access is existing, I have used the amended description from the appeal form in my decision, in the interests of conciseness.
4. The application was submitted in outline form and included details of access and scale. As appearance, landscaping and layout are reserved, I have treated these elements of the drawings as being indicative only.

Main Issue

5. The main issue is whether future occupiers of the proposed development would have adequate access to services, facilities and employment without undue reliance on private car use.

Reasons

6. The appeal site adjoins the built-up area of Badwell Ash, which is defined in the Council's development plan as a primary village, capable of accommodating limited growth.
7. The most relevant development plan policies I have been referred to do not specifically require new housing development in primary villages to be located within settlement boundaries. However, the supporting text to these policies does advise that development outside of settlement boundaries will be treated as being in the countryside.
8. I have not been provided with a plan showing any defined settlement boundary for Badwell Ash. However, it is undisputed that the site lies just outside of this. Consequently, for planning policy purposes, the site would be defined as countryside and the proposal would not fall within any of the categories of new development that would normally be appropriate in such locations.
9. There are numerous small businesses and services just a few minutes walk from the site. These include a convenience store offering a post office and other services, a public house and restaurant, a hot food take away, a village hall, a church and bus stops. Although a footpath does not run the full length of Back Lane, this residential village street with lighting and dwellings on either side is lightly trafficked and safe for use by pedestrians and cyclists. Just beyond the site, Back Lane becomes an unmade track serving agricultural land, paddocks, stables and a fishing pond.
10. Whilst I acknowledge that future occupiers of the development would potentially need to travel to access employment and a wider range of services, there are bus stops nearby and larger settlements are only a short distance away. I have not been provided with details of the bus services available although the Design and Access Statement advises that these run daily. The Council has not disputed this or provided any evidence to the contrary. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. It also acknowledges that development in one village may support services in other villages nearby.
11. It was evident from my visit that there are several recent and indeed ongoing, large scale housing developments in the area, particularly on the outskirts of the village. Whilst I am not aware of the circumstances that led to these developments being permitted, these would generate a far greater number of occupiers that would be reliant upon private cars to access some services, than the proposal before me for a single dwelling. Moreover, the approval of these large housing developments within and adjoining the village of Badwell Ash, suggest that it is considered a sustainable location for new housing growth.
12. It is also undisputed that outline planning permission has recently been granted for a dwelling immediately adjacent to the appeal site, in the side garden of No.9 Back Lane. This dwelling would also be located partially outside of the village boundary.
13. Having regard to the Framework, the proposed dwelling would not be in an isolated location and future occupiers would have safe access to the same

range of services as those of existing and approved dwellings elsewhere within and adjoining the settlement boundary.

14. I acknowledge that the Council currently has a healthy supply of housing land but such requirements are minimums not maximums and this is not a reason to refuse planning permission.
15. My attention has been drawn to a recent appeal decision in Elmswell. Whilst I have not been provided with the full details of this case, it is evident from the decision letter supplied that it related to a much larger development for 19 dwellings. In that case the nearest shops and services were at least a 15 minute walk from the site, along an unsafe route. The two schemes are not therefore comparable.
16. I conclude that future occupiers of the proposed development would have access to a reasonable level of services and facilities, including public transport providing access to other nearby settlements, and accordingly would not be unduly reliant upon private car use. The proposal would therefore accord with Policies FC1 and FC1.1 of the Mid Suffolk Local Development Framework Core Strategy Focussed Review (December 2012) (CSFR), which reflect the presumption in favour of sustainable development as set out in the Framework.
17. The proposal would also be consistent with the aims of directing new development to towns and villages and although the appeal site is outside of the development boundary, contrary to Policies CS1 and CS2 of the Mid Suffolk Local Development Framework Core Strategy Development Plan Document (September 2008) (CS), this is outweighed by its accessible location.

Other Matters

18. In addition to the main issue above, the Council's report raises concerns regarding character and appearance. The proposal would utilise the existing vehicular access and gravel driveway and no development would extend beyond that or the curtilage of the dwelling directly opposite the site. There is a wooded area adjacent to the site that separates the built-up area of the village from the open countryside beyond. The proposed dwelling would relate well to the existing built form of the settlement and would provide a natural rounding off that would not protrude into the countryside. Subject to appropriate appearance, layout and landscaping being agreed at reserved matters stage, a dwelling of the scale proposed would not result in any harm to the character and appearance of the area and consequently would not conflict with Policy H7 of the Mid Suffolk Local Plan (September 1998), which requires new housing to form part of existing settlements and restricts new housing outside of settlement boundaries in the interests of protecting the existing character and appearance of the countryside.
19. No new or additional accesses onto Back Lane are proposed. A single dwelling would have a negligible impact on public services such as local schools and doctors and on the volume of traffic using Back Lane. I note that no concerns have been raised by the local highway authority regarding highway safety and the indicative drawings indicate that there would be sufficient space within the site for off street parking and turning.
20. Concerns relating to setting a precedent for further development along Back Lane are unfounded. Each site is determined on its own merits and the appeal

site is not the same as the old sand pits and other land further along Back Lane.

21. The effect of the layout, appearance, and landscaping of the proposal on the living conditions of occupiers of existing and approved adjacent dwellings, would be fully assessed at the reserved matters stage. However, there is no reason why the site could not accommodate a single dwelling of the scale proposed with causing harm.

Conditions

22. I have imposed the standard conditions relating to the time limit for the submission of the reserved matters and the commencement of the development. As landscaping is a reserved matter, it is not necessary to condition this further. Parking and turning space, and cycle and bin storage areas, would be shown in the layout details at the reserved matters stage and electric vehicle charging requirements are covered by building regulations.
23. The access to the proposed dwelling is existing but is currently unused and therefore its use would be intensified by the development. It is therefore necessary to condition the provision and retention of appropriate visibility spays. However, I have amended the timescale requirement for this given that the access is existing and can already be used.
24. Paragraph 54 of the Framework and the PPG are both clear that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. There is no clear justification before me at this outline stage, where details of the layout and appearance of the development are as yet unknown.
25. I am unaware of the historic use of the site and its surroundings. As advised by the Council's Environmental Health Officer an unexpected contamination condition is therefore necessary as a precaution to ensure any unexpected contamination is report and correctly dealt with.

Conclusion

26. For the reasons given above and having had regard to all matters raised, I conclude that the appeal should be allowed.

R Bartlett

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping and layout (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application(s) for the approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. A1-00 (location plan), Drawing No. A1-01 dated 21/03/2022 (site plan), in so far as it relates to scale, access and visibility splays and Drawing Nos. A1-05 and A1-15 (plans and elevations), only in so far as they relate to scale.
- 5) Prior to the occupation of the dwelling visibility splays shall be provided as shown on Drawing No. A1-01 dated 21/03/2022 with an X dimension of 2.4 metres and a Y dimension of 70/43 metres [tangential to the nearside edge of the carriageway] and thereafter retained in the specified form.
- 6) Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) 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 required by condition 5.
- 7) Any unexpected contamination that is found during the construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.