



Appeal Decision

Site visit made on 9 February 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2023

Appeal Ref: APP/W3520/W/22/3294676

Land to the north of Combs Lane, Combs Lane, Stowmarket IP14 3BN

- 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 Ashley Moore against the decision of Mid Suffolk District Council.
 - The application Ref DC/21/05733, dated 18 October 2021, was refused by notice dated 28 February 2022.
 - The development proposed is construction of 2 no. detached dwellings and new vehicle access to the highway to be constructed in 3 phases
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant refers to an emerging Joint Local Plan with Babergh District Council. I have not been supplied with any further details and note that there is a requirement for it to be modified. I have therefore given it no weight for the purposes of this appeal.

Main Issues

3. The main issues are:
 - whether the appeal site is a suitable location for the proposed development having regard to local and national planning policy for the delivery of housing and accessibility to services and facilities;
 - the effect of the proposal on the character and appearance of the surrounding area;
 - the effect on living conditions of neighbouring occupiers with particular regard to outlook; and
 - whether the proposal would comply with local and national planning policy, which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

Suitable Location

4. The appeal site is situated in the countryside outside the defined settlement boundary of Stowmarket. Policy CS2 of the Mid Suffolk Core Strategy (CS) says

that development in the countryside will be restricted to defined categories, none of which apply to the appeal proposal.

5. The nearest town to the appeal site is Stowmarket, albeit there are closer facilities and services located in Combs Ford, which appears to be a suburb of Stowmarket. To access services and facilities here, when not using a motor/electric vehicle, the occupants of the proposed dwellings would have to walk/cycle. Along Combs Lane, the intended future occupants would have to share the carriageway with vehicles until the footway is reinstated further along Combs Lane. There are no cycle lanes or street lighting between the appeal site and Combs Ford. In addition, Combs Lane has a 40 miles per hours speed limit, which means vehicles are likely to be travelling at fast speeds. Such routes would be unsuitable for walking and cycling safely along including pedestrians with children's pushchairs, wheelchair users or people with limited mobility.
6. Given the above future occupiers of the proposed development would have poor access to services and facilities and would be reliant on a private motor/electric vehicle to access them on a regular basis. For those that did not have access to a private vehicle, the services and facilities in nearby towns and villages would not be accessible.
7. As the appeal site is located near a small group of dwellings it is not however isolated for the purposes of Paragraph 80 of the National Planning Policy Framework (the Framework).
8. As such, I conclude that the appeal site is not a suitable location for the proposed development having regard to local and national planning policy for the delivery of housing and accessibility to services and facilities. Therefore, there would be a conflict with CS Policy CS2. This seeks, amongst other things, to allow development in the countryside to an appropriate proposed use.

Character and Appearance

9. The Council's Officer report indicated the appeal is situated within a Special Landscape Area. Although there are no details before me to explain any particular characteristics of the area. The appeal site forms part of an undeveloped and open field, which at the time of my visit, was heavily overgrown and included semi-mature trees.
10. The site presents a green gap between the two sections of residential development along this section of Combs Lane. Consequently, the current open, verdant and rural character of the appeal site contributes positively to the overall character and appearance of the area and the wider landscape.
11. Adjoining the appeal site on its eastern boundary is residential development comprising a short row of six dwellings fronting Combs Lane. Except for the chalet-style dwelling (Stoney Brook) bordering the appeal site, the remaining dwellings are all bungalows of modest scale with limited detailing. All six dwellings are constructed of brick with a tiled roof and served by a driveway taken direct from the road with short, maintained boundary frontages. Despite the simple detailing, the modest proportions, short setback and space between the properties ensure they are in keeping with the verdant surroundings and have a low visual impact contributing to the pleasant character of the area.
12. The proposed dwellings would be one-and-a-half-storey consistent with Stoney Brook adjacent. However, the design of the dwellings is significantly different

from the more modest dwellings found within the adjacent row. The incorporation of front dormers, contrasting roof profiles and outriggers results in a bulky and overly complex appearance that would add considerable massing to the roof of the proposed dwellings. The building line would not be wholly different with other properties on the row, nonetheless, there design would be at odds with the modest nearby properties resulting in an incongruous feature within the streetscene.

13. Furthermore, the positioning of the shared access taken to the side of the proposed dwellings would jar with the existing short front driveways found nearby. It would, through its detached appearance and running adjacent to the road, extend the built form by urbanising the current rural appearance of the site eroding the contribution this open gap makes to the surrounding area. From my observations, I did not see any examples comparable with the proposal scheme as dwellings nearby had adjacent but independent driveways.
14. As a result, the proposed development would have a significant detrimental impact on the character and appearance of the surrounding area and would be contrary to Policy GP1 of the Mid Suffolk Local Plan (MSLP) and CS 5 of the CS. These seek, among other matters, that proposals maintain or enhance the character and appearance of their surroundings and respect the scale and density of surrounding development. The proposal would also conflict with the provisions of the Framework, in so far as it seeks, to ensure that development is sympathetic to local character.
15. Paragraph 135 of the Framework advises that the quality of approved development should not be materially diminished between permission and completion. However, as this application is seeking full permission in its own right, it is not relevant to my Decision.

Living conditions

16. From my observations on site and the evidence before me, the position, footprint and height of the proposed dwelling would be a sufficient distance away from Stoney Brook to prevent it from appearing overbearing to occupiers of this property and the garden as there would be sufficient outlook away from and over the proposed scheme. This potential is also further reduced given the existence of the well-established boundary hedge and garage to the side of Stoney Brook.
17. I conclude that the proposed development would not have a significantly harmful effect on the living conditions of neighbouring occupiers and would therefore be compliant with Local Plan Policy H16. This seeks, amongst other things, to protect existing amenity. The proposal would also accord with the provisions of the Framework in so far as it relates to providing a high standard of amenity for existing users.

Flood Risk

18. Policy CS 4 of the CS states that the council will support development proposals that avoid areas of current and future flood risk, and which do not increase flooding elsewhere, adopting the precautionary principle to development proposals. This will involve a risk-based sequential approach to determining the suitability of land for development. All new development, wherever possible, must be located in Flood Zone 1.

19. The Environment Agency's Flood Map for Planning identifies the site as being in Flood Zone 1, having a low probability of river and sea flooding. Nonetheless, although not covering the whole site and of varying risk levels, parts of the appeal site are shown to be within the Environment Agency's Surface Water Flood Risk Map as being within Flood Zone 2 with a medium and high risk of surface water (pluvial) flooding.
20. Notwithstanding the Council's concerns related to the level of detail and potential effectiveness of measures to address flood risk at the site. CS Policy 4, Planning Practice Guidance (PPG) and the Framework aim to steer new development to areas with the lowest probability of flooding through a sequential test. The aim is to steer new development to areas with the lowest risk of flooding.
21. The appeal scheme does not meet the definition for minor development in PPG to be exempt¹ from undertaking a sequential test. Additionally, whilst most of the site is located in Flood Zone 1, a sequential test is required as a source of flooding has been identified. Consequently, the appeal proposal, is required to apply a sequential test to establish whether there are other reasonably available sites for the proposed development in areas with a lower probability of flooding. I note a Sequential Test was not required under the previous scheme². However, the site associated with this scheme is larger and includes additional land shown on the Environment Agency's Surface Water Flood Risk Map as being within Flood Zone 2.
22. PPG refers to sequential test areas being defined by local circumstances relating to the catchment area for the type of development³. PPG goes on to state, the planning authority will need to determine an appropriate area of search, based on the development type proposed and relevant spatial policies⁴.
23. No Sequential Test has been carried out and for this reason, the scheme fails to consider, reasonably available sites with a lower probability of flooding in conflict with paragraph 162 of the Framework and Policy CS 4 of the CS. The proposal would also be contrary to the aims of the Suffolk Flood Risk Management Strategy which, in part, seeks to reduce the number of properties that would potentially flood.

Other Matters

24. There is a dispute between the parties with regard to an agreement on the determination period. However, the appeal before me is not in relation to the failure of the Council to determine the application within the relevant time period. Furthermore, the conduct of the Council did not affect my findings on the main issues.
25. The appellant has drawn my attention to the previous appeal. However, the Inspector's Decision was made under a prior Framework and against a significant deficit of housing land supply. The Council can now demonstrate a 9.54-year housing supply. This appeal is, therefore, materially different to the previous scheme.

¹ Paragraph: 051 Reference ID: 7-051-20220825

² Ref: APP/W3520/W/18/3203705

³ Paragraph: 027 Reference ID: 7-027-20220825

⁴ Paragraph: 029 Reference ID: 7-029-20220825

26. I have been provided with an appeal allowed⁵ at Land on East Side of Green Road. Whilst I do not have full details, this appeal was for 49 dwellings, including 17 affordable dwellings. Given the difference in scale, it is not directly comparable to the one before me. I also do not have full details of the other example approved by the Council at Willimere⁶. However, this appears to be an infill development surrounded by existing built form within a residential garden and is, therefore, materially different to the appeal scheme.
27. I have noted the findings of the Inspector on the previous appeal. However, no compelling evidence is before me to indicate that nearby flooding is due to poor maintenance of drainage infrastructure within the vicinity of the site.
28. I note the Council's case that the development should not be regarded as being deliverable as the Previous Appeal was not implemented. However, given that the application under this appeal was submitted prior to the expiry of the previous permission, I am not persuaded by the Council's view on deliverability and its conflict with the provisions of the Framework.

Planning Balance

29. Unlike the previous appeal, the Council can now demonstrate a five-year supply of housing land (9.54 years supply).
30. Bullet i. of paragraph 11. d) of the Framework clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including areas at risk of flooding⁷, provide a clear reason for refusing the development. As I have found harm in respect of flood risk and this provides a clear reason for refusing the appeal proposal, the presumption in favour of sustainable development would not apply in this particular case.
31. The proposal would provide two additional dwellings and would provide some economic benefits from its construction and future occupiers supporting local services. However, it would also not be located within a sustainable location, with future occupiers being reliant on private vehicles. It would also have an unacceptably harmful effect on the character and appearance of the surrounding area.
32. Furthermore, there is no certainty that the site is the most suitable with regard to flooding risks. As a result, it is contrary to the development plan and to the Framework, as described above. I consider that such an adverse impact would significantly and demonstrably outweigh the benefits of this scheme.

Conclusion

33. I have found that the proposed scheme would not have an unacceptable effect on the living conditions of neighbouring occupiers. However, this does not outweigh the fact that the proposal is contrary to development plan policies and to the Framework. It would not be a suitable location for housing, it would also have an unacceptable impact on the character and appearance of the surrounding area and it has not been identified if more preferable sites away from flooding are available. The presumption in favour of sustainable

⁵ APP/W3520/W/18/3194926

⁶ Ref: DC/18/05541

⁷ Footnote 7

development does not apply and there are no other material considerations that outweigh the conflict with the development plan. Accordingly, it is concluded that the appeal should be dismissed.

A Hickey

INSPECTOR