



Appeal Decision

Site visit made on 10 January 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2023

Appeal Ref: APP/X3540/W/22/3294378

36 Jackson Road, Newbourne IP12 4NR

- 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 Keith Baynes against the decision of East Suffolk Council.
 - The application Ref DC/21/5189/OUT, dated 16 November 2021, was refused by notice dated 28 February 2022.
 - The development proposed is erection of detached dwelling, garage and access.
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Decision

1. The appeal is allowed and outline planning permission is granted for erection of a detached dwelling, garage and access at 36 Jackson Road, Newbourne IP12 4NR in accordance with the terms of the application, Ref DC/21/5189/OUT, dated 16 November 2021 and the plans submitted with it, subject to the conditions in the schedule below.

Preliminary Matters

2. The planning application was made in outline, with all matters reserved. An Indicative Layout Plan at 1:1250 and a plan showing visibility splays at 1:500 were submitted with the application. I have treated both these submitted plans as being indicative, given that the proposed access arrangements and the intended siting and scale of the proposed dwelling are reserved matters.
3. The Council's Housing in Clusters and Small Scale Residential Development Supplementary Planning Document (Clusters SPD) was adopted in November 2022, while the appeal was in progress. The main parties have had the opportunity to comment on the implications of the Clusters SPD for the appeal.
4. Since the application was determined the Council has confirmed that a financial contribution has been provided in relation to mitigation of likely significant effects on Habitats Sites. On that basis, the Council considers that the second reason for refusal has been resolved. I return to this matter below.

Main Issue

5. The main issue is whether the proposed development would provide a suitable location for housing, having regard to its effect on the character and appearance of the area.

Reasons

6. Newbourne is defined as a Small Village in the Suffolk Coastal Local Plan (SCLP) adopted September 2020. Unlike the other Small Villages, it does not have a defined settlement boundary. Instead, a specific policy (SCLP11.9)

- defines the extent of acceptable development, responding to the characteristics of the former Land Settlement Association Holdings (LSAH) area, which extends throughout most of the village and includes the appeal site.
7. Although Policy SCLP3.3 confirms that land outside settlement boundaries is defined as Countryside, where new development is restricted, an exception is made for residential development covered by other specific policies. Policy SCLP11.9 is one such policy, as are Policies SCLP5.3 and SCLP5.4. The latter policies, amongst other things, allow for limited development within existing clusters in the countryside.
 8. Having regard to the above policy framework, the erection of a new dwelling in Newbourne is acceptable in principle, provided it satisfies the detailed requirements of Policies SCLP11.9 and (in this case) SCLP5.4. When considered together, these policies require that the proposed development amounts to infilling along an existing road frontage, while avoiding harm to the character and appearance of the area, including the distinctive characteristics of the LSAH area.
 9. The characteristics of the former LSAH area include large, regularly spaced plots, some of which contain commercial scale glasshouses, as well as parcels of open land between dwellings. This pattern of development derives from a period when the village was the focus of a Government scheme to provide land-based employment for relocating workers. Although the scheme was wound up many years ago, the distinctive pattern of relatively modest dwellings interspersed with their associated smallholdings can still be discerned in several parts of the village.
 10. The appeal site is a parcel of land to the side of an existing dwelling, fronting Jackson Road and part of a former smallholding. It currently contains two outbuildings. Although the evidence indicates these were historically used for packing produce grown on the holding, they are closely related to the adjacent dwelling, with no intervening boundary treatment and the Council describes them as being located within the curtilage of the dwelling.
 11. In the vicinity of the appeal site, there are several detached dwellings fronting Jackson Road. Apart from a parcel of open land opposite no. 34, this stretch of the road is predominantly occupied by dwellings, together with their gardens and domestic outbuildings. This is particularly the case on the south side of the road, where the appeal site is located. While the street scene has a spacious and rural character, the pattern of former smallholdings is less readily discerned than elsewhere in Newbourne.
 12. Based on the extent of the site and the indicative layout plan, it is clear that the proposed dwelling would be close to the road and that it would occupy land already used in association with an existing dwelling. There is established residential development to either side of the appeal site and along Jackson Road, as well as another dwelling immediately opposite. As such, the proposal would comprise infill development, since it would occupy a well-defined gap in an otherwise continuous built-up frontage.
 13. For purposes of Policy SCLP5.4, a cluster is defined as five or more dwellings in a continuous line or a close group of existing dwellings adjacent to an existing highway. The concept of a cluster is further explained in the Clusters SPD. This makes clear that to form part of a cluster, existing dwellings must be closely

related without extensive intervening areas of open land. However, land in residential use such as gardens and accesses may be included.

14. In this case, the appeal site lies within a continuous line of dwellings and their associated gardens on the south side of the road. Together with the two additional dwellings opposite, this forms a close group of at least five existing dwellings adjacent to the road. As such, policy SCLP5.4 also allows for infill development on the site in principle, subject to a range of considerations relating to character and appearance.
15. While the extent of the proposed site would be smaller than most of the surrounding plots, it would be capable of accommodating a modest dwelling without appearing cramped. Since the scale and design of the proposed dwelling are reserved matters, there would be scope to ensure through design that the proposed dwelling did not appear unduly prominent and that it maintained the rural and spacious character of the street scene. Although some of the nearby dwellings are more substantial, there is a range of dwelling sizes locally, including several modest chalet bungalows. Therefore, the likely scale of the proposed dwelling need not appear incongruous within what is a reasonably varied street scene.
16. The dwelling would not intrude into land currently in agricultural or horticultural use or otherwise undermine the relationship between the existing dwellings and their historic holdings. More significant expanses of open space, such as the parcel of open land opposite no. 34, and land further beyond no. 36, would be unaffected. Therefore, infill development in this location would not harm the character of the former LSAH area.
17. While the amount of space to either side of the site would be significantly less than for the dwelling permitted at The Firs, I nevertheless consider that this would not be harmful on this particular site, for the reasons explained above.
18. I conclude that the proposed development would provide a suitable location for housing, having had regard to its effect on the character and appearance of the area. It would not conflict with Policies SCLP3.2, SCLP3.3, SCLP5.2, SCLP5.3, SCLP5.4, SCLP11.1 and SCLP11.9 of the SCLP. It would also accord with the Clusters SPD. These policies, amongst other things, define criteria for the location of new residential development in the countryside, while allowing for infill development within an existing frontage, avoiding harm to the character and appearance of the area and the distinctive characteristics of the former LSAH area.

Appropriate Assessment

19. The appeal site lies within an identified 13km Zone of Influence of four Habitats Sites: the Debden Estuary Special Protection Area (SPA)/Ramsar Site, Stour and Orwell Estuaries SPA/Ramsar, Sandlings SPA and Orfordness-Shingle Street Special Area of Conservation (SAC). These coastal, heath and estuary sites are internationally recognised for their value as habitat for several rare and vulnerable plant, animal and bird species, including migratory wading birds. They have been identified by Natural England as being vulnerable to harm as a result of recreational disturbance, which may include trampling of vegetation and disturbance of wildlife including nesting birds, by people and domestic pets. There are specific risks to flocks of migratory wading birds, who

may become unable to store enough energy for long migrations, if disturbed by recreational activity in the vicinity of their feeding grounds.

20. The appeal proposal would result in a net increase of one new dwelling, with an associated increase in local residents living within the Zone of Influence. This would be likely, in turn, to increase recreational pressure upon the Habitats Sites. It is therefore likely that the proposal, both alone and in combination with other development, would adversely affect the integrity of the Habitats Sites identified above. As such, it is necessary for me, as the competent authority, to conduct an appropriate assessment in relation to the effect of granting permission on the integrity of the Habitats Sites.
21. All four affected sites are covered by the Recreational Disturbance Avoidance and Mitigation Strategy¹ (RAMS), prepared collaboratively by relevant local planning authorities in conjunction with nature conservation organisations including Natural England. This sets out a strategy for the avoidance and mitigation of recreational disturbance through measures such as site management, visitor education and diversion of activity away from the most vulnerable locations. Arrangements are in place for financial contributions to be sought in relation to proposed residential development, with an appropriate mechanism to secure their expenditure on delivery of avoidance and mitigation measures as set out in the RAMS.
22. The required financial contribution and payment mechanism is set out in the East Suffolk RAMS Supplementary Planning Document adopted May 2021. Subsequent to the Council's decision on the application, the financial contribution in relation to the proposed development has been paid. The Council has confirmed receipt of both the financial contribution and the required documentation to secure ring-fencing of the funds for expenditure on mitigation as set out in the RAMS. The Council has further confirmed that they no longer wish to defend the second reason for refusal.
23. Natural England has been consulted as part of this appropriate assessment and has agreed with my conclusion that the above financial contribution would appropriately mitigate the likely adverse effects on the integrity of the relevant Habitats Sites. I am therefore satisfied that the proposal would not adversely affect the integrity of Habitats Sites, either alone or in combination with other development.

Other Matters

24. Turning to matters raised by interested parties, I have considered the relationship with neighbouring properties and am satisfied that a reasonable standard of privacy could be maintained, subject to appropriate design and positioning of window openings. Although the proposed dwelling would be visible from nearby properties, there is nothing to indicate that it would be excessively bulky or overbearing. Since the application is in outline, the Council would in any event retain control over the layout of the development and the scale and appearance of the dwelling.
25. Jackson Road is narrow and privately maintained. Based on my observations on site, visibility along this section of the lane is reasonably good and traffic speeds are generally low due to the narrow width. Although there is no existing

¹ Habitats Regulations Assessment Recreational Disturbance Avoidance and Mitigation Strategy for Ipswich Borough, Babergh District, Mid Suffolk District and East Suffolk Councils – Technical Report May 2019

footpath, there are several existing dwellings in the vicinity of the appeal site and the addition of one further dwelling would have little impact on pedestrian safety, the volume of traffic movements or emergency access.

26. The detailed layout of the access is a reserved matter and any alterations to form appropriate visibility splays for traffic and pedestrians can be secured at that point. Arrangements for maintenance of the unadopted road would be a private matter between the landowners concerned.
27. Given that I have concluded that the proposal would be consistent with the development plan, it would not set a precedent for future harmful developments. In any event, the circumstances surrounding individual sites are rarely identical and any future development would be considered on its merits.

Conditions

28. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity and have omitted others.
29. I have imposed a condition requiring compliance with the approved site location plan, to provide certainty as to the extent of the proposed site. However, I have not included the other submitted plans, since I have treated these as indicative.
30. I have imposed conditions requiring submission of details of manoeuvring and parking of vehicles, storage and collection of refuse and recycling bins and measures to prevent discharge of surface water onto the adjacent lane. In each case, I am satisfied that consideration of these further details is necessary, in view of the restricted width of the lane and the potential adverse impact on the flow of traffic and convenience of neighbouring residents, should inadequate provision be made within the boundaries of the site. In the case of the arrangements for surface water, these details are required prior to commencement of development, to ensure that initial ground works are compatible with the proposed drainage arrangements.
31. The Council's Environmental Protection Team recommended a condition to secure remediation of any unexpected ground contamination during the implementation of the development. This is necessary to maintain control over unforeseen sources of pollution, which may be present due to previous uses of the site. However, I have simplified the recommended wording to avoid fettering the Local Planning Authority's ability to consider any submitted details on their merits, in a manner proportionate to the likely extent and nature of any such contamination.
32. Although a plan indicating visibility splays has been provided, this is not accompanied by any further details of the layout of the access or any implications for boundary treatment along the site frontage. I also note that the appellant considers the visibility splays requested by the Highways Authority to be disproportionate to the nature of local traffic flows. Based on my own observations about the nature of the lane, as outlined above, I am satisfied that a satisfactory access can be designed, providing an appropriate standard of visibility. Since the detailed layout and any required visibility zones can be confirmed through the submission and approval of reserved matters, a

condition securing the Highways Authority's recommended visibility splays is not necessary at this stage.

Conclusion

33. For the above reasons, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions set out in the schedule below.

Jane Smith

INSPECTOR

Schedule of Conditions

- 1) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 2) 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.
- 3) Details of the access, appearance, landscaping, layout, and scale (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.
- 4) The development hereby permitted shall not be carried out other than in complete accordance with the plan titled Existing Site Plan Scale 1:1250 at A4, as submitted with the outline planning application.
- 5) The site layout details submitted in accordance with condition 3 above (approval of reserved matters), shall include the proposed arrangements within the site for manoeuvring and parking of vehicles and for storage and collection of refuse and recycling bins.
- 6) Before the development is commenced, 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 access is first used and shall be retained thereafter in its approved form.
- 7) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported in writing 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 before

development resumes and development shall thereafter be carried out in accordance with the approved details.

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