



Appeal Decision

Site visit made on 16 May 2023

by P. D. Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th June 2023

Appeal Ref: APP/F3545/W/22/3310545

Hillcrest 4 Whepstead Road Horringer, IP29 5PU.

- 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 Shane Halliday against the decision of West Suffolk Council.
 - The application Ref DC/21/2397/FUL dated 4 December 2021, was refused by notice dated 3 August 2022.
 - The development proposed is pair of 4 bedroomed semi-detached houses with cart lodges.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has expressed procedural concerns regarding the Council's determination of the application. This matter is not before me in the appeal and I will concentrate on the planning merits of the proposal only. If the appellant wishes to pursue the procedural issue it is open to them to do so through the Council's own complaints procedure and if necessary through the Local Government Ombudsman.

Main Issue

3. The main issues in this case are whether:
 - the proposed housing in open countryside would be sustainable development in the context of the development plan;
 - the proposed development would have an adverse effect on the character and appearance of Whepstead Road and its countryside setting;
 - provision for affordable housing can be satisfactorily secured.

Reasons

4. The appeal site is a large paddock area on the west side of Whepstead Road between Nos 2 and 3. The site sits slightly above the road but is open to the road with a post and rail fence forming the boundary. There is tree screening to the west but the site is open to the road and part of open countryside to the east.
5. The appeal proposal would see the construction of 2 semi-detached houses and garage outbuildings centrally placed in the site. The proposal includes land on either side as a separation area between the new houses and Nos 2 and 3 Whepstead Road.

The Location of the Proposed Housing

6. Being outside a defined settlement boundary the site lies within the countryside and subject to Policies DM5 and DM27 of the *Joint Development Management Development Plan Document* (JDMDPD). The first of these, sets out the limited range of circumstances in which housing will be appropriate in open countryside. It has been put to me that Policy DM5 clause f) would apply in that the development is small scale, on a small undeveloped plot in accordance with Policy DM27 which accepts infilling would be allowed but in very specific circumstances.
7. The first criterion of Policy DM27 requires that development is within a closely knit cluster of 10 or more existing dwellings fronting the highway. I have been invited to conclude that although there are only 9 houses in the vicinity this would be an acceptable variance. However, even if I were to accept this, the 9 houses are not a close knit cluster. They are spread over a long frontage length of Whepstead Road and a side road extending to in excess of 450 metres of frontage (measured from Google Maps) with large areas of open countryside between some houses including the appeal site.
8. Moreover, the second criterion requires the development to be infilling of a small undeveloped plot for one or two dwellings within an otherwise built up frontage. Whilst the proposal is only for two semi-detached dwellings, the plot at approximately 0.7 hectares in size is not a small undeveloped plot, nor can the development in the vicinity, by any stretch of the imagination, be described as an otherwise continuous built up frontage. Whilst the appellant has sought to demonstrate by measuring plot widths that the proposed plots would be similar in width to the adjacent development, in fact the existing plots to Nos 2 and 3 are currently much narrower than the measured distance which has been based on the proposed post development widths of these plots. Thus Nos 1, 2, 3 and 4 as the properties in closest proximity have considerably narrower plots than those proposed for the development.
9. I am therefore not persuaded that either of the criteria are met and as discussed below the final clause of the policy would not be met either. The proposal would therefore be in direct conflict with both JDMDPD Policies DM5 and DM27.
10. In addition to these concerns I note that the site is over a mile from the centre of Horringer, the closest village with some level of services. The route to the village moreover is along unlit rural roads with no footpaths and is therefore unlikely to be conducive to walking and cycling as sustainable modes of transport. The reality is that the 2 households will be dependent on travel by private car.
11. Accordingly, the proposal being located in open countryside and, not constituting development that would otherwise be considered sustainable in the countryside, would not be acceptable in principle.

Character and Appearance

12. The character of Whepstead Road is of a rural lane with occasional development along it. As stated above the immediate vicinity of the appeal site is of a very loose arrangement of houses with generally large areas of open countryside between them including the appeal site. The site is not screened from the road nor from the wider countryside to the east and any development on the site would result in a material change to this open character.

13. I have been invited to conclude that the quality of built and landscape design being proposed for the site outweighs any harm from the housing in its setting. However a high standard of sustainable design, good landscaping and ecological enhancement should be a standard requirement of any development and therefore these are not reasons that would outweigh or justify harm to the countryside setting.
14. The proposed housing in detracting from the open, spacious countryside setting would conflict with both BCS Policy CS3 on design and local distinctiveness that requires development to protect the landscape and to JDMDPD Policy DM2 requiring development to address the key features, characteristics, landscape character and local distinctiveness. It also would be in conflict with the last clause in JDMDPD Policy DM27 in that the proposal would harm a visually important gap that contributes to the character of the rural scene.

Provision of affordable housing

15. One of the reasons for refusal related to the fact that no mechanism was proposed to secure the provision of affordable housing.
16. The requirement arises from BCS Policy CS5 which seeks 30% affordable housing on sites over 10 units or in excess of 0.3 hectares which the appeal site is. I note that in discussion it was agreed with the Council that on-site provision would not be necessary if a financial contribution to provision off-site was made which has been quantified at £77,768.
17. The Council has not identified a particular affordable housing project, but has stated that the contribution would be applied to deliver affordable housing in the Council area. A contribution towards affordable housing is therefore necessary, directly related to the development and fairly and reasonably related in scale and kind by virtue of the Policy CS5. The contribution sought would therefore meet the three tests set out in paragraph 57 of the *National Planning Policy Framework* (the Framework) and Regulation 122 of the Community Infrastructure Levy Regulations 2010.
18. Such an off-site financial contribution cannot be secured by condition and must be secured by a legal agreement under S106 of the Planning Act. This must be completed and in place at the time planning permission is granted. However, no legal agreement or unilateral undertaking has been signed and completed to deliver the contribution sought, despite the appellant having every opportunity to do so. Therefore, even supposing there was no other harm arising from the development in respect of the impacts on the countryside and character and appearance, the appeal can not be allowed nor permission granted.

Other Matters

19. It has been put to me that the benefits of the scheme would be in providing housing to highly sustainable designs and that this would outweigh any shortcomings of the scheme. However, the houses would not be provided and managed to meet a need for affordable housing and the Council can currently provide 5.4 years of housing supply and has delivered 128% of its housing requirement over the last 3 years based on housing delivery test results published in 2022. Thus there is not an unsatisfied housing need, the housing policies of the BCS and JDMDPD can be considered up to date, the tilted balance in paragraph 11

of the Framework is not engaged and the development should be determined in accordance with the development plan.

20. I note the adjoining neighbours to the site have supported the proposal on the basis that development would improve security in this open rural area. However there are other means by which the appeal site can be made safe and secure and in any event I am not persuaded that developing the site guarantees public safety.
21. I note the appellant's case that the development would meet the sustainability objectives set out in the Framework. Whilst I accept that there would be some social benefit from the new housing and a minor economic benefit from the construction of the properties, notwithstanding the sustainable designs that would be employed, the construction of two houses on a large greenfield site in open countryside would not contribute to the environmental objective. I am therefore not persuaded that the development would be sustainable in all respects and the presumption in favour would not apply.
22. It has been pointed out that the site has not been used for 35 years but it could have been put to a suitable countryside use given its size and extent and I am not persuaded that this justifies inappropriate development in the countryside.

Conclusion

23. For the reasons given above, whilst I acknowledge there would be benefit in terms of the provision of new housing, I am not satisfied that this alone justifies developing in an open countryside location. Nor am I satisfied that the design and landscaping outweighs the harm the development would cause to the character and appearance of this part of Whepstead Road and particularly the countryside setting. Accordingly, the appeal is dismissed.

P. D. Biggers

INSPECTOR