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# Appeal Decision

Site visit made on 11 January 2023

**by J Downs BA(Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 August 2023**

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**Appeal Ref: APP/W3520/W/22/3302866**

**The Old Forge Cottage, Norwich Road, Earl Stonham IP14 5DR**

- 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 K Mackie against the decision of Mid Suffolk District Council.
  - The application Ref DC/21/06771, dated 7 February 2022, was refused by notice dated 6 June 2022.
  - The development proposed is New Dwelling & Garage within garden of Old Forge Cottage, new access and associated parking for two dwellings.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Council has confirmed that following examination, matters pertaining to the settlement hierarchy will now be contained in a second part of the local plan and it is anticipated this will not be adopted sooner than winter 2025. They also state this will involve an amended settlement hierarchy and boundaries. I therefore attach limited weight to the emerging plan.

## Main Issue

3. The main issue is whether the site is a suitable location for development, with regard to the Council's settlement hierarchy, the vitality of the rural community and access to services, facilities and employment.

## Reasons

4. Mid Suffolk Local Plan adopted September 1998 (LP) Saved Policy H7 sets out that there will be strict control over proposals for new housing outside of settlement boundaries. Mid Suffolk District Core Strategy adopted September 2008 (CS) Policy CS 1 establishes the settlement hierarchy for the area. It confirms that land outside of these settlements will be designated as countryside and countryside villages where development will be restricted to certain types. CS Policy CS 2 sets out types of development that would be acceptable in the countryside. Market housing is not identified as such a use. While I have not been provided with any details of the current settlement boundary, it is not in dispute that the site lies outside it and as such the site is in the countryside.
5. The proposal would not constitute an isolated dwelling for the purposes of paragraph 80 of the National Planning Policy Framework (the Framework). However, paragraph 79 of the Framework identifies that housing in rural areas

should be located where it will enhance or maintain the vitality of rural communities.

6. The site lies between The Lodge and the Old Forge Cottage, and there is further development along this side of the A140. However this development is somewhat dispersed and the appeal site is clearly set away from the main body of the settlement.
7. There is a footpath adjacent to the site that runs towards the main body of the settlement. While there was a steady stream of traffic at the time of my site visit, the speed limit is 30mph therefore the footpath would provide a reasonable walking route, even allowing for the need to cross the road. However, there is no evidence before me of any services or facilities within Earl Stoneham that would be supported by the development.
8. Paragraph 105 of the Framework does acknowledge that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, despite the appeal site being located on a main route, there is no evidence before me of any sustainable transport options. Although electric vehicle charging points are now required under the building regulations, this would not ensure that future occupiers would have electric or hybrid vehicles. It therefore is not certain that the environmental effects arising from the additional journeys would be minimal. While I acknowledge there have been changes to working and shopping patterns in recent years, there is no evidence before me which would lead me to a different conclusion other than there would be a considerable reliance on the private car for day to day needs.
9. The appellant has referred to *Wood v SoS CLG and another [2014] EWHC 683*. I am aware that this was also subject to a ruling by the Court of Appeal. However, the findings in relation to infilling in villages were in the context of the policies in the Framework regarding development in the Green Belt. As this site is not in the Green Belt, those policies, and the findings of the Court in relation to their interpretation, would not apply to this appeal.
10. I therefore conclude that the appeal site would not be a suitable location for development, with regard to the Council's settlement hierarchy, the vitality of the rural community and access to services, facilities and employment. This would be contrary to LP Saved Policy H7 and CS Policies CS 1 and CS 2 which taken together seek to direct development to the most sustainable locations.
11. The Council's reason for refusal referred to Mid Suffolk Core Strategy Focussed Review adopted December 2012 Policies FC 1 and FC 1.1. These replicate the presumption in favour of sustainable development notwithstanding it references a now replaced version of the Framework. They are not specific to this main issue, however I will return to the presumption.

## **Other Matters**

12. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building (LB) or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. The Lodge (or Stonham Lodge as it is referred to in the Listing Description), which lies to the south-west of the site, is a Grade II LB. Its significance derives from its historic

fabric and associative significance with the Driver Family. Its setting is primarily the expansive rural landscape, however this is tempered by the proximity to the A140 and the existing development to the north, including the hardstanding, fencing and shed on the appeal site. The proposed development would result in built development closer to the LB which would harm its predominantly rural setting. However this harm would be less than substantial given the boundary treatments which separate the sites and the existing structures on the site. Were I minded to allow the appeal, even though I attach great weight to the conservation of the LB, the less than substantial harm to its significance would be outweighed by the public benefits of the scheme I have identified below.

13. Regardless of the Council's housing land supply position, there would be a benefit arising from the delivery of additional housing, particularly that which could be delivered in the short term. There would also be an economic benefit of development during both the construction and occupation stages. It is proposed that the proposed dwelling would be carbon neutral and would be sited on previously developed land, which would be environmental benefits of the appeal proposal.
14. The design of the proposed dwelling would be acceptable and there would not be any harm to the character of the area. Appropriate access and parking could be achieved. Any issues relating to potential contamination could be addressed by condition. However these would amount to a lack of harm and would therefore be neutral in the planning balance.

### **Planning Balance**

15. For the reasons set out above, the proposed development conflicts with the development plan. The appellant considers the most important policies of the development plan for determining the appeal are out of date and refers to previous appeal decisions in support of this. The Council considers the policies are up to date, in part because it can demonstrate a five year supply of deliverable housing land.
16. Paragraph 219 of the Framework confirms that policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework. This is a separate consideration from whether a five year housing land supply can be demonstrated. LP Saved Policy H7 and CS Policies CS 1 and CS 2 are more restrictive in their approach to housing development in the countryside than the Framework, which seeks to locate housing where it would maintain or enhance the vitality of rural communities. Consequently, I consider these policies should be regarded as out-of-date.
17. Paragraph 11d(i) of the Framework is not engaged as the application of the policies in the Framework that protect Listed Buildings would not provide a clear reason for refusing the development proposed.
18. In such circumstances, paragraph 11d(ii) of the Framework confirms that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

19. The strategy set out in the development plan seeks to accommodate development within the most sustainable locations. In this respect, the policies are broadly consistent with the Framework which sets out housing in rural areas should be sited where it will enhance or maintain the vitality of rural communities and seeks to promote modes of travel other than the private car. There is no substantive evidence before me to demonstrate that the proposal would contribute meaningfully to either of these. Taken together, the adverse effects of the development would be significant.
20. There would be a social benefit from the delivery of an additional dwelling on a small site which could be delivered quickly and the associated economic benefits of development from the construction stage and during occupation. Environmental benefits, in the form of improved energy efficiency could also be secured, and the site would be on previously developed land. However these benefits would be limited, given the scheme is for a single dwelling and the significant supply of deliverable housing land the Council can demonstrate.
21. I therefore find that the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. I therefore find that the proposal does not benefit from the presumption in favour of sustainable development.

## **Conclusion**

22. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight, including the Framework, which indicate that a decision should be taken other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*J Downs*

INSPECTOR