The Planning Inspectorate

Appeal Decision

Site visit made on 19 July 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

Appeal Ref: APP/W3520/W/22/3302662
Land to the Rear of the Leas, Quoits Meadow, Stonham Aspal IP14 6DE

- 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 R Tydeman against the decision of Mid Suffolk District Council.
- The application Ref DC/22/00225, dated 6 January 2022, was refused by notice dated 9 March 2022.
- The development proposed is erection of up to 5 no. dwellings and construction of new access, following demolition of existing dwelling.

Decision

1. The appeal is allowed and planning permission is granted for erection of up to 5 dwellings following demolition of existing dwelling at Land to the Rear of the Leas, Stonham Aspal, IP14 6DE in accordance with the terms of the application, Ref DC/22/00225, dated 6 January 2022, subject to the schedule of conditions at the end of this decision.

Applications for costs

2. An application for costs has been made by Mr R Tydeman against Mid Suffolk District Council. This application is the subject of a separate decision.

Preliminary Matters

3. I have dealt with another appeal[1] on this site for approval of reserved matters pursuant to a separate outline permission to the appeal before me. While I have determined each appeal on its planning merits, I am nonetheless aware of the implications each has for the other and have taken that into account in reaching this decision.

4. The appeal is made in outline and the application form indicated access was to be considered at this stage. However, no specific details of the proposed access were provided and this is expressly confirmed in the Council's officer report. I have sought views from the parties on this matter. In light of those comments, I am treating this application as being wholly in outline with all matters, namely, access, appearance, landscaping, layout and scale reserved for later consideration and have removed the reference to access in my decision. Notwithstanding, access to the site would be taken from Quoits Meadow following the demolition of the existing dwelling.

5. On 19th September 2023, the Council received notification that the emerging Babergh and Mid Suffolk Joint Local Plan (eLP) had been found sound, subject

[1] APP/W3520/W/21/3289746

to main modifications. The Council has not identified specific policies in relation to this appeal. I therefore attach limited weight to the eLP.

Main Issues

6. The main issues are:

- whether the site is a suitable location for development having particular regard to access to services and facilities, the effect of the development on the character and appearance of the area, and the setting of Orchard Farmhouse; and
- if the site is not a suitable location for development, whether there are any other material considerations that would outweigh this harm.

Reasons

Suitable Location

7. The appeal site consists of the existing dwelling at The Leas on Quoits Meadow, an access lane, part of a paddock and stables which lie to the rear of the properties on Quoits Meadow and The Street. The access lane runs past the Grade II Listed Orchard Farmhouse and leads to The Street.

8. I have not been provided with details of the settlement boundary for Stoneham Aspal, however it is not in dispute that the site is in the countryside. 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 2 sets out types of development that would be acceptable in the countryside. Market housing is not identified as such a use.

9. There are limited services and facilities within Stoneham Aspal such as the school and village hall which would be readily accessible from the site by sustainable transport methods. Further services and facilities are available at the Stoneharm Barns site which includes a post office. However, there is not a footpath that leads to Stoneham Barns. As an A road, and despite the 30mph speed limit, travel by cycle may not be attractive to less confident cyclists. While there are bus services within the village, I do not have any substantive evidence before me of its frequency. It is therefore likely that there would be a reasonable degree of reliance on the private car to meet day to day needs.

10. The site lies behind existing development. As such, it would not constitute infilling which would normally be understood to involve development within a gap in an otherwise built up frontage. It would also be uncharacteristic of the prevailing linear form of development in Stoneham Aspal due to its position to the rear of the built frontage and access through the existing housing development.

11. Orchard Farmhouse is a Grade II listed building which lies adjacent to the access lane and The Street. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting. Insofar as it relates to this appeal, the significance of Orchard Farm is derived from its historic interest in referencing

the agricultural history of the area and its architectural interest as a surviving example of a late C16 building with C19 alterations.

12. Setting is defined in the glossary to the National Planning Policy Framework (the Framework) as the surroundings in which a heritage asset is experienced. Pertinently, this goes on to note that the extent of setting is not fixed and may change as the asset and its surroundings evolve. Further advice is provided in the Planning Practice Guidance[2] which confirms that setting is not only defined by visual relationships, and that understanding of the historic relationship between places can also inform how a heritage asset is experienced. As such, the listing description, while providing a starting point, is not a definitive description of the special interest of a building or its setting.

13. The part of the appeal site that lies between Orchard Farmhouse and the surrounding countryside allows for a visual and spatial relationship between the two that positively contributes to the setting of the listed building given its history as a farmhouse. While I acknowledge the appeal proposes the development of only part of the paddock and is in outline, there would be an urbanising effect on the appeal site. This would fundamentally alter its character and appearance and compromise the open setting of the listed building through the introduction of built development. This harm would be less than substantial. Nonetheless, I attach significant weight to this, in accordance with the advice at paragraph 199 of the Framework.

14. In such circumstances, paragraph 202 of the Framework confirms that this harm should be weighed against the public benefits of the proposal. There would be a benefit from up to four net additional dwellings to the supply of housing, adding to choice and mix locally. There would be the associated economic benefits of additional spending during the construction and occupation stages along with the associated employment benefits which have the potential to affect local business positively. The increase in population would also be likely to provide additional support to the services and facilities in Stoneham Aspal, supporting the needs of the community going forwards. However, these benefits would be limited given the small scale of the proposed development and the substantial housing land supply that the Council can demonstrate, including permissions granted in Stoneham Aspal. They would not outweigh the harm I have identified to the listed building to which I give considerable importance and weight.

15. The proposal would therefore not be in a suitable location for development having particular regard to access to services and facilities, the effect of the development on the character and appearance of the area, and the setting of Orchard Farmhouse. It would therefore be contrary to CS Policy CS 5 and LP Policy HB1 which taken together require development to maintain the historic environment and the policies of Section 16 of the Framework insofar as they relate to designated heritage assets. It would also be contrary to the policies of the Framework which seek to direct development to the most sustainable locations and for development to be sympathetic to local character.

[2] Conserving and enhancing the historic environment Paragraph: 013 Reference ID: 18a-013-20190723 Revision date: 23 07 2019

Other Material Considerations

16. The site has had the benefit of an outline permission[3] for the same quantum of development with access taken from the same point. While no further applications for approval of reserved matters can be submitted, it remains live until the appeal against the refusal of reserved matters is determined. I am also dealing with that appeal and am cognisant of the effect that decision on this appeal.

17. I have allowed appeal APP/W3520/W/21/3289746. Consequently, the appellant has two years in which to implement that permission. Given the efforts the appellant has taken to secure the permission, I consider there is a greater than theoretical possibility that the development will take place.

18. The harms I have identified above with regard to access to services and facilities, the character and appearance of the area and to the significance of the listed building derive from the principle of the development. As such, even though this appeal is in outline and a different scheme could be proposed at reserved matters, the effects of this development would likely be the same as that allowed. As such, it represents a realistic fallback to which I must attach significant weight.

Other Matters

19. It would be for any subsequent reserved matters application to consider the effect of the appearance, landscaping, layout and scale of the proposed development, irrespective of the planning history of the site. These matters would include boundary treatments and number of bedrooms within each dwelling. The effect on living conditions of surrounding occupiers would also be addressed at that stage. Noise and disturbance during the construction period would be short lived and could be controlled by condition.

20. The appellant has identified the dwellings could be self-build. The Council has not disputed that there is a 96 dwelling shortfall on the self-build and custom house building register. However, there is also no mechanism before me to ensure that the dwellings would be constructed as self-build dwellings. I therefore attach limited weight to this factor.

21. The Council has referred to the emerging plan but has not directed me to any specific policies. However, given the specific circumstances of this appeal, it is unlikely that the eLP would be of sufficient weight as to alter my assessment.

22. The planning committee is entitled to reach a different conclusion to that of its officers and it is the overall result of the vote that determines the application. Matters relating to the conduct of the Council and the time taken to deal with this matter do not alter my assessment of the planning merits of this case.

Planning Balance

23. 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. LP Saved Policy HB1 and CS Policy CS 5 are more stringent than the policies of the Framework as they require development to at

[3] DC/18/04191

least maintain the environment where the Framework only requires that the desirability of sustaining and enhancing the significance of heritage assets be taken into account. Consequently, I consider these policies should be regarded as out-of-date. However, my findings with respect to the effect on the listed building means that there are policies in the Framework that provide a clear reason for refusing the development proposed. Therefore, under paragraph 11d)i of the Framework, the proposal would not benefit from the presumption in favour of sustainable development.

Conditions

24. The Council has suggested several conditions should the appeal be allowed. I have also had regard to the conditions suggested by consultees. I considered these in light of the advice contained within the Framework and the Planning Practice Guidance (PPG). As a result, I have made amendments to some of them for consistency and clarity purposes. In the interests of certainty and clarity, I have imposed separate conditions stipulating the approved plans and time limits for the submission of reserved matters and commencement of development. I have also restricted the timescale for the submission of any reserved matters application to two years, in line with the time to implement the extant permission.

25. A construction management condition is reasonable and necessary given the proximity of the site to residential properties. While the Council did not suggest the condition put forward by the environmental health officers limiting the hours of construction on the site or should expected contamination be found, I consider these would be reasonable and necessary given the proximity of the site to existing dwellings and the sensitive end use of the proposed development. I do not however consider it necessary to impose minimum requirements for dealing with unexpected contamination.

26. Given the presence of the adjacent listed building, a scheme of archaeological investigation is considered reasonable and necessary. The Council's alternate conditions lack certainty so I have imposed the condition requiring a written scheme of investigation to be submitted.

27. The PPG is clear[4] that conditions restricting the future use of permitted development rights may not pass the tests of reasonableness or necessity. No justification for the removal of permitted development rights for the proposed dwellings has been put forward therefore I consider that such a condition would comply with the tests set out in paragraph 56 of the Framework.

28. Conditions relating to the provision of parking, pedestrian and vehicular access to each dwelling, landscaping relate directly to the reserved matters and as such go beyond the scope of an outline permission. Such matters are important, but the Council would have the ability to control these matters at the reserved matters stage and the suggested conditions are therefore unnecessary.

29. The Council's officer report refers to requiring resource efficiency measures by condition. However no such condition has been proposed, nor have I been directed to any policies of the development plan which would support the imposition of such conditions.

[4] Use of planning conditions Paragraph: 017 Reference ID: 21a-017-20190723 Revision date: 23 07 2019

30. Separate controls exist to control the burning of waste materials and so such a condition is not necessary. It is not reasonable to restrict air source heat pumps to the permitted development limitations.

Conclusion

31. Whilst I have found there would be harm arising from the proposed development, this would most likely be the same type and level as that would arise from the implementation of the extant permission I have granted on appeal. This is a material consideration of such significant weight that the decision should be taken other than in accordance with the development plan. I therefore conclude that the appeal should be allowed, subject to the conditions set out.

J Downs

INSPECTOR

Schedule of Conditions

1) 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.

2) Applications for approval of the reserved matters shall be made to the local planning authority not later than 2 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: un-numbered location plan.

5) No development shall take place until a construction management plan has been submitted to and approved in writing by the Local Planning Authority and shall include details of:

   - the scheduled timing/phasing of the development for the overall construction period;
   - wheel washing facilities;
   - details of lighting;
   - management and control of dust;
   - management of demolition stages;
   - noise and vibration management (to include arrangements for monitoring, and specific method statements for piling).

   Thereafter, the approved construction plan shall be fully implemented and adhered to during the construction phases of the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

6) No demolition/development shall take place until a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:

   i) the programme and methodology of site investigation and recording;
   ii) the programme for post investigation assessment;
   iii) the provision to be made for analysis of the site investigation and recording;
   iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
   v) the provision to be made for archive deposition of the analysis and records of the site investigation;
   vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

   The development shall be carried out in accordance with the approved scheme.

7) Any contamination that is found during the course of construction of the approved development that was not previously identified 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 [or relevant phase of development] is resumed or continued.

8) Operations related to the construction (including site clearance and demolition phases) of the permitted development shall only take place between the hours of 08.00 and 18.00hrs Mondays to Fridays and between the hours of 09.00 and 13.00hrs on Saturday. There shall be no working on Sundays and Bank Holidays. There shall be no deliveries to the development arranged for outside of these approved hours.