



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/21/3289746

The Leas, The Street, Stonham Aspal IP14 6DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr R Tydeman against the decision of Mid Suffolk District Council.
 - The application Ref DC/21/03589, dated 23 June 2021, sought approval of details pursuant to condition No 3 of planning permission Ref DC/18/04191, granted on 7 February 2019.
 - The application was refused by notice dated 10 December 2021.
 - The development proposed is Outline Planning Application (Access to be considered) - Erection of up to 5 no. dwellings and construction of new access, following demolition of 1 no. existing dwelling.
 - The details for which approval is sought are appearance, landscaping, layout and scale and include those pursuant to Condition 9 (Hedgerows), Condition 10 (Surface Water Drainage Details), Condition 11 (Roads and Footpaths), Condition 13 (Parking and Turning), Condition 14 (Refuse Bins and Collection Areas), Condition 15 (Fire Hydrants) and Condition 16 (Construction Management) of planning permission Ref DC/18/04191.
-

Decision

1. The appeal is allowed insofar as it relates to the reserved matters are approved, namely appearance, landscaping, layout and scale details submitted in pursuance of condition No 3 attached to planning permission Ref DC/21/03589 dated 23 June 2021 and discharge of planning condition 10 (Surface Water Drainage Details), condition 11 (Roads and Footpaths), condition 13 (Parking and Turning), condition 14 (Refuse Bins and Collection Areas), condition 15 (Fire Hydrants) and condition 16 (Construction Management) subject to the schedule of conditions at the end of this decision.
2. The details for the discharge of condition 9 (hedgerows) are not approved.

Applications for costs

3. 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

4. The appellant has advised that their name is that on the appeal form and I have used this in my banner heading above.
5. The outline planning permission included a number of conditions which were pre-commencement or required details to be submitted concurrently with the reserved matters application. Some of these have been submitted as part of

this appeal. There is no reason that these details cannot be considered at this stage.

6. I also have a subsequent appeal¹ before me in relation to a refused outline permission on the site. While I have determined each appeal on its individual planning merits, I am nonetheless aware of the implications each has for the other.
7. On 19th September 2023, the Council received notification that the emerging Babergh and Mid Suffolk Joint Local Plan (eLP) had been found sound, subject to main modifications. The Council has not identified specific policies in relation to this appeal. I therefore attach limited weight to the eLP.

Main Issue

8. The main issue is the effect of the proposed development on the character and appearance of the area, including the setting of a nearby listed building.

Reasons

9. The outline planning permission² establishes the principle of built development on the site. This would inevitably change the rural countryside character of the site to a developed one. The plans from the outline permission included an indicative layout. Although layout and scale are not required to comply with this drawing, the limited size of the site, position of the access and the number of dwellings proposed mean that the options for realistically developing the site were limited. The Council therefore had a strong indication as to how the site would be brought forward when it granted the outline permission and did not impose any conditions to control how the reserved matters could be brought forward.
10. The clustered site layout is different to that in the surrounding area which is generally more linear in form. However, given the limited visibility of the site due to its position behind existing development, this would not harm the character and appearance of the area. There is no substantive evidence before me of the harm that would arise from the density and scale of the proposed development. The proposed dwellings would be substantial in scale but are sited on plots that are commensurate with this. They would not appear disproportionate in the context of the surrounding generous plots and dwellings. I have not been directed to any policies or evidence as to the nature of housing need in the area which would require me to consider whether the number of bedrooms in each dwelling was appropriate.
11. Perimeter landscaping is shown which would provide screening and provide an appropriate transition from the surrounding countryside to the developed area of the settlement. The details are sparse however, and specifics of the type of planting proposed can be secured by condition.
12. 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

¹ APP/W3520/W/22/3302662

² DC/18/04191

of preserving the building or its setting. Insofar as it relates to this appeal, the significance of Orchard Farmhouse 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.

13. From my observations at my site visit, any development within the appeal site would sever the relationship of the listed building with its wider agricultural setting in that direction due to the fundamental change in the character that would be an inevitable result of the development permitted. While this may result in less than substantial harm to the significance of Orchard Farmhouse, it is not open to me to reconsider this point as the principle of development has been approved. No conditions were imposed on the outline to limit how the site could be developed with respect to the setting of the listed building.
14. The closest buildings to Orchard Farmhouse would be single storey with rear gardens adjacent to it, minimising the scale of built development in proximity to the listed building. The design of the dwellings has been strongly influenced by the rural context of the site with references to the design of traditional barns. The proposed materials are characteristic of the surrounding area. The appearance, layout and scale of the proposed dwellings would have a neutral effect on the significance of Orchard Farmhouse. Consequently, I do not need to assess the proposal against the considerations of paragraph 202 of the National Planning Policy Framework (the Framework).
15. Notwithstanding, the elevation and floorplan for plots 4 and 5 are not consistent with regard to the width of the upper floor windows, nor has a handed drawing been provided which accurately shows plot 4. Corrected plans can be secured by condition.
16. I therefore find that the proposed development would have an acceptable effect on the character and appearance of the area, and a neutral effect on the setting of a nearby listed building. It is therefore in accordance with Mid Suffolk Local Plan (September 1998) (LP) Policies H13, H15 and HB1 and Core Strategy Development Plan Document (September 2008) (CS) Policy CS 5 which, taken together and amongst other things, require new housing development to be of a high standard of design and layout, an appropriate scale and density, reflect local characteristics and pay particular attention to protecting the setting of listed buildings and maintain the historic environment. It would also be in accordance with the policies of Section 16 of the Framework

Other Matters

17. The outline permission remains live insofar as it relates to this appeal. I do not have full details of how the Council arrived at the decision to allow the outline permission. While permission was previously refused on the site and dismissed on appeal, (as were previous reserved matters pursuant to the same outline as this), it remains the case that outline permission was subsequently granted. This permission included access and it was clear that access would pass between Nos 3 and 5 Quoits Meadows. The number of dwellings proposed was also part of the consideration at that time. These are not matters I can revisit, irrespective of any change in circumstances such as the Council now being able to demonstrate a five year supply of deliverable housing land. Any local requirement with respect to occupancy would have to have been imposed at the outline stage.

18. A bedroom window is shown in the side elevation of plot 5. This would allow for overlooking to the neighbouring properties. However, this would be limited by the glazing pattern serving that bedroom, the layout of the proposed site and the distance to the existing property at 3 Quoits Meadow. It would not result in an unacceptable loss of privacy. Nor would there be an undue loss of outlook or light from the position of the proposed dwellings. There would not be an unacceptable impact on the living conditions of surrounding occupiers arising from Plots 1 and 2 due to the single storey nature of the proposed developments and their position in relation to those neighbouring properties.
19. There was no condition requiring the retention of any of the trees on the site. Other than occasional planting, the proposed plans are not definitive as to the proposed boundary treatments to Nos 3 and 5. Further details can be secured by condition.
20. There is no substantive evidence before me that residential use of the site would give rise levels of noise and disturbance beyond that of any other residential property. Were such noise to occur, other controls exist which could address that matter.
21. Other legislation exists regarding water supply. Existing issues with parking on Quoits Meadow could be addressed through highways legislation. The Party Wall Act operates separately to the planning system and would be a matter between the relevant parties.
22. National policy is set out in the Framework which is a material consideration in the determination of this appeal. There is no obligation on the appellant to seek pre-application advice from the Council or to seek the views of surrounding occupiers. It is not within the scope of this appeal to consider the Council's processes for notifying parties of their decision making arrangements.
23. The Council has not raised any concerns with the discharge of conditions 11 (Roads and Footpaths), 13 (Parking and Turning), 14 (Refuse Bins and Collection Areas), and 15 (Fire Hydrants). I have no reason to disagree, and no reason to think that the submitted highways details do not make adequate provision for pedestrian safety. While the bin collection point would be some distance from the dwellings, the Council has not expressed any concerns in this respect and I have no reason to find differently.
24. Condition 9 (Hedgerows) required details of the retention or removal of hedgerows around the site. The submitted information shows the retention and enhancement planting but with no specific detail. I therefore consider there is insufficient information to allow this condition to be discharged.
25. The construction compound would be located adjacent to the site entrance and No 3. There would be some inevitable disruption during the construction process, however this would be short term given the small scale of the proposed development. While the Council has not indicated any concerns with this plan, the hours of operation are longer than those recommended on the outline appeal which is also before me. I therefore imposed a condition which limits these hours to those in the outline permission. There is other legislation in place with respect to site safety and hazardous materials. It would be a matter for the appellant to ensure compliance with that. In planning terms, the details submitted pursuant to condition 16 (Construction Management) would be acceptable.

26. The Council has confirmed it considers the submitted surface water drainage strategy to address condition 10 (Surface Water Drainage Details) acceptable. The land on which the attenuation pond would be sited is not within the red line of the application. However it is on land within the appellant's control so this would not prevent the details being approved. Works that would otherwise require planning permission can be authorised through the discharge of a condition, and there is no reason for that not to be the case here.

Conditions

27. The Council has suggested several conditions should the appeal be allowed. I have had regard to these in light of the advice contained within the Framework and the Planning Practice Guidance. I have imposed the approved plans condition to define the terms of the permission. It is not necessary to restate that the conditions imposed on the outline permission still apply. I have also removed the additional detail from the condition specified by the Council as this could have allowed for the permission to be altered beyond what could be considered to be reasonable.
28. For the reasons given above, I have imposed a further condition requiring amended plans for plots 4 and 5 to be submitted. These are reasonable and necessary to define the terms of the permission and to have an acceptable effect on the living conditions of neighbouring occupiers.
29. Specific detail of the proposed planting scheme should be provided in order to provide certainty. Details of root protection measures should also be required for the trees shown to be retained. These conditions are reasonable and necessary to ensure the appropriate landscaping of the site. Details of a boundary treatment to Nos 3 and 5 should be provided to ensure there would not be an unacceptable loss of privacy or security.

Conclusion

30. For the reasons given I conclude that the appeal should succeed with the exception of the details submitted pursuant to condition 9 (Hedgerows), subject to the conditions attached and those imposed at the outline stage.

J Downs

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: The development hereby permitted shall be carried out in accordance with the following approved plans: 03 Rev H; 04 Rev H (except insofar as it relates to work hours which shall be limited to 09.00 hours to 13.00 hours on Saturdays); 05 Rev D; 06 Rev D; 07 Rev B; and 08 Rev E.
- 2) Prior to the commencement of development, amended plans for the dwellings on plots 4 and 5 shall be submitted to and approved in writing by the local planning authority. The amended plans shall be consistent in their layout and elevation. The development shall be carried out in accordance with the approved plan.
- 3) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]
- 4) Prior to the commencement of development, a full specification of all proposed landscaping shall be submitted to and approved in writing by the local planning authority. The specification shall include the quantity, size, species, and positions or density of all planting and how they will be planted. The planting shall be carried out in accordance with the approved specification.
- 5) Prior to the commencement of development, (including demolition and site clearance), details of the boundary treatments to the boundary of the site with Nos 3 and 5 Quoits Meadow shall be submitted to and approved in writing by the local planning authority. The approved boundary treatments shall be installed before the development commences in accordance with the approved details and thereafter retained.