The Planning Inspectorate

Appeal Decision

Site visit made on 12 September 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2023

Appeal Ref: APP/W3520/W/23/3314326
C Finch, Kiln Lane, Elmswell, Suffolk IP30 9QR

- 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 C Finch against the decision of Mid Suffolk District Council.
- The application Ref DC/22/02951, dated 7 June 2022, was refused by notice dated 4 August 2022.
- The development proposed is described as 'erection of up to four dwellings'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all detailed matters other than means of access reserved for future approval. The appeal is determined on that basis and, therefore, the plans and illustrative material submitted in so far as they relate to appearance, landscaping, layout and scale are taken into account for indicative purposes only.

3. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) in September 2023, replacing the version published 20 July 2021. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

4. The Council adopted the Babergh and Mid Suffolk Joint Local Plan – Part 1 on 20 November 2023 (JLP), after its refusal of planning permission. The JLP replaces the Mid Suffolk Core Strategy Development Plan Document 2008 (CS) and the saved policies of the Mid Suffolk Local Plan 1998. In these circumstances, I am required to determine the appeal against the current development plan for the area at the time of my Decision. The appellant and Council were invited to make comments on the relevant JLP policies, and I have taken these comments into account in reaching my decision.

5. My attention has been drawn to policies of the emerging Elmswell Neighbourhood Plan. Given its early stage of preparation, in accordance with Paragraph 48 of the Framework, I give these policies limited weight in the determination of the appeal.

Main Issues

6. The main issues are:

i) whether the site represents a suitable location for housing with particular regard to its countryside location and accessibility;

ii) the effect of the proposed development on the character and appearance of the area;

iii) whether the development would provide for a suitable living environment for future residents, with particular regard to noise;

iv) whether the development would provide for a suitable living environment for future residents, with particular regard to odour; and

v) whether a safe and suitable access is capable of being provided.

Reasons

Location

7. The appeal site is located off Kiln Lane, a rural lane which lies north of the A14, between the settlements of Elmswell and Woolpit. Kiln Lane is interspersed with dwellings, predominantly, along the southern side of the lane. The appeal site lies to the east of a pair of two-storey semi-detached dwellings, opposite a single storey dwelling and adjacent to a scrap metal business.

8. The site would not be located within a settlement, consequently, it is classified as being within the countryside. Policy SP03 of the JLP restricts development in the countryside to defined categories, and subject to compliance with other relevant parties of the plan.

9. Policy LP01 of the JLP supports new development within clusters of development in countryside locations subject to compliance with a number of criteria. In this circumstance, the proposal would provide for more than two dwellings. Furthermore, as discussed below, the proposal would be harmful to character and appearance and would result in visual intrusion into the surrounding landscape. On this basis, the proposed development would not comply with the exceptions listed.

10. In terms of accessibility, the appeal site is located relatively close to Elmswell and Woolpit, both of which contain a variety of services to meet the day-to-day needs of residents. However, Kiln Lane is a narrow, unlit road with no pavement which would discourage pedestrians and cyclists from using it to access the settlements. In addition, whilst a public footpath would be accessible from the appeal site linking it to Elmswell, this is unsurfaced, across fields and would not be a realistic choice for many users, including those with prams, mobility issues and in poor weather or hours of darkness. Furthermore, to access Woolpit the A14 would need to be traversed. It is therefore likely that the future occupiers of the dwellings would be dependent on a private motor vehicle to meet their everyday essential needs.

11. The Framework recognises that opportunities to maximise sustainable transport solutions vary from urban and rural areas. However, the proposed development would not provide the opportunity to maximise the use of sustainable transport facilities, even when accepting that the site is in a rural location.

12. A previous decision allowed on appeal[1] has also been drawn to my attention. Whilst the locational circumstances of that development are not substantially different from the evidence before me the circumstances differ as that proposal was not subject to noise, odour, or highway safety concerns. The Council can now also demonstrate a deliverable housing supply and therefore the policy situation between the two cases is materially different and therefore not directly comparable.

13. For the reasons stated above, I therefore conclude that the development would not be an appropriate location for housing, with particular regard to its countryside location and accessibility. Accordingly, I find conflict with Policies SP03 and LP01 of the JLP. Collectively, these policies seek restrict development in the countryside and to direct development to places that enable sustainable journeys to be made to key services and facilities.

Character and appearance

14. Kiln Lane is characterised by a linear pattern of residential development, predominantly situated on the south side of the Lane. On the northern side of the lane dwellings are more sporadic. Dwellings in the locality exhibit a range of architectural styles; some are set close to the road and others are set back behind mature landscaping giving the road a verdant, rural character.

15. The appeal site relates to part of the existing scrap metal business yard and includes an area of hardstanding, where I observed a shipping container set back within the site. The site also includes mature landscaping along its western boundary and to the north where the appeal site extends into a grassed area, which I understand to be a former racetrack.

16. The re-development of this site would make effective use of this previously developed land that currently contributes little to the pleasant rural character and appearance of the area, however, the proposed development would significantly alter the appearance of the site. The built form of dwellings would result in suburbanisation of the site and would represent a significant visual encroachment into the countryside. This would be harmful when seen in the surrounding area.

17. There is no definition of 'limited infilling' in the Framework, however, the JLP defines it as the filling of a small undeveloped plot in an otherwise built-up highway frontage. Whether the proposal would represent infilling is a question of planning judgement based on an assessment of the site and its surroundings. In this regard, the appeal site would not be located within a continuous built-up frontage. Furthermore, the site would protrude out into open land to the north, beyond the properties on either side of the site. It would therefore be poorly contained by existing built development and, in my view, would not constitute infill development.

18. A single point of access is proposed to serve the development which would assist in retaining the verdant character of the lane. An appropriate design could also be secured at reserved matters stage. However, these matters do not alter my view on the harms I have identified above.

19. For the reasons stated above, I conclude that the proposal would be harmful to the character and appearance of the area. Accordingly, I find conflict with

[1] APP/W3520/W/17/3173378

Policy LP01 of the JLP which seeks to resists development that would be harmful to character and appearance with visual intrusion into the surrounding landscape.

Living Conditions - Noise

20. The appeal site relates to part of the existing scrap metal business. No information has been provided with regards to the wider site as to its association with the appeal site, its hours of operation and extent of the business. It has not been confirmed that this use would cease, therefore based on the evidence before me, housing would be located immediately adjacent to an established scrap metal business.

21. Whilst the scrap metal business may have been in operation for a number of years alongside existing dwellings along Kiln Lane, the appeal site would directly abut the business. There is limited evidence before me as to the nature of the use as a scrap yard, however, based on my observations, it is likely that deliveries, engineering processes, machinery and vehicles could be used early in the morning and in the evening. There is no indication that its operating hours are subject to any control via existing planning conditions. The indicative plans show a dwelling would have its rear garden directly on the shared boundary. Noise associated with the established use is therefore likely to be audible within the rear gardens of the proposed dwellings, and possibly audible inside dwellings, which would likely cause a nuisance to the future occupiers.

22. The Framework states that to prevent unacceptable risk from pollution, planning decisions should ensure that new development is appropriate for its location. In the absence of an analysis of noise, and any required mitigation, I cannot be satisfied that the living conditions of future occupiers would not be adversely affected by noise.

23. For the reasons stated, I conclude that the development would not provide for a suitable living environment for future residents, with particular regard to noise. I therefore find conflict with Policies LP15 and LP24 i) of the JLP which seeks to avoid significant adverse amenity impacts where a proposal is located adjacent to or close to existing uses. In reaching this conclusion I have had regard to paragraphs 130, 185 and 187 of the Framework which seeks to ensure a good standard of amenity for all future occupants of buildings and that new development is integrated effectively with existing businesses.

Living Conditions - Odour

24. The appeal site is in close proximity to an existing sewage works, which is located to the east. Accordingly, it is likely that future occupiers of the new dwellings would be subjected to unpleasant odours. In this regard, the appeal site would be positioned closer to the sewage treatment works than many other dwellings in the locality.

25. At the time of my visit, I was able to smell an unpleasant odour. Whilst I am mindful that this is a snapshot of time, nevertheless, I have no evidence of whether odour is intermittent or frequent and what its impact on living conditions are likely to be. In the absence of such evidence, I cannot be satisfied that the future occupiers of the dwellings would not be adversely affected by odour from the nearby sewage works.

26. For the above reasons, I cannot be satisfied the development would provide for a suitable living environment for future residents, with particular regard to odour. Consequently, the proposed development conflicts with Policies LP15 and LP24 i) of the JLP, which amongst other things, seeks to avoid significant adverse amenity impacts from existing sources of pollution, including odour. I also find conflict with the Framework which seeks a good standard of amenity for future occupiers of the development.

Highway Safety

27. Kiln Lane is a narrow country road. The road is devoid of footpaths, is unlit and subject to the national speed limit. In the vicinity of the appeal site Kiln Lane is a relatively straight road. I observed emerging visibility from the existing access to be poor.

28. Whilst I accept that vehicle speeds are likely to be less than 60mph due to the narrow road conditions in the vicinity of the appeal site, no evidence is before me as to what vehicle speeds are, and accordingly, what might be an appropriate visibility splay for the proposed development. It is also unclear what visibility splay would be available to the development. Moreover, it is likely that the development would lead to a material increase in the use of the access.

29. The appellant states that there are no traffic accident reports for the road. However, from the information before me there is little evidence to substantiate this.

30. The appellant refers to a scheme allowed on appeal[2] where reduced visibility splays were accepted. From the limited information available to me, this case is not comparable in terms of the form of development or site context. I therefore cannot draw any meaningful comparisons with the appeal before me. In any event, I have assessed the case on its own merits.

31. For the reasons given above, I cannot be certain that a safe and suitable access for all users can be achieved. I therefore find the proposal would be in conflict with Policy LP29 of the JLP and Paragraph 110 b) of the Framework which requires the provision of a safe and suitable access for all.

Other Matters

32. I acknowledge that the Framework is supportive of small and medium sized sites, such as this, which can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services from future occupiers. I consider that these benefits attract modest weight.

33. My attention has been drawn to a number of appeal decisions in the locality that found policies of the CS to be out-of-date. The policies against which those decisions were made have been superseded and I have determined this appeal based on the new JLP policies.

34. The Council has not included matters of ecology or contamination in their reason for refusal and based on the evidence before me, I have no reason to

[2] APP/D3505/W/17/3191313

disagree. However, the lack of harm on these matters would only be a neutral factor.

35. Any concerns regarding due process during the processing of the planning application fall outside of the remit of this decision.

Conclusion

36. I conclude that the development would be in an unsuitable location for new residential development with regard to its countryside location and accessibility and would harm the character and appearance of the area. In the absence of further evidence, I also cannot be satisfied that it would not be subject to unacceptable living conditions with regard to noise and disturbance and odour, or that it would have a safe and suitable access. It would be contrary to the development plan in these respects. There are no other considerations, including the Framework, that outweigh this conflict.

37. For the reasons given above, I conclude that the appeal should be dismissed.

R Gee

INSPECTOR