



Appeal Decision

Site visit made on 14 December 2023

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th January 2024

Appeal Ref: APP/W3520/W/23/3314522

Land on north side of Fen Road, Hinderclay, Suffolk IP22 1HS

- 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 Nathan Dickinson of Red Frog Developments Ltd against the decision of Mid Suffolk District Council.
 - The application Ref DC/22/02551, dated 13 May 2022, was refused by notice dated 12 July 2022.
 - The development proposed is the demolition of two agricultural buildings, and erection of five new detached dwellings, with associated external works and change of use of land from agricultural to residential.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development on the application form includes that one of the agricultural buildings has extant permission to convert to five dwellings¹. As this describes the planning history of the site rather than the proposed development, I have not included it within the description above.
3. Part of the appeal site gained planning permission in December 2023 for the erection of 4 dwellings and the change of use of land to residential, following the demolition of 2 agricultural buildings².
4. The adopted Babergh and Mid Suffolk Joint Local Plan (JLP) (November 2023) now supersedes all the policies cited in the decision notice from the previous development plan. The main parties have been given the chance to comment on any implications of this. The National Planning Policy Framework ('the Framework') was revised in December 2023. The content of the Framework has not been materially altered in respect of the main issues before me, and therefore it has not been necessary to go back to the parties regarding this.
5. The appeal includes a revised site plan³ showing a smaller site area of just below 0.5ha. The proposal would thus fall below the affordable housing threshold identified in the JLP Policy SP02, which also states that proposals must avoid artificial or contrived subdivision of a landholding to circumvent affordable housing requirements, as appears to be the case here.

¹ Reference DC/21/06207 approved in 2022 under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO').

² Reference DC/23/00672

³ Reference 211091_003_Rev A

6. Furthermore, the smaller barn would fall outside of the new site boundary. As its demolition and replacement with a biodiversity enhancement area is integral to the proposal, I do not see why this should be excluded. Moreover, the land newly outside of the site to the south does not appear to be easily accessible for agriculture, and so would not represent good design. An additional boundary would also be required along here, which in any form would appear as somewhat artificial. The plan also slightly revises the position of every dwelling, alongside minor changes to their parking/hardstanding, and the internal road would be slightly closer to Fen Road.
7. Parties have had the chance to comment on the revised plan. Despite this, I consider the changes would cumulatively be so fundamental, that accepting this plan would not meet the substantive and procedural tests in accordance with the *Holborn Studios Ltd (2017)* judgement⁴. I have therefore made my determination based on the same plans on which the Council made its decision.

Main Issues

8. The main issues are:
 - whether the proposed development is in a suitable location for housing, having regard to the settlement strategy for the District.
 - the effect of the proposed development on the character and appearance of the countryside; and
 - whether the proposed development would provide sufficient affordable housing.

Reasons

9. The appeal site contains a large agricultural barn, and an adjacent slightly smaller and higher open-sided barn. The remainder of the site comprises agricultural land and an access drive. The proposal is to demolish the barns and erect 5 detached dwellings spread across the whole site, plus an area of ecological enhancement in the north.
10. The proposal would not be infilling in accordance with the JLP Policy LP01, because notwithstanding that policy's other criteria, it would create more than 2 dwellings, and would not be set within dwellings to either side. The site lies outside of any settlement boundaries as defined on the Policies Map. The JLP Policy SP03 only allows for development outside of settlement boundaries in certain circumstances, of which none therefore apply to the appeal proposal.
11. The appellant accepts that the site is in an unsustainable location. It is over 2.5km from the nearest village with limited services and facilities. There is no suggestion of public transport access, and routes would involve narrow single lane roads or public rights of way, both without made footways or lighting. As such, these routes would be unsafe and unattractive for pedestrians and relatively so for cyclists, especially in darker or wetter conditions. Given this distance, and the lack of safe routes, the site's future occupants would be heavily reliant upon the private car to access services, facilities, and employment.

⁴ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

12. Overall therefore, the proposal would not be in a suitable location for housing having regard to the settlement strategy for the District, and would conflict with the JLP Policy SP03 as outlined above. It would also conflict with the JLP Policies LP24 and LP29, which together and amongst other matters, require developments to prioritise movement by foot, bicycle, and public transport, and maximise the opportunities to use these sustainable transport modes. It would further conflict with the Framework's sustainable development objectives in paragraphs 8 and 11, and with paragraphs 108(c) and 114(a) whereby developments should promote the use of sustainable transport modes including walking, cycling, and public transport.

Character and Appearance

13. The physical appearance of the barns is not so harmful to the countryside, that their replacement by dwellings would be an inevitable benefit. This is because the location, massing, and materiality of the barns are typical for an agricultural use in this rural location. The open sides of the smaller barn also reduces its massing somewhat. The larger barn is relatively low in height and set back from the road such that it is not dominant within the rural aspect.
14. The appellant identifies that the design intent is to avoid over-domestication of the site. In providing a cluster of dwellings of different sizes and designs, in materials of timber clad walls, metal roofs and dark grey windows, they would be evocative of farm buildings. However, in comparison to the barns, the dwellings would spread across a much larger area, and be a clearly more urban and domestic development. Their heights would be similar to the taller barn, so there would be no apparent significant reduction in massing overall. There would also be a wide area of domestic paraphernalia, as well as parked vehicles, hardstanding, and boundary treatments. Altogether, the built form would not relate well to existing development, such that it would encroach into the countryside and harm its character.
15. The appellant suggests a willingness to amend the house designs via condition. Even if I deem this to be an appropriate method to make amendments, for the reasons above this would not sufficiently reduce the scheme's impact.
16. Overall therefore, the proposed development would cause harm to the character and appearance of the countryside. It would conflict with the JLP Policies LP01, LP17, and LP24, which together and amongst other matters, require development to be of high-quality design, which must be sympathetic to and integrate with the local character, including the surrounding landscape setting, and be appropriate in terms of scale, mass, form, siting, and design. It would also conflict with the Framework paragraphs 131 and 135 whereby development should involve the creation of high quality, beautiful, and sustainable buildings and places, through good design, and good architecture and layout.

Affordable Housing

17. The JLP Policy SP02 requires 35% affordable housing to be provided for a greenfield housing site above 0.5ha. The appellant accepts it is appropriate for the Council to use the Framework's Glossary definition of major development in defining its affordable housing policy. No viability evidence is provided to justify the proposal's lack of provision.

18. The revised proposal with a reduced site size would generate no requirement to provide affordable housing. However, I have already addressed above why I have not accepted this plan as the basis for my determination.
19. Therefore, the proposal would provide insufficient affordable housing, and so would conflict with Policy SP02 of the JLP. It would also conflict with the Framework section 5 on delivering a sufficient supply of homes, which includes for major development to provide appropriate affordable housing.

Other Matters

20. The benefits of the proposal would result in 5 additional open market dwellings compared to at present. The Framework seeks to significantly boost the supply of homes, and so additional housing is a public benefit of the proposal, although this benefit is reduced due to the lack of affordable housing from this size of site. The Council also identifies that it has an evidenced supply of land for housing in excess of 9 years. The benefits associated with the construction and occupation of 5 additional dwellings would be relatively limited and so I give each of these matters moderate weight.
21. The main fallback position on which the appellant relies as a material consideration ('the fallback'), is the Class Q conversion of the larger barn to 5 dwellings. I have termed the recent permission for 4 dwellings as the 'secondary fallback'. I refer to these collectively as 'the fallbacks.'
22. I identified above that the proposal would result in harm to the settlement strategy. However, being in the same location and the same number of dwellings as the fallback, it would therefore not create any additional harm or conflict with the development plan in this regard. I thus find the fallback to be a material consideration which equals the harm to the settlement strategy, and so find the location of the proposal to be acceptable in principle. Compared to the appeal proposal, the fallback would also provide no affordable housing, and have the same in principle benefits from 5 new dwellings, and is therefore neutral with regard to these matters.
23. Compared to the secondary fallback, the appeal scheme would provide one additional dwelling in an unsustainable location. This would cause limited additional harm. However, it would also provide the limited benefit of an additional dwelling to the housing supply. I give both these factors limited weight.
24. Regarding the character and appearance of the countryside, the footprint of the dwellings approved under both fallbacks would be restricted to the area of the existing barns. Dwellings confined to this location would create less intrusion into the countryside than the appeal proposal, and allow for more open views to the countryside in front and beyond across the majority of the site. They would retain much more of the site's existing agricultural character and rural openness, and so would be preferable in this regard.
25. The proposed dwellings would have a better thermal performance than the fallback, as they could use air source heat pumps, and would not be restricted to the existing building envelope and structure. The proposal would also bring biodiversity enhancements compared to both the present situation and the fallback, including native tree and mixed thorn hedge planting to the

boundaries of the individual plots, and a large area specifically identified for biodiversity enhancements. I give both these minor benefits moderate weight.

26. The proposal would also provide a better amenity for future residents than both the fallbacks, with detached dwellings, bigger plots and gardens, and increased separation. I give this benefit limited weight. The proposal would also allow the removal of any asbestos containing materials compared to the fallback, albeit no specific details have been provided in this regard. I give this minor weight.
27. Other examples where the Council has approved new dwellings following previous Class Q approvals, are not directly comparable as precedents. Each site and proposal are within a different context and set of circumstances, and must be assessed on their own merits. For example, the 'Worlingworth' drawings indicate an existing denser site footprint of agricultural buildings, and a closer relationship with other development. As such, these examples are not determinative to my decision. I also note the proposal has support from the Parish Council and the Ward Councillor, but this does not diminish the harm I have identified above.

Planning Balance and Conclusion

28. I have found that the proposal would cause harm to the settlement strategy and the character and appearance of the countryside, and would provide insufficient affordable housing. I give significant weight to this harm, which would outweigh the benefits of the new dwellings as identified above.
29. In a comparison against the main Class Q fallback, equal harm would be caused to the settlement strategy, such that this harm is nullified. The appeal scheme would provide minor benefits regarding thermal performance, biodiversity, amenity for future residents, and the removal of asbestos, and would hold neutral weight with relation to the provision of new dwellings, including affordable housing. However, the appeal scheme would be significantly less preferable to the fallback regarding harm to the character and appearance of the countryside. In totality, the presence of this fallback as a material consideration does not outweigh the appeal proposal's harm.
30. In comparison against the secondary fallback, the appeal scheme would provide one additional dwelling as a minor benefit, but that dwelling would cause harm due to being in an unsustainable location. The proposal would provide a minor benefit for the amenity of future residents, but no other benefits over this fallback, and would also be significantly less preferable regarding harm to the character and appearance of the countryside. This fallback therefore similarly does not outweigh the appeal proposal's harm.
31. The proposal would thus conflict with the development plan as a whole. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR