



Appeal Decision

Site visit made on 25 March 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2024

Appeal Ref: APP/W3520/W/23/3333686

Land South of Mill Road, Wyverstone IP14 4SE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr R Tustin against the decision of Mid Suffolk District Council.
 - The application Ref is DC/23/03244.
 - The development proposed is the erection of 2 No detached dwellings and garages (following demolition of poultry houses).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development within the application form refers to the proposal being a resubmission. The resubmission of a proposal is not an act of development under s55 of the Act and so I have not included this within the description above.
3. The application was made in outline with all matters reserved for future consideration. I am determining the appeal on this basis.
4. On 20 November 2023, the Council adopted the Babergh and Mid Suffolk Joint Local Plan (JLP), which supersedes the Mid Suffolk Local Plan (1998), the Core Strategy (2008) and the Core Strategy Focussed Review (2012) and now forms part of the statutory development plan. Policies H7, CS1, CS2, CS5, FC1 and FC1.1, as referred to on the decision notice, are therefore no longer relevant. Policies LP01 and SP03 of the JLP are, however, relevant and the appellant has had an opportunity to comment on these.
5. A revised National Planning Policy Framework (the Framework) was published in December 2023 accompanied by a written ministerial statement. The revised Framework is a material consideration which should be taken into account from the day of publication. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issues

6. The main issues are:
 - whether the site is a suitable location for housing having regard to development plan policy and accessibility to services and facilities; and

- the effect of the proposal on biodiversity, with particular regard to protected species.

Reasons

Suitable location

7. The appeal site fronts Mill Road where the pattern of development is dispersed. The site forms the front part of a larger plot and contains three large chicken sheds. There are open fields to one side and to the rear of the wider site. The site lies outside of the settlement of Wyverstone and consequently, the site is in the countryside for planning purposes. There are very limited facilities within Wyverstone with the nearest shop, public house, schools and doctor's surgery being located in Bacton approximately 1.5 miles away.
8. The site was the subject of a previous appeal¹ for a similar development. The Inspector noted that while the distance and lack of street lighting may discourage walking, facilities would be reachable by bicycle and by a relatively infrequent bus service. In addition, the Inspector considered that the presence of existing dwellings adjacent to the site meant that the site was not isolated.
9. Nevertheless, the previous appeal was determined against policies that have since been superseded following the adoption of the JLP. Similarly, the approved schemes within Mill Road referred to by the appellant under references DC/19/00440 and DC/19/03972 were permitted by the Council under the now superseded development plan. Those applications were determined under a different policy framework, a framework which the appellant contends was out-of-date, and for this reason I have given them limited weight.
10. Policy SP03 of the JLP sets out the overarching approach to the sustainable location of new development across the district. The policy makes provision for housing outside of settlement boundaries in a range of defined circumstances, including where the site is allocated for development, in accordance with a made Neighbourhood Plan, in accordance with one of the policies listed in Table 5, or in accordance with Paragraph 80 (now numbered Paragraph 84) of the Framework.
11. There is no information before me to indicate that the site is allocated for development, and it is common ground that Wyverstone does not have a made Neighbourhood Plan. Furthermore, it has not been suggested that the proposal would accord with any of the policies listed in Table 5, including Policy LP01 relating to windfall infill housing development.
12. The appellant contends that the proposal would not conflict with Policy SP03 as the site is not isolated and the development would therefore accord with Paragraph 84 of the Framework. However, Paragraph 84 does not provide specific support for development which is not isolated, rather it sets out the circumstances where isolated homes would be acceptable.
13. I acknowledge that future occupiers of the proposed dwellings would have some opportunities to use sustainable travel modes. However, the likelihood is that most journeys would be undertaken by private car. Trip lengths would be relatively short, given the modest distances involved. Nevertheless, the

¹ APP/W3520/W/22/3291011

proposal would conflict with the spatial strategy, as set out in JLP Policy SP03, which seeks to direct development to settlements where the need to travel can be reduced. The development plan is recently adopted and therefore up-to-date; the change in the policy framework is a significant alteration in circumstances since the previous appeal. I have not been directed to any compelling reasons why a decision should be made otherwise than in accordance with the latest spatial strategy.

Biodiversity

14. The Council's first reason for refusal relates to the failure to provide sufficient information to demonstrate that the proposal would not have an adverse impact upon Great Crested Newts (GCN), having regard to their status as protected species under the Wildlife and Countryside Act 1981 and as European Protected Species under the Conservation of Habitats and Species Regulations 2017. In addition, the Officer's Report and the Council's ecology consultee indicated that insufficient information has been provided to demonstrate that the proposal would not have an adverse impact upon bats, also a protected species.
15. The previous Inspector highlighted the lack of information in respect of the nearby pond. The appeal proposal is accompanied by a GCN Survey and Mitigation Proposals report. The report identified that GCNs were present in the pond on the opposite side of Mill Road. While the report has not assessed other ponds, the report has provided measures to mitigate the impact of the development on GCNs, which are known to be present in the area.
16. Nonetheless, given that the proposal involves the demolition of disused buildings in a rural area, the information before me does not demonstrate an absence of bats or that any adverse impact of the development on bats could be mitigated. Consequently, insufficient information has been presented that clarifies whether there are protected species present on the site or in the near vicinity and how the proposal would affect them.
17. I conclude that it has not been satisfactorily demonstrated that the proposal would not have a harmful effect on biodiversity. The development therefore conflicts with Policy LP16 of the JLP, which requires proposals to conserve, restore and contribute to the enhancement of biodiversity and geological interests including priority habitats and species. It also conflicts with the Framework, which states that if significant harm to biodiversity cannot be avoided, adequately mitigated or compensated for, then planning permission should be refused.

Other Considerations

18. The appellant indicates that replacing the poultry houses with two dwellinghouses would result in an enhancement of the site. However, the existing buildings have an overtly agricultural appearance appropriate to the rural surroundings. In addition, their low profile amongst the existing boundary hedgerows limits their prominence within the area. Consequently, any benefit to be gained in respect of the character of the area would be minimal.

Conclusion

19. The proposal conflicts with the development plan as a whole. Material considerations do not indicate that a decision should be made other than in

accordance with it. For the reasons given above the appeal should be dismissed.

J Pearce

INSPECTOR