



Appeal Decision

Site visit made on 22 July 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2024

Appeal Ref: APP/F3545/W/24/3339488

Milton House, Thurlow Road, Withersfield, Suffolk CB9 7SA

- 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 Messrs Lansdown and Daniels of Timber and Stone Properties Ltd against the decision of West Suffolk Council.
 - The application Ref is DC/23/0493/FUL.
 - The development proposed is the demolition of modern 2-storey house. New residential development of 5 houses (net gain of 4 houses).
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of modern 2-storey house. New residential development of 5 houses (net gain of 4 houses) at Milton House, Thurlow Road, Withersfield, Suffolk CB9 7SA in accordance with the terms of the application, Ref DC/23/0493/FUL, subject to the conditions in the attached Schedule.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the living conditions of occupants of Thistledown Cottage and The Old Bakery, with regard to outlook; and
 - whether suitable living conditions would be provided for future occupants of the dwelling on plot 1 of the proposed development, with regard to noise and disturbance.

Reasons

Living conditions - outlook

3. The appeal site consists of an existing detached two-storey dwelling with an extensive garden to the rear. The site is largely enclosed by mature trees, hedges and fences. To either side of the site are detached dwellinghouses, including The Old Bakery and Thistledown Cottage. The proposal is for the erection of five dwellinghouses following the demolition of the existing dwelling. The development is an amended scheme following an earlier proposal, which was dismissed at appeal¹.
4. The Old Bakery is a broadly L-shaped dwelling set back from Thurlow Road. The ground and first floor windows facing towards the rear garden of the

¹ APP/F3545/W/21/3286825

existing dwelling at the site are set away from the shared boundary. The proposed dwelling on plot 5 would be single-storey in scale and would be positioned away from the boundary. The roof of plot 5 would be visible from The Old Bakery and would reduce the generally verdant outlook enjoyed by the occupants.

5. Nonetheless, the small scale of the dwelling and the position away from the boundary would limit the visual intrusion, which would be further restricted through the retention of the boundary hedge and additional planting. Consequently, the proposal would not result in a harmful sense of enclosure and would not harm the outlook of the occupants of The Old Bakery.
6. Thistledown Cottage fronts Thurlow Road and has two ground floor windows within the gable end facing the site. The existing outlook of these windows is partially obscured by existing the boundary fence and outbuilding. The proposed dwelling on plot 1 would be set back from the front of the site such that the windows would face the parking area. Consequently, the dwelling would not have an overbearing effect on the side facing windows.
7. There are ground and first floor openings within the rear elevation of Thistledown Cottage, providing oblique views of the site. The proposed dwelling on plot 1 would be set in from the boundary with Thistledown Cottage and would be single storey in scale. While the dwelling would extend along the length of the rear garden of Thistledown Cottage, the low eaves height and gentle pitch of the asymmetrical roof would restrict the visual encroachment of the dwelling. Accordingly, given the low overall height, position and boundary treatment, the dwelling would not lead to an overbearing outlook when viewed from the rear of Thistledown Cottage.
8. I conclude that the proposal would not have an unacceptably harmful effect on the living conditions of the occupants of Thistledown Cottage and The Old Bakery. The development therefore accords Policies DM2 and DM22 and the National Planning Policy Framework (the Framework), which collectively require new development to be laid out to optimise amenity, not affect adversely residential amenity and provide a high standard of amenity for existing and future users.

Living conditions – noise and disturbance

9. The proposed dwelling on plot 1 would be positioned close to the access from Thurlow Road. The elevation facing the access road would include three windows serving the kitchen and sitting room and the bedroom. Vehicles accessing the other four plots would pass the dwelling on entry to and exit from the courtyard.
10. The limited scale of the development would not result in a significant number of vehicle movements. Moreover, it is not unusual for a driveway to pass close to a dwelling and its garden. While there may be disturbance by headlights at night, this would only be fleeting. Moreover, the layout of the access and courtyard would restrict vehicle speeds and noise. Accordingly, the proximity of the dwelling on plot 1 would not harm the living conditions of future occupants of the dwelling.
11. I conclude that suitable living conditions would be provided for future occupants of the dwelling on plot 1. The development therefore accords with

Policies DM2 and DM22 and the Framework, which collectively require new development to be laid out to optimise amenity, not affect adversely the amenities of adjacent areas by reason of noise, light pollution and volume of vehicular activity and provide a high standard of amenity for existing and future users.

Other Matters

12. The appeal site is located within the Withersfield Conservation Area (CA). As required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have paid special regard to preserving or enhancing the character or appearance of a conservation area.
13. The two parts of the village are separated by open fields and include a grassed open green. Development in the part of the village that the site is located is varied in character, including a mix of designs, styles and material finishes. Dwellings are typically set back from the roads and glimpsed through verdant frontages. The varied character of development and the verdant appearance contributes to the significance of this part of the CA.
14. The proposal would increase the built form at the site. However, the majority of the development would be set back within the site, limiting the visual effect on the street scene. The site frontage is narrow, and the retained trees would be supplemented by proposed planting to the front and side boundaries, thereby maintaining a leafy appearance. Accordingly, the proposal would preserve the character and appearance of the CA.
15. Guildhall is a Grade II listed building on the opposite side of Thurlow Road. I have a statutory duty under Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the setting of this listed building. Given the distance between the site and the listed building and the intervening buildings and landscape features, the proposed development would not harm the setting of Guildhall.
16. The development would increase the number of dwellings at the site by four. The proposal would rest comfortably within its surroundings, providing sufficient amenity space and adequate levels of parking for future occupants and visitors. The proposal for a gain of four dwellings at the site would not result in a substantial increase in vehicle movements, whilst there is no substantive evidence before me to demonstrate that existing infrastructure is insufficient to accommodate a development of this scale.
17. The proposal would result in the removal of some trees. However, new trees and hedges would be provided in addition to proposed biodiversity enhancements at the site. It is noted that concerns were raised in respect of flooding. Nevertheless, the submitted drainage strategy sets out the approach to ensuring that the proposal would be safe from flooding and would not increase the risk of flooding elsewhere. The Council has not raised concerns with respect to flooding and I see no reason to disagree.

Conditions

18. Suggested planning conditions have been provided by the Council. I have considered the conditions having regard to the Framework and advice contained in the Planning Practice Guidance. I have adjusted the wording of some conditions to improve precision.

19. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty.
20. Conditions in respect of land contamination are necessary given the proposed sensitive use for human occupation. Conditions requiring the submission of construction management arrangements, including in respect of surface water management and ecology, and restricting hours of works are required to safeguard the living conditions of local residents and to prevent adverse impacts on ecology and the local road network during the construction phase.
21. Drainage and flood mitigation conditions are required to ensure the development does not increase flood risk on or off site, including the means to prevent the discharge of surface water onto the highway. A condition is also required to ensure that any archaeological remains are recorded for the reasons set out above. A condition requiring an Arboricultural Method Statement is necessary to protect the retained trees on the site.
22. As the conditions relating to contamination, construction management, drainage, flood mitigation and the prevention of the discharge of surface water, trees and archaeology would affect the early stages of construction, they need to be discharged prior to the commencement of the development.
23. Conditions relating to the construction of the access, including surfacing and stopping up of the existing access, provision and retention of visibility splays and the layout of refuse and recycling bin storage are required in the interests of highway safety. In order to ensure the visibility splays are kept free from obstruction, the removal of permitted development rights is clearly justified in the interests of highway safety. In addition, a condition is included to provide vehicle parking and manoeuvring and cycle storage.
24. Conditions are included to ensure that the development provides sufficient water, energy and resource efficiency measures in the interests of securing a sustainable form of development.
25. The quality of the environment would be protected and enhanced by conditions in respect of external materials, landscaping, the approved ecological appraisal, biodiversity enhancements and external lighting.

Conclusion

26. For the reasons given above the appeal should be allowed.

J Pearce

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers: 19002-01, 19002-50 Revision A, 19002-51 Revision A, 19002-52, 19002-53, 19002-54, 19002-55, 19002-56, 19002-57, 19002-58 Revision A, 19002-59, 19002-60 Revision A, 19002-61, 19002-62, 19002-63 Revision A, 19002-64 Revision A, 19002-65 Revision A, 19002-66 Revision A, 3529.SK01 Rev P7 and 3529.SK03 Rev P1.
- 3) Prior to commencement of the development hereby permitted, including demolition, a comprehensive construction and site management programme shall be submitted to and approved in writing by the local planning authority. The construction of the development shall thereafter be undertaken in accordance with the approved programme. The programme shall include the following details:-
 - (a) hours of construction operations, including times for deliveries and the removal of excavated materials and waste;
 - (b) site set-up and general arrangements for storing plant (including cranes), materials, machinery and equipment, offices and other facilities and contractors' vehicle parking, loading, unloading and vehicle turning areas;
 - (c) noise method statements and noise levels for each construction activity including any piling and excavation operations;
 - (d) dust, dirt and vibration method statements and arrangements; and
 - (e) site lighting.
- 4) Prior to commencement of the development hereby permitted, a Construction and Deliveries Management Plan shall be submitted to and approved in writing by the local planning authority. All Heavy Goods Vehicle (HGV) and construction traffic movements to and from the site over the duration of the demolition and construction period shall be subject to the Plan. No HGV movements shall be permitted to and from the site other than in accordance with the routes defined in the Plan. The Plan shall include:
 - Routing for HGV and other construction delivery traffic;
 - Means to ensure no damage will be done to the highway, including the carriageway, footway and verge, by construction and/or delivery traffic. This will include before and after condition surveys;
 - Means to ensure no surface water, mud or other construction debris can flow or be deposited onto the highway;
 - Means to ensure sufficient space is provided on site for the parking and manoeuvring of all construction and delivery vehicles;
 - Means to ensure sufficient space is provided on site for the storage of materials and equipment. The site operator shall maintain a register of complaints and record of actions taken to deal with such complaints at the site office as specified in the Plan throughout the period of occupation of the site.

- 5) The hours of demolition, site clearance and construction activities, including deliveries to the site and the removal of waste from the site, shall be limited to 0800 to 1800 on Mondays to Fridays and 0800 to 1300 on Saturdays. No demolition, site clearance or construction activities shall take place on Sundays, Bank or Public Holidays.
- 6) Prior to commencement of the development hereby permitted, a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction, including demolition and site clearance operations, shall be submitted to and approved in writing by the local planning authority. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction. The CSWMP shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:-
 - i. Temporary drainage systems;
 - ii. Measures for managing pollution/water quality and protecting controlled waters and watercourses; and
 - iii. Measures for managing any on or offsite flood risk associated with construction.
- 7) Prior to commencement of the development hereby permitted, the implementation of a programme of archaeological work shall be secured, in accordance with a Written Scheme of Investigation (WSI), which has been submitted to and approved in writing by the local planning authority. The WSI shall include an assessment of significance and research questions, and:
 - a. the programme and methodology of site investigation and recording;
 - b. the programme for post investigation assessment;
 - c. provision to be made for analysis of the site investigation and recording;
 - d. provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - e. provision to be made for archive deposition of the analysis and records of the site investigation;
 - f. nomination of a competent person or persons/organisation to undertake the works set out within the WSI; and
 - g. the site investigation shall be completed prior to commencement of the development hereby permitted.

No building shall be occupied until the site investigation and post investigation assessment has been completed, submitted and approved in writing by the local planning authority, in accordance with the programme set out in the approved WSI and the provision made for analysis, publication and dissemination of results and archive deposition.

- 8) Prior to commencement of the development hereby permitted, including demolition and site clearance, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The construction of the development shall thereafter be

undertaken in accordance with the approved CEMP. The CEMP shall include the following:

- a) Risk assessment of potentially damaging construction activities;
 - b) Identification of "biodiversity protection zones";
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts particularly to bats during construction (may be provided as a set of method statements);
 - d) The location and timing of sensitive works to avoid harm to biodiversity features;
 - e) The times during construction when specialist ecologists need to be present on site to oversee works;
 - f) Responsible persons and lines of communication;
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.
- 9) Prior to commencement of the development hereby permitted, details showing the means to prevent the discharge of surface water from the development onto the highway, either directly from the access and courtyard, or indirectly from the surface water drainage attenuation or outfall shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in its entirety before the access is first used and shall thereafter be retained.
- 10) Prior to commencement of the development hereby permitted, a finalised Arboricultural Method Statement (including demolition, groundworks and site clearance) shall be submitted to and approved in writing by the local planning authority. The Statement shall include details of the following:
- a. Measures for the protection of those trees and hedges on the application site that are to be retained;
 - b. Details of all construction measures within the 'Root Protection Area' (defined by a radius of $\text{dbh} \times 12$, where dbh is the diameter of the trunk measured at a height of 1.5 metres above ground level) of those trees on the site which are to be retained specifying the position, depth, and method of construction/installation/excavation of service trenches, building foundations, hardstandings, roads and footpaths; and
 - c. A schedule of proposed surgery works to be undertaken to those trees and hedges on the site which are to be retained.

The development shall be carried out in accordance with the approved Arboricultural Method Statement.

- 11) Prior to commencement of the development hereby permitted, including demolition, the following components to deal with the risks of contamination of the site shall be submitted to and approved in writing by the local planning authority:
- i) A site investigation scheme;

- ii) The results of a site investigation based on the site investigation scheme and a detailed risk assessment, including a revised Conceptual Site Model (CSM);
 - iii) Based on the risk assessment in ii), a remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency actions.
- 12) No occupation of any part of the development hereby permitted shall take place until a verification report demonstrating completion of works as set out in the remediation strategy is submitted to and approved in writing by the local planning authority.
- 13) If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unexpected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
- 14) No development above slab level shall commence until details of the facing and roofing materials and doors and windows, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 15) No development above ground level shall take place until a scheme of soft landscaping for the site drawn to a scale of not less than 1:200 has been submitted to and approved in writing by the local planning authority. The scheme shall include the position, species, girth, canopy spread and height of all existing trees and hedgerows on and adjacent to the site and details of any to be retained, together with measures for their protection during the course of development. Any retained trees removed, dying, becoming seriously damaged or diseased within five years of commencement shall be replaced within the first available planting season thereafter with planting of similar size and species. The works shall be completed in accordance with the approved scheme and in accordance with a timetable agreed in writing by the local planning authority.
- 16) No development above ground level shall take place until a scheme for the provision and implementation of water, energy and resource efficiency measures during the construction and occupation phases of the development has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for the implementation of the measures in relation to the construction and occupancy of the development. The scheme shall be constructed in accordance with the approved details and the measures provided and made available for use in accordance with the approved timetable.
- 17) No development above ground level shall take place until a Biodiversity Enhancement Strategy (BES) for protected and priority species prepared by a suitably qualified ecologist has been submitted to and approved in writing by the local planning authority. The BES shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations and heights of proposed enhancement measures by appropriate maps and plans (where relevant);
- d) persons responsible for implementing the enhancement measures; and
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details shall be retained in that manner thereafter.

- 18) Prior to the installation of any security lights or street lighting, full details including height, design, location and intensity shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 19) The access shall be completed in accordance with drawing number 19002-66 with an entrance width of at least 4.5 metres and be available for use prior to first occupation of the development hereby permitted and retained thereafter. At this time, all other means of access within the frontage of the site shall be permanently and effectively "stopped up" in a manner which shall be submitted to and approved in writing by the local planning authority.
- 20) Prior to the first occupation of the development hereby permitted, the access onto the C668 Thurlow Road shall be properly surfaced with a bound material for a minimum distance of 10 metres from the edge of the metalled carriageway in accordance with details that have been submitted to and approved in writing by the local planning authority.
- 21) Prior to the first occupation of the development hereby permitted, the areas for storage and presentation of refuse/recycling bins as shown on drawing number 19002-50 shall be provided in its entirety and thereafter retained for no other purpose.
- 22) Prior to first use of the development hereby permitted, the area(s) within the site shown on drawing number 19002-50 for the purposes of loading, unloading, manoeuvring and parking of vehicles and the secure storage of cycles shall be provided and thereafter retained and used for no other purpose.
- 23) Prior to first use of the access, visibility splays shall be provided as shown on drawing number 19002-66 with an X dimension of 2.4 metres and a Y dimension of 90 metres and thereafter retained in the specified form. Notwithstanding the provisions of Part 2, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.

- 24) Prior to first use of the development hereby permitted, the strategy for the disposal of surface water reference 3529.SK01 Rev P7 shall be carried out and thereafter managed and maintained in accordance with the strategy.
- 25) Within 28 days of practical completion of the last dwelling, a surface water drainage verification report detailing and verifying that the surface water drainage system has been inspected and has been built and functions in accordance with the approved design and drawings shall be submitted to an approved in writing by the local planning authority. The report shall include details of all SuDS components and piped networks in an agreed form, for inclusion on the Lead Local Flood Authority's Flood Risk Asset Register.
- 26) Prior to first occupation of the development hereby permitted, all mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Update Preliminary Ecological Appraisal (Skilled Ecology, March 2023).

End of Schedule