

Appeal Decision

Site visit made on 22 August 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2024

Appeal Ref: APP/W3520/W/23/3334683

Land West of, Ixworth Road, Norton, Suffolk, IP31 3JL

- 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 Valedane Ltd against the decision of Mid Suffolk District Council.
 - The application Ref is DC/23/03899.
 - The development proposed is the erection of 2 no. detached dwellings with garages.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council adopted Part 1 of the Babergh and Mid Suffolk Joint Local Plan on 20th November 2023 (the JLP). The Council confirms that all policies referenced from the Mid Suffolk Core Strategy Focused Review adopted 2012, the Mid Suffolk Core Strategy adopted 2008 and the Mid Suffolk Local Plan adopted 1998 have now been superseded.
3. The Council has confirmed that there is a mistake in the first reason for refusal which refers to Plot 11. The appellant has also identified this, and therefore I shall proceed on the basis that the reason for refusal should have read Plot 12.
4. I am also the Inspector appointed to determine two other appeals on the appeal site¹. The three appeals raise similar issues but are the subject of separate decisions. Whilst there may be some duplication on matters including the consideration of planning policy, I have addressed each appeal separately.
5. Although the appellant raises issue with the Council not accepting the reserved matters application, a full planning application for two dwellings was submitted, which the Council determined. I will consider the appeal on the same basis. I have considered the evidence presented by the appellant in respect of this matter so far as it is material to this appeal.

¹ Appeal Ref: APP/W3520/W/24/3341318 and APP/W3520/W/24/3341323

Main Issues

6. The main issues are:

- whether the proposed development would be a suitable location for residential development;
- whether the proposal makes adequate provision for affordable housing;
- the effect of the proposed development upon protected species; and
- the effect of the proposed development on the living conditions of the future occupiers of plots 5 and 6.

Reasons

Location

7. The appeal site is located close to Ixworth Road at the edge of the rural village of Norton. It is located on a former agricultural field. Several permissions have been granted for housing on land close to the appeal site. These firstly comprised plots 1-4 fronting Ixworth Road. A further series of permissions, identified in the appellants statement, were also granted which comprised plots 5-6, plots 7-10, and plots 11-12 . A subsequent application for an access road was also granted serving homes associated with plots 1-4, 7-10 and 11-12. This appeal site is in the same general position as Plots 11 and 12.
8. Although the reserved matters application for two dwellings on plots 11-12 was submitted before the expiration date of the outline application it was not validated by the Council. The outline planning permission for two dwellings on the appeal site lapsed before the planning application subject of this appeal was determined. There is no extant planning permission before me.
9. For the purposes of planning policy there is no dispute that the appeal site lies within the countryside. The site would not fall within the locations or fulfil the circumstances where development outside of settlement boundaries is normally permitted by JLP Policy SP03. The appellant states the word *normally* within the Policy acknowledges that there will be instances where development will be permitted outside of settlement boundaries. The Council states that the word allows for flexibility where there are material considerations that indicate countryside development is necessary, for example in the event it could not demonstrate a five-year housing land supply. The policy does not qualify this; however, the Council's housing land supply is at 10.88 years.
10. The National Planning Policy Framework (the Framework) recognises the Government's objective of significantly boosting the supply of homes. The presence of a five- housing land supply is not an upper limit. Consequently, I consider it is legitimate and reasonable to consider whether there are other considerations, which, notwithstanding the Council's land supply position may indicate that the location of the site could be considered acceptable.

11. I have been referred to an appeal decision at *Land at Stanton Street*² which relates to the nearby plots 7-10. This decision was made in the context of the Council having a five-year supply of housing. The Inspector who determined that appeal acknowledged that the location of the development would conflict with the development plan. In considered the Council's housing policies were more restrictive than the Framework the Inspector determined the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits of the proposal. In contrast with this appeal there is nothing to suggest the recently adopted policies are anything but in accordance with the Framework.
12. The PPG states that failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances amounts to unreasonable behaviour³. I do not have full details of the outline application, so I cannot be certain that that the reserved matters application was consistent with it. This proposal now includes areas of land which was not in the original site area merging development sites, as well as a material change in planning policy. The above factors limit the weight I can give to the above considerations.
13. Nevertheless, the Inspector for the *Land at Stanton Street* appeal found that the adjacent site was reasonably well connected to village services and facilities. The Council has not advanced any evidence that the provision or access to facilities and services has materially changed. Nor have the Council raised any concerns regarding the design, or the effect of the proposal on the surrounding area or landscape character.
14. Accessing the main part of the village, combined with its distance would not be a particularly easy walk for all pedestrians, nonetheless occupiers would be able to use intermittent footpaths for walking. Cycling to nearby services and facilities would also be possible and there is some limited public transport available. It is likely residents of the proposed development would be mostly reliant on private modes of transport. However, journeys to facilities in Norton and nearby villages would be short and would not be accessed differently to existing residents within the immediate vicinity of the site.
15. To conclude, conflict with JLP Policy SP03 would arise, due to the location of the site outside settlement boundaries. The proposal would not be in a suitable location for residential development when considered against the locational criteria of this policy. However, given the Council has previously found the site to be a suitable location for residential development, the proposal would not significantly undermine the aims of this Policy which seeks to ensure that development can be accommodated in settlements where the need to travel to services and facilities can be reduced, and significant adverse impacts can be avoided or mitigated.

Affordable housing

16. Policy SP02 of the JLP requires 35% affordable housing is provided for a housing site above ten dwellings or 0.5ha. Although the proposed development is for two dwellings, the Council consider that the appeal site

² APP/W3520/W/19/3236154

³ Paragraph: 049 Reference ID: 16-049-20140306

should be considered as a single site with the other plots. The proposal submitted after the adoption of the JLP, exceeds the affordable housing threshold. Policy SP02 of the JLP also states that proposals must avoid artificial or contrived subdivision of a landholding in related ownership to circumvent requirements.

17. In order to determine whether sites should be aggregated or considered to form part of a larger whole it is reasonable to consider ownership. Furthermore, whether the areas of land could be considered to be a single site for planning purposes and whether the development should be treated as a single development are also relevant factors.
18. In terms of ownership, the appellant signed certificate B on the planning application form, which indicates that they were not the sole owner of any part of the land. The Council considers the appellant is involved with the wider development site. Although I have the application decision notices for the various permissions for plots 1-10, this only shows who the applicant was. There is no conclusive evidence which clearly explains current or past ownership of the various sites.
19. Even if parts of the site are in separate ownership, there are no prominent landscape features which would physically separate this appeal site from the remainder of the field within which it is sited. In this case, the proposal would utilise the same vehicular access from Ixworth Road, an integral part of the wider development. The proposed scale, layout, materials, appearance and spacing of the dwelling would also be in keeping with those other developments. This proposal would be wholly integrated and appear visually inseparable from the wider site and it would appear that the appeal site is part of a single site for planning purposes and should be considered as a single development.
20. At a point in time proposals could have been evolved without providing any affordable housing if they were implemented. The Council has not addressed why affordable housing was not previously triggered. Given the access road permission⁴ linking the appeal site together with the wider development was submitted after housing permissions, it is not clear whether the combined proposals on the surrounding plots were being developed as comprehensively or as an integrated scheme from the outset. Having been determined under a different set of circumstances, planning policies and other evidence which is not before me in this appeal, I cannot be certain that the circumstances or provisions for affordable housing requirements were the same when earlier permissions were granted.
21. The circumstances of this appeal now are that the outline permission for two dwellings is not extant. The appeal site is clearly part of a wider combined development. The planning history does not provide sufficient justification to outweigh a harmful departure from the general expectations for affordable housing to be provided by JLP Policy SP02, which I afford significant weight.
22. I conclude that the proposal fails to make adequate provision for affordable housing. This is in conflict with JLP Policy SP02, which sets out that the Council seeks to deliver a minimum of 2428 affordable homes in Mid Suffolk

⁴ Council Ref: DC/22/03881

up to 2037 and where it seeks to ensure development proposals avoid artificial subdivision of landholding.

Protected Species

23. The appellant has indicated that the impact on protected species was not raised. Whilst the Council has not explained why, their approach in accordance with local and national guidance makes it clear that the impact of a development on protected species should be considered as part of a planning application, otherwise all relevant material considerations may not have been addressed in making the decision.
24. I am also the Inspector for similar appeals covering plots 11 and 12. I note that the Council subsequently states in the officer reports evidenced, that there is no sensitive ecological surroundings. However, having identified the presence of bats within the area, I am of the view that this potentially triggers the need for more detailed surveys, and not something that I can put to one side.
25. The appellant contends that that protected species would not reside within the appeal site given that significant parts of the site are under construction and there are no structures or vegetation. However in the absence of a full and convincing evidence to the contrary, there is a potential that the proposal could impact on foraging or commuting activity of protected species due to the proximity of the dense tree belt, watercourse and nearby landscape features in the area which are relatively close to the site.
26. I conclude that there can be no certainty that the appeal scheme would not have an adverse impact upon protected species. The proposal, insofar as this issue is concerned would conflict with the aims and objectives of JLP Policy LP16. This makes provisions to ensure that development which would have an adverse impact on species protected by legislation is not permitted.

Living conditions

27. The Council considers the proposal would lead to unacceptable overlooking of the homes approved in front on the appeal site. The issue of overlooking could be remedied by a suitably worded planning condition. This could require a smaller secondary window to the bedroom and two bathroom windows to be obscurely glazed. This would preserve the living condition of future neighbouring occupiers and would not compromise the living conditions for future occupiers within plot 12.
28. I conclude that the proposed development would not harm the living conditions of future occupiers of plots 5 and 6. The proposal would therefore accord with JLP Policy LP24. Which seeks, amongst other matters, to protect the health and amenity of occupiers and surrounding uses by avoiding development that results in overlooking.

Planning Balance

29. The Council can demonstrate a five-year housing land supply, but whilst the site lies within the countryside balanced in favour of the appeal, planning permission was previously granted on the site for two dwellings. Future occupiers would be able to access some services and facilities. The proposal

would be closely related to the existing village and would not harm the character or appearance of the area. The proposed dwelling would make a contribution toward local housing and this would be a benefit of the scheme. There would be economic benefits, including those created during construction and occupation of the development. However, due to the scale of the proposal, overall I attribute only little weight to these benefits.

30. That the proposed dwelling would provide suitable living conditions for existing and future occupiers and raise no concerns in relation to character and appearance, trees, highways or flood risk are neutral elements. These matters do not, therefore, weigh in favour of the appeal.
31. As detailed above, the proposal fails to make provision for affordable housing. This and the failure to consider whether protected species could be affected, together weigh significantly against the proposed development.
32. Overall, in the final balance I conclude that the cumulative harms and related policy conflict identified outweigh the benefits. There are no other material considerations of sufficient weight that indicate that I take a decision other than in accordance with the development plan.

Conclusion

33. For the above reasons I conclude that the appeal should be dismissed.

K Williams

INSPECTOR