



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: 8th October 2024

Appeal Ref: APP/W3520/W/24/3341323

Plot 12, Land West of Ixworth Road, Norton, Suffolk IP31 3LF

- 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 D Lucas against the decision of Mid Suffolk District Council.
 - The application Ref is DC/23/05652.
 - The development proposed is the erection of 1 no. self-build dwelling with garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I am the Inspector appointed to determine two other appeals relating to 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.

Main Issues

3. The main issues are:
 - whether the proposed development would be a suitable location for self-build residential development;
 - whether the proposal makes adequate provision for affordable housing; and
 - whether the proposal should make adequate provision for on-site Biodiversity Net Gain (BNG).

Reasons

Location

4. 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 11-12². A subsequent application for an access road was also granted serving homes associated with plots 1-4, 7-10 and 11-12. This appeal is in the same general position as Plot 12. The outline

¹ APP/W3520/W/23/3334683 and APP/W3520/W/24/3341318.

² Appellant's Appeal Statement: Appendix 1

planning permission for two dwellings on plots 11-12 lapsed before the planning application subject of this appeal was submitted. There is no extant planning permission before me.

5. For the purposes of planning policy there is no dispute that the appeal site lies within the countryside. The appellant has stated that the proposal is for a self-build dwelling. The Self-build and Custom Housebuilding Act 2015 places a duty on authorities to have regard to each self-build register that relates to their area when carrying out their planning, housing, land disposal and regeneration functions and must give development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area.
6. Although it is not clear if the appellant was on the Council's self-build register, the appellant highlights a shortfall in provision of self-build plots identified in a relatively recent and nearby appeal decision at *Land West of Suffolk House*³ and comments from the Council's Strategic Housing Officer. Although the Council does not dispute that there is a shortfall of self-build housing it does not accept that the appeal proposal amounts to a self-build dwelling.
7. In considering whether a proposal is a self-build, the Planning Practice Guide (the PPG) sets out it must be satisfied that the initial owner of the home will have primary input into its final design and layout⁴. From the submitted plans, the key design decisions appear to have been made prior to the submission of the application and for consistency with the wider scheme as a primary factor. That it is stated that the developer can build a self-build dwelling for themselves is not compelling evidence that the proposal has provided for the initial owner to have a primary input into the final design.
8. It is also important to ensure that permissions for self-build housing is secured and delivered as self-build. Such matters would normally be required to be contained within a legal agreement to limit ownership/first occupancy, methods used to build the house or bind the requirement to successors in title should the land/property be sold in the future. I note the self-build dwelling subject of the *Land West of Suffolk House* appeal was subject to such an agreement. No substantive evidence has been presented by the appellant to confirm that the proposal meets the definition of self-build housing set out in Annex: 2 of the National Planning Policy Framework (the Framework). The proposal would therefore fall to be considered against JLP Policy SP03 and not JLP Policy LP08, which relates to self-build and custom build development.
9. 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.

³ APP/W3520/W/23/3316136

⁴ Planning Practice Guide Paragraph: 016 Reference ID: 57-016-20210208

10. The Framework recognises the Government's objective of significantly boosting the supply of homes. The presence of a five-year 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 housing land supply position may indicate that the location of the site could be considered acceptable for residential development.
11. I have been referred to an appeal decision at *Land at Stanton Street*⁵ 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 behaviour⁶. 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, the proposal would not comply with JLP Policy LP08, as it would not be a self-build dwelling. 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.

⁵ APP/W3520/W/19/3236154

⁶ Paragraph: 049 Reference ID: 16-049-20140306

Affordable housing

16. Policy SP02 of the JLP requires 35% affordable housing to be provided on sites above ten dwellings or 0.5ha. Paragraph 66 of the Framework suggests certain proposals can be exempt where they are to be developed by people who wish to build their homes. As stated above I do not consider that the proposal represents self-build housing, and this would not apply in this case.
17. Although one dwelling is proposed, the Council consider that the appeal site 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.
18. 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.
19. 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.
20. 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.
21. 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 permission⁷ 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.

⁷ Council Ref: DC/22/03881

22. The circumstances of this appeal now are that the outline permission for two dwellings was not extant when the application was submitted. 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.
23. 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 up to 2037 and where it seeks to ensure development proposals avoid artificial subdivision of landholding.

Biodiversity Net Gain

24. Policy LP16 of the JLP requires proposals to identify and pursue opportunities for securing measurable net gains, equivalent of a minimum 10% increase, for biodiversity. The timeline of the application is such that the development would be exempt from BNG requirements for developers to provide quantified evidence of at least a 10% net gain in biodiversity prior to the discharge of a pre-commencement condition subject to validation information being provided. There are also specific exemptions from BNG for certain types of development, which includes self-build housing. I am not satisfied that the development is self-build housing, and therefore it would not be exempt under this.
25. Policy LP16 of the JLP is, however, a separate matter. Notwithstanding the Council does not apply it to exempt development, JLP Policy LP16 relates to 'Development'. As it is not exempt the proposal, is therefore covered by its requirements. There is no evidence before me which establishes an ecological or biodiversity baseline for the site. As the appeal site is located on the edge of the open countryside, there are landscape features which may be potential habitats. There is the requirement and opportunity, to ensure that the development enhances the biodiversity value of the site resulting in a net gain.
26. Although the Council have recommended a condition were I to allow the appeal, without any assessment of the biodiversity value of the appeal site, or the effect of the proposal on any such value. It has not been sufficiently shown that such a condition would successfully deliver a sufficient degree of mitigation in order to achieve BNG. No measures have been put before me. As a result, in the absence of sufficient information, the proposed development does not comply with the requirement of JLP Policies SP09 and LP16 that developments deliver a net gain for biodiversity in order to support and contribute to the conservation, enhancement and management of the natural and local environment.

Planning Balance

27. 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 very little weight to these benefits.

28. 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.
29. As detailed above, the proposal fails to make provision for affordable housing. This and the failure to make suitable provision for BNG, together weigh significantly against the proposed development.
30. 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

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

K Williams

INSPECTOR