

---

# Appeal Decision

Site visit made on 25 October 2024

**by David Spencer BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 1<sup>st</sup> November 2024**

---

## **Appeal Ref: APP/W3520/W/24/3340878**

### **Dunston House, Sandy Lane, Hemingstone, Suffolk IP6 9QD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr & Mrs Touman against the decision of Mid Suffolk District Council.
  - The application Ref DC/23/03511, dated 27 July 2023, was refused by notice dated 22 September 2023.
  - The application sought planning permission for demolition of existing dwelling and erection of replacement two storey five bedroomed dwelling, erection of triple bay cartlodge with store over, without complying with a condition attached to planning permission Ref 2533/14, dated 1 October 2014.
  - The condition in dispute is No. 8 which states that: "The existing dwelling as shown on Drg No 06 received 07/07/2011 and Drg No 04A received 12/01/2012 shall be demolished (unless such materials are agreed for re-use on the site) all materials shall be removed from the site within three months of the first occupation of replacement dwelling hereby permitted."
  - The reason given for the condition is: "In the interests of local amenity and to ensure the satisfactory and sustainable development of the site in accordance with the Development Plan."
- 

## **Decision**

1. The appeal is dismissed.

## **Preliminary Matters and Main Issue**

2. The appellant's original application form sought to remove or vary conditions attached to two planning permissions<sup>1</sup> at the appeal site. For the avoidance of doubt, I have dealt with the appeal on the basis to remove the condition attached to the most recent planning permission. The Local Planning Authority (LPA) issued its decision on the basis that a variation to the condition to the 2014 permission was being sought. This is subsequently reflected in the appellant's appeal statement of case.
3. On 20 November 2023, after the LPA issued its decision, it adopted Part 1 of the Babergh and Mid Suffolk Joint Local Plan (*the JLP*). As the LPA confirm in its appeal statement, the JLP supersedes the policies contained in the Mid Suffolk Local Plan 1998 (partially updated in 2006) and the Mid Suffolk Core Strategy 2008 (with focused review 2012). I am satisfied that both main parties have

---

<sup>1</sup> Condition 9 to permission reference 2335/11 and condition 8 to permission reference 2533/14

had an appropriate opportunity to consider the policy framework in the JLP as part of this appeal.

4. I have observed that a replacement dwelling and cartlodge have been constructed and largely finished at the appeal site and that the original dwelling remains in situ. The appellant seeks to remove the disputed condition to enable the retention of the original dwelling and for it to provide two self-contained holiday lets.

### **Main Issue**

5. Whether the effect of removing the disputed condition would be appropriate for the rural location having regard to the development plan and any material considerations.

### **Reasons**

6. Planning permission was originally granted in 2012 to facilitate the construction of a replacement dwelling on the condition that the original dwelling would be demolished shortly after completion of the new dwelling. A subsequent permission in 2014 under Section 73 to vary the design of the replacement dwelling reimposed a similar condition. The reasoning for the disputed condition in the decision notice contains twin objectives, linking to a list of development plan policies (at page 4 of the notice). The first relates to protecting the countryside character and appearance, in terms of minimising the scale and volume of built development. The second objective is securing sustainable development.
7. At the time of imposing the disputed condition on the 2014 permission, Policy H8 of the then extant Mid Suffolk Local Plan (*the MSLP*) allowed for replacement dwellings in the countryside. The disputed condition would ensure the principle of the replacement of an existing dwelling by a new dwelling, and so enable the development to be in accordance with Policy H8. As the LPA set out, without a mechanism to secure "replacement", the result would have been a net new dwelling in the countryside. At the time the LPA made their original decisions in 2011 and 2014, the MSLP at Policy H7 and subsequently the Mid Suffolk Core Strategy (*the MSCS*) at Policies CS1 and CS2 at the time of the 2014 proposal, sought to restrict new dwellings in the countryside. It is clear that an objective of Policies CS1 and CS2 is to secure a sustainable pattern of development. The objective of Policy H7 of the MSLP was primarily to protect the character and appearance of the countryside. These development plan policies remained extant when the LPA considered the appeal proposal in 2023.
8. The development plan now comprises the JLP, the policies of which are consistent with the National Planning Policy Framework (NPPF), are up-to-date and therefore attract full weight. At a strategic level, JLP Policy SP03 seeks to carefully manage new development in the countryside, providing a degree of continuity from MSCS Policies CS1 and CS2 in terms of securing sustainable patterns of development. Policy SP03 does allow for development outside of settlement boundaries where they would be in accordance with other policies of the JLP. The relevant policies in this appeal are LP04 on replacement dwellings and LP13 on holiday accommodation.
9. JLP Policy LP04 allows for replacement dwellings, subject to criteria. The consequence of the appeal proposal is that there would be no replacement,

such that the original and new buildings would remain on site. Paragraph 84 of the NPPF seeks to avoid the development of isolated homes in the countryside. Whilst the appellant seeks to re-use and adapt the original dwelling for holiday lets, it nonetheless remains that the consequence of removing the disputed condition would be to facilitate an additional isolated dwelling in the countryside, contrary to the provisions of MSLP Policy H8 as continued through into JLP Policy LP04. The appellant emphasises that the holiday lets could be secured by condition such that there would be no net increase in permanently occupied dwellings at the appeal site. However, in terms of sustainable patterns of development, the consequence of the appeal proposal would be an intensity of occupation and activity at the appeal site considerably in excess of that which would occur with a replacement dwelling and demolition of the original dwelling.

10. At the time the appellant made the application, various policies in the MSLP addressed tourism facilities and accommodation, recognising its importance to the economy of what is predominantly a rural district. MSLP Policies RT16 and RT19 deal with tourism facilities and attractions and static caravans and holiday chalets respectively and so do not apply to the appeal proposal. The most relevant MSLP policy was Policy RT17 which dealt with holiday accommodation. In the countryside, Policy RT17 allowed for the conversion of existing buildings to holiday accommodation subject to criteria. Whilst the policy refers to the re-use of mills, barns and other traditional rural buildings, the list was not closed. The policy states that conditions may be imposed limiting the period of occupancy to ensure a holiday use. I accept at the time the appellant submitted their application, MSLP Policy RT17 would have provided a more favourable development plan policy context.
11. At the time of making this decision, however, MSLP Policy RT17 has been superseded and Policy LP13 of the JLP now applies. It is more locationally restrictive for holiday accommodation in the countryside. Whilst the appellant expresses a degree of frustration about this change in policy, it nonetheless remains that JLP Policy LP13 has been very recently adjudged to be locally justified and consistent with national planning policy, including what are now NPPF paragraphs 88 and 89 in terms of supporting a prosperous rural economy. The policy does not preclude tourist accommodation in the countryside. It does, however, seek to carefully manage proposals such that they must demonstrate an overriding business need to be in that location, be sympathetic to the character of the area, and be accessible by a range of transport modes.
12. In respect of the first objective of the disputed condition, the replacement dwelling is a very large building. Whilst I accept it can only be glimpsed from Sandy Lane, it is nonetheless visible from the well-used public footpaths to the south and east of the appeal site. As landscaping becomes more established, visibility from these rights of way will diminish. Accordingly, whilst the appeal proposal would result in a significant increase in built footprint at the appeal site, due to a degree of containment, the impact on the landscape and rural character at this location would not be significantly harmful.
13. Turning to the second objective of securing sustainable development. There is relatively little before me to explain the change in the appellant's plans given the original intention to build a replacement dwelling. The appellant refers in general terms to "lifestyle and employment options" following the passage of

time since the original approval. However, at the time of this appeal JLP Policy LP13 requires an overriding business case for rurally located holiday accommodation. There is little before me to demonstrate a serious effort or need on the part of the appellant to want to establish a rural holiday let enterprise, with some fluidity in the appellant's statement of case as to what the enterprise may entail, whether that be holiday lets or traditional bed and breakfast. Nor is there evidence of a strong demand for holiday accommodation in this rural location. The appellant refers to the proximity of various tourist attractions and destinations and to the A1120 (approximately 3 miles to the north) being a designated/signed tourist route. However, this does not amount to an overriding business need, which is the policy test.

14. The appeal site is indisputably in the countryside. It is beyond a convenient walking distance to facilities and public transport in Coddensham, Claydon or Barham. Coddensham is the nearest sizeable settlement but there is generally an absence of connecting footway and streetlights. The highway between the appeal site and Coddensham is mainly within the national speed limit with limited verges where pedestrians can safely step off the road in the face of on-coming traffic. Public transport is not readily available at the appeal location. Cycling to Coddensham or Claydon would be limited only to confident cyclists given the speed and volume of traffic on Sandy Lane which serves as an informal but well-used link from the B1078 to the north to Claydon, Ipswich and the A14 to the south. The LPA submit the nearest railway station is Needham Market at a distance of 6 miles. Accordingly, the proposed holiday lets would not be accessible by a range of transport modes as required by JLP Policy LP13.
15. I therefore conclude that removing the disputed condition would not be appropriate for the rural location being contrary the development plan's aim to carefully manage new development in the countryside in order to secure sustainable patterns of development. I am satisfied this was part of the reasoning for imposing the disputed condition having regard to the then extant Policy H8 of the MSLP and Policies CS1 and CS2 of the MSCS. The proposal to remove the condition and enable the retention of the original dwelling would be contrary to JLP Policy LP04 in that a permanent residential building would be retained rather than replaced. The proposed imposition of a new occupancy condition on the original dwelling to provide for 2 holiday lets would not accord with JLP Policy LP13 due to the lack of an overriding business need and its isolated location with lack of accessibility by various transport modes. As such the appeal proposal would not contribute to securing sustainable patterns of development in the countryside, contrary to JLP Policy SP3(2).
16. The NPPF at paragraph 88 states that planning policies and decisions should enable the sustainable growth of all types of businesses in rural areas through the conversion of existing buildings and sustainable rural tourism developments which respect the character of the countryside. As set out above, there is very little to demonstrate that the holiday lets would be a sustainable and viable business. Additionally, whilst the proposal would respect the character of the countryside and re-use an existing building, the appeal proposal due to its location and conflict with JLP Policy LP13 would not amount to sustainable rural tourism, as sought by national planning policy.
17. The appellant submits occupation of the proposed holiday lets could be controlled by the imposition of additional conditions. The suggested conditions

could restrict occupation to 11 months in the calendar year or no continuous letting above a 30 day period. Nonetheless, under these circumstances, in combination with the residential occupation of the built replacement dwelling, the appeal proposal at 2 separate holiday lets, would generate an appreciable number of vehicle movements above that which would occur under the current consented scheme (as conditioned). This would amount to a significant environmental harm at a time when the NPPF and the JLP are seeking to balance supporting the rural economy whilst also ensuring the planning system supports the transition to a low carbon future, including contributing to radical reductions in greenhouse gas emissions.

18. Counter to this appellant refers to the benefit of retaining the embodied carbon were the original dwelling not demolished. I have relatively little information on the extent of embodied carbon involved. The LPA officer report submits that part of the appellants reasoning in originally seeking a replacement dwelling was the location of the original dwelling in a shallow valley floor adjacent to a watercourse and attendant problems of damp and localised flooding. Whilst the planning statement accompanying the application to remove the disputed condition sets out how the original dwelling could be subdivided, that would appear to involve extensive internal reconfiguration (involving building materials and associated carbon footprint). Additionally, the appellant as part of the appeal case acknowledges<sup>2</sup> that any final scheme for holiday accommodation within the original dwelling remains to be determined and depending on the extent of the works could require a separate planning permission. Whilst I accept the principle of embodied carbon would apply, on the limited information before me, I give any environmental benefit in this regard only limited weight.
19. Whilst I have not been persuaded that there is an overriding business need for holiday accommodation in this location, I nonetheless acknowledge that holiday lets would support the local economy in terms of expenditure and local employment. Allied to this are potential social benefits in supporting the retention of local community facilities such as shops and pubs. At just 2 holiday lets, however, I ascribe the potential economic and social benefits only modest weight.
20. I observed the sizeable 'Retreat East' spa, accommodation and dining complex at Brick Kiln Farm, which is accessed from Sandy Lane, a very short distance to the south of the appeal site. I have very little before me in terms of the planning history of this established site. I observed that various parts of the complex comprise the re-use of traditional farm buildings and the overall site comprises a blend of accommodation and facilities. As such there are material differences between 'Retreat East' and the appeal proposal. I accept 'Retreat East' is reliant on the private motor vehicle, including a large car park adjacent to Sandy Lane, but this appears to have been implemented prior to the latest up-to-date policy framework in the JLP. As such I give the presence of 'Retreat East', as a material consideration, negligible weight in support of justifying the appeal proposal.

---

<sup>2</sup> At Page 17

## **Balance and Conclusion**

21. Whilst there would be no environmental harm to the character and appearance by retaining the original dwelling the appeal proposal would conflict with the wider environmental objectives of the development plan in terms of securing sustainable patterns of development. Whilst the appeal proposal seeks to avoid two dwellings on the site, it nonetheless remains that the proposal would result in a greater scale of activity and vehicle movements above that which can reasonably be anticipated under the extant planning permission at the rural appeal site. As such removing the disputed condition would conflict with JLP Policies SP03, LP04 and LP13, which have only very recently been adopted, are consistent with the NPPF, and are therefore up to date.
22. I have had regard to other material considerations, including the environmental benefit of retaining embodied carbon, the moderate economic and social benefits of supporting the local economy and services and the presence of rural tourism facilities at Retreat East. These factors do not, however, outweigh the identified conflict with the development plan. As such, the appeal proposal would not amount to sustainable development, for which there is a presumption in favour of. Overall, the disputed condition continues to serve a necessary planning function in terms of carefully managing the scale and intensity of activity at the rural appeal site.
23. I have had regard to all other matters raised, but there is nothing that leads me to conclude other than that the appeals should be dismissed for the reasons given.

*David Spencer*

Inspector.