



Appeal Decision

Site visit made on 5 November 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2024

Appeal Ref: APP/W3520/W/24/3337937

18 St Marys Gardens, Creeting St Mary IP6 8LY

- 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 HTL Developments Limited against the decision of Mid Suffolk District Council.
 - The application Ref is DC/23/04674.
 - The development proposed is described on the application form as 'single storey detached 2 bedroom dwelling including parking with new vehicular access from Jack's Green Road.'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit, some work had been undertaken at the site. Regardless of what has been constructed to date, my assessment is based on the plans before me.

Main Issues

3. The main issues are:
 - whether the proposal would make adequate provision for biodiversity net gain;
 - whether the proposal would make a satisfactory contribution to the mitigation of climate change; and
 - the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Biodiversity Net Gain

4. Policy LP16 of the Babergh and Mid Suffolk Joint Local Plan – Part 1 (LP, 2023) sets out, amongst other things, that development proposals must identify and pursue opportunities for securing measurable net gains, equivalent of a minimum 10% increase, for biodiversity. While the policy is not limited to matters of biodiversity net gain, this is the principal matter in dispute. The National Planning Policy Framework (Framework) requires that developments pursue opportunities for securing measurable net gains for biodiversity, without specifying a percentage.

5. The appellant has provided no substantive evidence to demonstrate how biodiversity net gains (BNG), of any level, may be achieved. Moreover, I have no evidence before me which establishes a baseline for biodiversity at the site.
6. I note the appellant's argument that they were not asked to provide any details of BNG at the validation stage or at any point during the consideration of the planning application. They consider this to constitute unreasonable behaviour by the Council. While their frustration is acknowledged, matters of unreasonable behaviour would be best dealt with via a costs application.
7. I also note the appellant's comments in respect of the policy position at the time of the original decision compared with when the planning application was submitted. I accept that the Joint Local Plan was adopted during the course of the planning application. However, the appellant was aware of this emerging position, as evidenced in their original supporting statement. Moreover, I must determine the scheme based on the currently adopted policy. From the evidence before me, the original decision was made based on the same policy context as that before me now. In particular, the application was clearly refused against LP Policy LP16. This policy remains relevant and the submitted scheme does not comply with the objectives laid out under that policy.
8. I note that the Council has suggested a pre-commencement condition relating specifically to BNG, and the appellant has suggested conditions be imposed relating to biodiversity enhancement measures. However, with no baseline evidence before me at this stage, I cannot be confident that the requirements of LP Policy LP16, or the Framework, could reasonably be achieved by condition. Accordingly, I do not consider this to be an appropriate route.
9. As a result, I conclude that the proposed development fails to comply with the relevant provisions of LP Policy LP16. This policy, in summary requires that developments deliver a net gain for biodiversity. This is in a similar vein to the provisions of the Framework insofar as biodiversity and BNG are concerned.

Sustainability

10. The Council's first reason for refusal refers, in part, to a lack of information relating to the proposed development's sustainable building materials and energy efficiency methods. As accepted within the preamble to LP Policy LP23, construction methods and the energy performance of buildings are primarily addressed through Building Regulations. However, and despite the limited scale and nature of the proposed development, there is no substantive information before me in respect of sustainability, or how the proposed development would meet the requirements of LP Policy LP23.
11. Consequently, I conclude that the proposed development would be contrary to the relevant provisions of LP Policy LP23. This policy, in summary, seeks to ensure that development minimises dependence on fossil fuels and makes the fullest contribution to the mitigation of climate change. This is in a similar vein to the provisions of the Framework insofar as climate change is concerned.

Character and appearance

12. The appeal site comprises a single-storey dwelling set within a landscaped plot of an irregular shape. The existing property fronts onto the residential cul-de-sac of St Marys Gardens. The site backs directly onto Jack's Green Road, which features dwellings of a range of styles and scales.

13. The proposed development seeks the subdivision of the plot and the construction of a single storey dwelling. The property would face onto, and be accessed from, Jack's Green Road. It would be faced in red brick with a plain tile roof over.
14. My attention has been drawn to a recent appeal decision at the same site, under reference APP/W3520/W/23/3331156. I have taken this scheme into account in making my decision. It appears to me that the main difference between the two appeal schemes is the modification of the current scheme to alter the layout of the dwelling, remove a previously proposed garage and extend the amenity space of the existing No 18.
15. The currently proposed dwelling would be largely out of sight from within St Marys Gardens. From that perspective the scheme would have little appreciable effect on the street scene there. Moreover, a range of plot sizes exist within the cul-de-sac and surrounding area. I accept, however, that the dwelling would be readily visible from Jack's Green Road.
16. Where viewed from Jack's Green Road, the proposed property would be consistent in terms of scale, orientation and materials with other dwellings along the south of Jack's Green Road, including nearby Raeton Lodge and Elderfield and Nos 12-14 Jack's Green Road. From that perspective, the proposal would not appear incongruous. Moreover, a housing development is currently underway on the opposite side of Jack's Green Road, further consolidating the residential character of this part of Creting St Mary. As accepted under the previous appeal, the new dwelling would also contribute towards an active frontage along the evolving Jack's Green Road.
17. In respect of the retained garden at No 18, I note the comments of the previous Inspector. Although the retained garden would be considerably smaller as a result of the proposed development, it would be larger than that under the previously dismissed scheme. This, combined with the removal of the previously proposed garage structure, would make a considerable difference to the occupiers of the retained No 18 and would ensure that the two dwellings would sit more comfortably within the subdivided site. Ultimately, the proposed subdivision of the site and the creation of a new dwelling fronting Jack's Green Road, proposed under this appeal, would not be at odds with the pattern of development within the wider area.
18. Consequently, I conclude that the proposal would be acceptable and would accord with the relevant provisions of LP policy LP24, which in summary and amongst other objectives seeks to ensure that development proposals respond to and safeguard existing character and context. This is in a similar vein to the provisions of the Framework insofar as good design is concerned.

Conclusion

19. For the reasons set out above, and having regard to all the other matters raised, I conclude that the appeal should be dismissed.

A Price

INSPECTOR