



Appeal Decision

Site visit made on 20 November 2024

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2024

Appeal Ref: APP/W3520/W/24/3343978

Fox Hollow, The Street, Wyverstone, Suffolk IP14 4RZ

- 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 and Mrs M Chubb against the decision of Mid Suffolk District Council.
 - The application Ref is DC/23/05632.
 - The development proposed is the erection of a detached dwelling and garage with a new highway access.
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Decision

1. The appeal is dismissed.

Main Issues

2. It is considered that the main issues are (a) whether the appeal scheme would be a sustainable form of development; and the effect of the proposed development (b) the safety of other highway users and (c) biodiversity.

Reasons

Character and Appearance

3. The proposed development includes the erection of a chalet style bungalow within the garden of an existing property known as Fox Hollow. To the south of the appeal site is a detached bungalow known as Prior's Meadow which was granted planning permission in 2020 (Ref DC/20/02022). Limited details are provided concerning the circumstances of the granting of planning permission for Prior's Meadows. It is also noted that this permission pre-dates the adoption of the Babergh and Mid Suffolk Joint Local Plan Part 1 (JLP) against which this appeal scheme has been assessed.
4. It is common ground between the parties that the site is not within a defined settlement boundary and, as such, JSP Policy SP03 limits development to certain types, including being in accordance with one of the plan's other specified policies. The appellants claim that the appeal scheme accords with JSP Policy LP01 whereby the erection of the proposed dwelling would be infill development outside the settlement boundary of Wyverstone which is a cluster of more than 10 well-related dwellings. The footnote to the policy defines infill as being the filling of a small undeveloped plot in an otherwise built-up highway frontage. There is no explanation of what constitutes an otherwise built-up frontage

5. The council disagrees with the appellants' claim because there are only 3 dwellings along the east side of the road. The appeal site is, therefore, considered by the council neither to be in a cluster of 10 well-related dwellings nor part of an otherwise built-up frontage.
6. As a matter of planning judgement, the site does form part of a cluster of well-related dwellings which includes those fronting the road and other properties to the east and west. This situation is evident from the Block Plan and what was observed during the site visit. Although their relationships to the road vary, the 3 dwellings fronting the road do create the impression of a built-up frontage. This impression is accentuated by the design and materials of the front boundary of Prior's Meadows. The site is located between 2 residential properties and, as such, it is judged that the appeal scheme would represent infill development within otherwise built-up frontage
7. On this issue, because of the site's location it is concluded that the appeal scheme would not be an unsustainable form of development and, as such, it would not conflict with JSP Policies SP03 and LP01.

Highway Safety

8. The proposed Block Plan includes the location of the vehicular access and indicates visibility splays to the north and south along the road. No indication of the ownership of the land affected by the proposed visibility splays is provided. However, from what was observed during the site visit, the visibility splay to the north would involve land owned by the appellants or appears to be land associated with the highway. To the south, a similar situation would also appear to exist. If this appeal succeeds then a suitable condition could be imposed to secure the provision of an appropriate visibility splay prior to any occupation of the proposed dwelling.
9. Within the highway land outside the site is a roundel identifying the transition between 30mph and the national speed limit along the road. This sign is sited just to the north of the proposed vehicular access. Although within the visibility splay, because of the width of the sign, the observed speed of traffic and the number of vehicles passing the site the proposed access would not represent an unacceptable danger to the drivers of vehicles exiting or entering the appeal site or travelling along the road. Other highway users would equally be able to see vehicles entering or leaving the site via the proposed access.
10. Accordingly, it is concluded that the proposed development would not represent an unacceptable danger to the safety of other highway users and, as such, it would not conflict with JLP Policy LP29. Amongst other matters, this policy requires all developments to demonstrate safe and suitable access.

Biodiversity

11. Although the appeal application pre-dated the introduction of the statutory requirement for biodiversity net gain (BNG), JSP Policy LP16 refers to developments identifying and pursuing opportunities for securing measurable net gains, equivalent of a minimum 10% increase, for biodiversity. JLP Policy SP09 also references that through biodiversity net gain, all development will be required to protect and enhance biodiversity ensuring the measures are resilient to climate change. The council claims that this information is required

prior to determination of the appeal scheme to demonstrate the 10% increase in BNG can be achieved.

12. Although the site is part of a domestic garden, it is currently soft landscaped with grassland, remnants of a hedge and at least 1 tree. The Block Plan identifies that much of the site would be replaced by the footprints of the proposed dwelling and garage, the tarmac entrance, gravel drive, brick paving and paving slabs. Against the context of the quantum of built forms of development and hard landscaping, rather than rely upon a condition it is appropriate at this stage for there to be some additional information to demonstrate that the appeal scheme could achieve some BNG on-site and how any shortfall against the 10% increase sought by JSP Policy LP16 could be otherwise achieved.
13. In the absence of the required information, it is concluded that the proposed development would cause unacceptable harm to biodiversity and, as such, there would be a conflict with JPS Policies SP09 and LP16.

Conclusion

14. Although the proposed development would not be an unsustainable form of development and would not cause unacceptable danger to the safety of other highway users, these matters are demonstrably outweighed by the significant harm which would be caused to biodiversity. Accordingly, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR