



Appeal Decision

Site visit made on 18 November 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/W3520/W/24/3341361

Land to the rear of Willowmere, Garden House Lane, Rickingham Superior IP22 1EA

- 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 & Mrs Arnold against the decision of Mid Suffolk District Council.
 - The application Ref is DC/22/04615.
 - The development proposed is the demolition of existing garage and stores associated with builders yard and erection of 10no. new dwellings and associated garages, with off site associated highway works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has provided additional plan (reference P303_BP_0.01 P.02) relating to the provision of a connection to a footpath to the side of the site. I am mindful of the advice in the Planning Inspectorate's 'Procedural Guidance: Planning Appeals England', that it is not appropriate to use the appeal process to evolve a scheme. This is because the other parties may not have had the opportunity to comment on it.
3. The plan would not result in a fundamental change to the appeal proposal but would evolve the scheme. However, I am mindful that if I am to accept the plan, it would deprive those who were entitled to be consulted on the application of the opportunity to make any representations on the amended proposal. My decision is therefore based on the plans considered by the Council and listed on the decision notice.
4. The appellant has also provided a signed Section 106 agreement dated 29 May 2024 and signed by the appellants and Suffolk County Council. I shall return to the legal agreement later in my decision.
5. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and is a material consideration in planning decisions. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by taking this approach.

Main Issues

6. The main issues are:

- the effect of the proposed development on the character and appearance of the area;
- whether the proposed development would provide a suitable connection to the public right of way; and
- whether the proposed development would provide a suitable mix of dwellings to meet local need would provide housing in accordance with the need identified within local policy.

Reasons

Character and appearance

7. The appeal site is to the rear of a row of detached dwellings fronting Garden House Lane. The site is partly enclosed to the side and rear boundaries and the land level rises considerably from the front of the site to the rear. Development in the area is varied in respect of design and material finish, but typically includes brick and render finishes arranged primarily in a simple form beneath pitched and hipped roof.
8. There is a diversity of scale in the area, although development consists predominantly of detached two-storey dwellings, particularly in Garden House Lane and the modern residential developments at Wheatfields and Ryders Way. Within Garden House Lane beyond Ryders Way, dwellings are typically set back within larger plots giving a spacious and verdant character reflective of the edge-of-settlement location.
9. The proposal is for ten detached dwellings principally arranged around a central access road. The proposed dwellings would primarily front the internal access road set behind flint walls with brick piers. The dwellings would be of a considerable scale and, in addition to the proposed double garages, would result in a substantial amount of development across the site. The overall density of the proposal would be relatively low. Nevertheless, the quantum of built form, including the enclosure of the internal access road and placement of the double garages, would jar with the spacious character of development in the area, particularly within this part of Garden House Lane.
10. The limited spacing between plots would make the development appear cramped and would limit views through the site to the countryside beyond. The confined layout of the proposal and substantial built form would be more reflective of a denser urban setting than the semi-rural context at the fringe of the settlement. The limited soft landscaping both within the site and to the boundaries would further accentuate the amount of built form, including the extensive access and parking areas. The excessive scale of the dwellings and the minimal additional planting would fail to assimilate the proposal within the landscape and would not be in keeping with the verdant character of the area.
11. While large dwellings would not be wholly out-of-character within the area, the substantial width and depth of the proposed dwellings, in contrast to the smaller plot sizes, would emphasise their considerable scale. Consequently,

the development would appear unduly cramped and would jar with the overall spacious character of development in the area surrounding the site.

12. The dwellings would have a contemporary design, incorporating connected blocks level that would partly reduce the overall bulk of the buildings particularly at first floor level. The development would primarily utilise a palette of materials typical to those used in the area. However, the dwellings would be finished with a clay tile hung façade that would be alien to the material typically used in the area. Moreover, the vertical hanging tiles would emphasise the mass of the buildings, particularly at first floor level where the restricted size of the openings accentuate the considerable scale of the buildings.
13. I conclude that the proposal would harm the character and appearance of the area. The development therefore conflicts with Policies SP09, LP17 and LP24 of the Babergh and Mid Suffolk Joint Local Plan 2023 (JLP) and Policy B&R 15 of the Botesdale & Rickinghall Neighbourhood Plan 2020 (NP), which collectively require proposals to contribute to the enhance of the natural and local environment, integrate with the existing landscape character of the area and reinforce the local distinctiveness and identity of individual settlements, respond to and safeguard the existing character/context, be compatible/harmonious with its location and appropriate in terms of scale, mass, form, siting, design, materials, texture and colour in relation to the surrounding area, and reflect the local character and produce designs respect the character, scale, height, density of the locality.

Footpath

14. Policy B&R 6 of the NP requires that development must provide a connection to the adjoining public footpath at the south-west corner of the site. The public footpath runs largely parallel to the boundary of the site, including the proposed access onto Garden House Lane.
15. The difference in land levels between the site and the footpath and the requirement within the policy to retain and reinforce the existing trees and hedgerows would make connection to the footpath in the south-west corner challenging. To the south-west corner, the site is separated from the footpath by a ditch beyond a loose row of mature trees. The land at the site is lower than that of the footpath and it is proposed to reduce the land level in this part of the site, to assimilate the dwelling and garden of Plot 3 into the landscape.
16. Nevertheless, the loose arrangement of the trees and the limited difference in existing land levels would not make an accessible connection to the footpath impossible. Moreover, the footpath connection would be more challenging due to the proposed layout with the boundary being enclosed by the curtilage of Plot 3. Given that the proposed layout does not include the provision of a connection to the public footpath at the south-west corner of the site, the proposal conflicts with Policy B&R 6.
17. The appellant has suggested that a connection to the footpath could be provided towards the front of the site and that the precise details could be secured through a condition, if I were minded to allow the appeal. While the suggested position would not fully accord with the requirements of Policy B&R 6, it would nonetheless provide a connection from the site to the public footpath.

18. I conclude that the proposal would provide a suitable connection to the public right of way. The development therefore accords with Policy B&R 6 of the NP, as set out above.

Suitable mix

19. The proposal is for the erection of ten dwellings, consisting of 2 three-bedroom dwellings, 6 four-bedroom dwellings and 2 five-bedroom dwellings. Policy B&R 9 of the NP states that there shall be an emphasis on providing a higher proportion of three-bedroomed homes unless it can be demonstrated that the particular circumstances relating to the tenure of the housing dictate otherwise or where such provision is demonstrated to not be in accordance with the latest available housing needs information for the Plan area.
20. Policy SP01 of the JLP requires that the mix of tenure, size and type of new housing development should be informed by the relevant District needs assessment, or any local housing needs surveys where relevant. The preamble to the Policy SP01 reiterates that according to the latest Strategic Housing Market Assessment (SHMA), the greatest need within the district is for two, three and four-bedroom accommodation. I have no evidence before me to suggest that this is not applicable in this case.
21. The mix of housing would not proportionally conform with the District-wide requirement and would not provide the higher proportion of three-bedroomed homes required by Policy B&R 9. Nevertheless, it would provide 8 homes that would assist in meeting the need for three and four-bedroom accommodation within the District, as set out in the SHMA.
22. There is some tension between Policy SP01 of the JLP and Policy B&R 9 of the NP. The Planning Practice Guidance (PPG) states that, under section 38(5) of the Planning and Compulsory Purchase Act 2004, if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published. Given that the JLP post-dates the NP by a significant margin, I attach greater weight to Policy SP01 of the JLP than I do to the conflict with Policy B&R 9 of the NP. Consequently, the proposal is in accordance with the spatial strategy set out in the development plan when read as a whole.
23. I conclude that the proposal would provide a suitable mix of dwellings to meet local need. The development therefore accords with Policy SP01 of the JLP, as set out above.
24. The Council has referred to Policy SP02 of the JLP, which requires a contribution of 35% affordable housing on greenfield sites and 25% affordable housing on brownfield sites on sites of ten or more dwellings and Policy B&R 6 of the NP, which requires 35% of the development to be affordable housing, subject to development viability. Nevertheless, the Council has accepted that the required provision of affordable housing is not viable. I see no reason to disagree with this. Accordingly, the proposal would not conflict with Policy SP02 of the JLP.

Planning Obligation

25. The completed Section 106 agreement contains an obligation to secure the payment of financial contributions in relation to secondary education transport.

This contribution is necessary and meets the policy tests set out in the Framework and the statutory test set out in regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. The pooling restrictions of regulation 124 of the CIL regulations are also met. I have therefore taken this obligation into account in my decision.

Other Matter

26. The appellant has raised concern in respect of the Council's handling of the application, including the previous outline and reserved matters applications at the site. Nonetheless, this is not relevant to my consideration of the planning issues of the appeal scheme.

Planning Balance

27. Whilst the Council can demonstrate a five-year housing land supply, this is not a ceiling figure. The proposal would make a positive contribution to housing supply and delivery on brownfield land which is within walking distance of local facilities and services. The scheme would also provide limited support to local business and services and the construction industry and would give an opportunity for the existing business to relocate to new premises. Moreover, the proposal would generate additional New Homes Bonus and Council Tax revenues. The Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out quickly.
28. The development would provide cycle parking and would not result in the increase in flood risk. However, I note that these elements are minimum requirements of planning policy and are therefore neutral factors in the planning balance.
29. Taking the stated benefits together, collectively there would be moderate benefits associated with the appeal scheme. However, the harm to the character and appearance of the area and the conflict with the development plan would be of greater significance.

Conclusion

30. The proposal conflicts with the development plan as a whole. Material considerations do not indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal should be dismissed.

J Pearce

INSPECTOR