



Appeal Decision

Site visit made on 20 January 2025

by **Zoe Raygen DipURP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th of February 2025

Appeal Ref: APP/W3520/W/24/3352607

By-Pass Nurseries, Bramford Road, Bramford IP8 4BA

- 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 MCC Developments Ltd against the decision of Mid Suffolk District Council.
 - The application Ref is DC/21/05977.
 - The development proposed is the erection of 11 dwellings (including 4 affordable) and one commercial unit (class E use).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the Council's determination of the planning application, the description of the development was changed from the erection of 19 market dwellings and 10 affordable dwellings to that contained in the banner heading above. I have determined the appeal in accordance with the revised proposal.
3. In 2018 outline planning permission was granted for the erection of 20 dwellings on the appeal site. This was followed by an application for Reserved Matters which was approved in 2020¹.

Main Issues

4. The main issues are:
 - Whether the location of the appeal site is appropriate for housing and employment having regard to local and national policy;
 - Whether the proposal includes an acceptable mix of housing;
 - Whether the proposal provides an acceptable level of affordable housing;
 - Whether the location and design of the affordable housing is acceptable;
 - The effect of the proposal on flooding;
 - Whether the proposal provides safe and suitable access for all;
 - The effect of the development on the character and appearance of the area;
 - The effect of the development on biodiversity; and

¹ 0408/17 & DC/18/04695 – together referred to as the previous application within this decision.

- The effect of the proposal on Early Years place provision.

Reasons

Location

5. Policy SP03 of the Babergh and Mid Suffolk Joint Local Plan Part 1 2023 (the JLP) sets out the settlement strategy for the sustainable location of new development which should be accommodated within settlement boundaries. Outside of settlement boundaries development would normally only be permitted subject to certain criteria. In this instance the housing development does not meet any of the criteria and therefore would be contrary to policy SP03.
6. The appellant relies on criterion c) which requires that development be in accordance with one of the listed Policies of the JLP, in this instance Policies SP05 and LP10. Both policies concern the delivery of employment uses. The appeal proposal includes one commercial unit and but would be predominantly residential use. Nevertheless I have considered the two policies.
7. There is no dispute between the parties that the appeal site is located along a strategic transport corridor. Therefore part 5 of policy SP05 is relevant. Criterion 5a requires that it is demonstrated that the proposal is deliverable and would enhance provision which cannot be accommodated on existing strategic employment sites. However, there is no substantive evidence before me that this is the case here. There is no end user proposed nor is there any evidence to demonstrate that this single unit could not be accommodated on an existing strategic employment site. I note that this is also the view of the Economic Development and Regeneration Team in its email dated 10 January 2023 which states that *“there is little information provided on the rationale behind the unit, the anticipated operation and experience of the building and how it will integrate into the wider site. I therefore, have concerns that the commercial use would not actually be deliverable and am unable to support this scheme based on the information available to me.”*
8. Policy LP10 is regarding the change of use from employment uses, There is no dispute that the existing use of the appeal site is an employment use. Criterion 2a requires that the possibility of re-using or redeveloping the land for other employment or community uses have been explored by a period of sustained marketing normally for 6 months. There is no compelling evidence before me that this has been carried out to justify the provision of housing on the site.
9. Therefore, even if I were to consider that Policies SP05 and LP10 were relevant to the determination of this appeal, the proposal would not comply with their requirements. Consequently, for the reasons above, I conclude that the proposal would conflict with Policy SP03 and SP05 of the JLP.

Housing mix

10. Policy SP01 states that the mix of tenure, size and type of proposed housing should be informed by the Council's needs assessment. The most up to date evidence for the need for housing is contained within the Council's Strategic Housing Market Assessment 2019 (SHMA) While this is dated, in the absence of any substantive or compelling evidence to the contrary, I have used this for the purpose of assessment. For open market housing the requirement is

predominantly for small to medium sized one to three bedrooled units (70%) with the remainder being four bedrooms plus.

11. The appellant proposes 100% four bedrooms plus houses, which is clearly not in accordance with the requirements of the SHMA.
12. The proposed mix of affordable housing with 2 x 2 bed houses and 2 x 3 bed person is broadly in line with the requirement in the SHMA through providing a majority of 2 and 3 bedroom properties and there being only four houses in total.
13. The appellant has assessed the number and type of houses in totality against a requirement. Nevertheless, the market housing does not meet the requirements of the SHMA and therefore the proposal would conflict with Policy SP01.

Provision and location of affordable housing

14. Policy SP02 requires the provision of 25% affordable housing on brownfield sites. The proposed four affordable units is well above this requirement. However, although I have a copy of a draft unilateral undertaking which secures the provision of the affordable units, it has not been signed or dated and therefore I cannot be sure that the units would be delivered on site.
15. The four affordable houses would be located as two sets of semi-detached houses at the southern end of the appeal site separated from the bulk of the market housing by a road and the commercial unit.
16. Policy SP02 of the JLP requires that affordable housing must be well-designed and where other types of housing are delivered it must be integrated within the development. Integration is discussed in some detail in the Council's Housing Supplementary Planning Document 2024. While this has not been the subject of examination, it nevertheless gives useful guidance.
17. It states that affordable housing should be indistinguishable within the site, have equal access to facilities and distributed throughout a site with a distribution proportionate to the size of the scheme. It goes on to say that this does not mean that proposals delivering 15 or fewer affordable homes, as is the case here, will not be required to distribute affordable homes through the development.
18. I acknowledge that the scheme at only 11 dwellings is relatively small, also that registered affordable housing providers may have specific management requirements. However, while not necessarily pepper potted throughout the development, I see no reasons why they could not reasonably be located within the body of the market housing rather than restricted to the southern end of the site away from the market housing. Even given that the materials used would be the same as the market housing the affordable units are much smaller than the market houses with a simpler design and detailing and lack of garage. The layout as proposed, with the four plots detached from the main bulk of development together with the feature entrance piers being on the access road to the market housing, would accentuate these differences and differentiate the four houses as affordable units to an unacceptable degree.
19. I note that the previous application contained 7 units in a cluster at the entrance to the site similar to that proposed here. However, that scheme did not include a commercial unit which in this scheme adds to and reinforces the segregation.

20. For the reasons above, I conclude that the proposal would be contrary to Policy SP02 of the JLP.

Flooding

21. The Lead Local Flood Authority (LLFA) maintain an objection to the development mainly due to the lack of information contained in the submission and concerns that the strategy does not comply with the most up to date guidance.
22. The appellant's submission comprises a Flood Risk Addendum dated 20 October 2019 which was used to discharge a planning condition regarding surface water drainage imposed on the previous planning application. In addition, drawings 1907-371-004, 1907-371-005, and 1907-371-006 show the surface water strategy. In light of that information and the previous approval, the appellant considers that a condition could be reasonably imposed on this scheme.
23. The appeal site is in Flood Zone 1 and while this is the zone of lowest flood risk to which development should be directed, the Framework requires that proposals on sites larger than 1 ha, as is the case here, should be accompanied by a specific flood risk assessment. Furthermore, the proposed scheme does not take account of different allowances for climate change that were introduced in 2023 after the appellant's 2019 submission.
24. For the avoidance of doubt, I have not seen any statement from the LLFA but have relied on its consultation responses through the Council's consideration of the planning application.
25. Therefore, in the absence of this important information, and bearing in mind the advice of the LLFA, I am not satisfied that a condition could be reasonably imposed here. Hence, I have to conclude that it has not been satisfactorily demonstrated that the appeal site could be appropriately drained to ensure that it does not cause or increase flooding elsewhere contrary to policy LP27 of the JLP which requires that in circumstances requiring surface water management measures (including rain water harvesting), adequate mitigation which removes any increased flood risks and/or detrimental impacts are provided to support any planning application to the satisfaction of the Lead Local Flood Authority.

Accessibility

26. The appeal site is located outside of the settlement limit of Bramford. Nevertheless, Bramford was allocated in the Mid Suffolk Core Strategy 2008 (the Core Strategy) as a Key Service Centre where appropriate levels of development could be accommodated. Although the Core Strategy is no longer relevant, I saw at my site visit that Bramford has several services and facilities that would serve the day to day needs of the occupiers of the proposed development. In addition the centre of Ipswich is located to the east of the appeal site.
27. However, the appeal site is about 1.3km from the facilities in Bramford which would be accessed via the B1067. There is a footpath on the eastern side of the road which extends in both directions to Bramford and Ipswich. Even though the speed limit is 30mph, it is a busy road, and residents would need to cross it to reach the footway. There is also a footway on the western side of the road which stops north of the appeal site and the appellant proposes a link from the access to the development to the existing footway.

28. There is little detail associated with the provision of the footway, including whether the footway can be provided to a standard and detail that would be acceptable for all footway users within the appellants ownership. Furthermore, there is no detail of any proposals for a crossing to the opposite side of the road to safely accommodate travellers using the bus service and their connection to the nearest bus stops which are in a convenient walking distance of the appeal site.
29. The Highway Authority allude to there being more detail on the previous application. Nevertheless, it seems to me that if the HA was satisfied at that time that a condition could be imposed to achieve the requirements required then it seems unreasonable to suggest it could not be achieved now. This is especially so given that I have not been advised that any circumstances have materially changed since the previous planning application was granted.
30. With such a condition attached then I am satisfied that the appeal site would be in a reasonably accessible location which would prioritise movement by foot, bicycle and public transport, including linkages to create/contribute to a walkable neighbourhood contrary in accordance with Policy LP24 of the JLP.

Character and appearance

31. The appeal site is located alongside the B1067. To the south and west is predominantly open countryside with a large area of allotments to the north. To the east is a mixture of open countryside and some development alongside the B1067. The road itself has a dense hedge and trees on either side, which together with the open countryside and the existing built development gives a semi-rural character and appearance to the area separating the built up areas of Bramford and Ipswich giving each a separate identity. While there is roadside development it is small scale and sporadic and does not detract from the overall verdant appearance.
32. The appeal site, while being previously developed land, has now had the buildings removed and therefore forms a large overgrown green area. From the evidence submitted by the Council, which is not disputed by the appellant, even when the appeal site was in its previous use/s it still had an open green appearance with few buildings on it up until 2021 when it was cleared. Together with its hedgerows it contributes positively to the semi-rural character and appearance of the area. Visibility into the appeal site from the B1067 is limited due to the existing hedgerow and hoardings. However, I saw that from the Public Right of Way (PROW) which runs along the western edge of the appeal site the site is much more open and visible in the context of the allotments and development in Bramford to the north, emphasising its location within the open countryside between the built forms of Bramford and Ipswich.
33. The proposed development would alter the character of the area. However, the setback of the houses from the B1067 would allow for planting to be accommodated in the rear gardens of the plots as some hedge/trees may need to be removed to allow for the new footway. The houses would be relatively low density along the B1607 so that an open appearance would be maintained. While the development would stretch along the B1607, it would effectively fill a gap between two existing dwellings. A further gap to the next development to the south would be maintained so that there would not be unacceptable coalescence between Bramford and Ipswich. While the development would be visible from the PROW to the west it would, in these views, be seen in the context of existing

development in Brampton, even though divided by the allotments. The layout of the site and the incorporation of a large amount of green open space, together with the gaps between the buildings and the proposed landscaping means that there would not be a materially harmful effect on the verdant semi-rural character and appearance of the area, particularly so given that the site is previously developed land.

34. For the reasons above therefore, I conclude that the proposal would not be harmful to the character and appearance of the area. It would therefore be in accordance with Policy LP17 of the JLP which requires that development must integrate with the existing landscape character of the area and reinforce the local distinctiveness and identity of individual settlements.

Biodiversity

35. The appellant is correct that the appeal proposal is not required by the Environment Act to provide 10% biodiversity net gain (BNG). However, the Framework states that applications for planning permission are required to be determined in accordance with the development plan unless material considerations indicate otherwise.
36. Policy LP16 of the JLP states that development must identify and pursue opportunities for securing measurable net gains, equivalent of a minimum 10% increase, for biodiversity. The Council will seek appropriate resources from developers for monitoring of BNG from developments. Where biodiversity assets cannot be retained or enhanced on site, the Council will support the delivery of net gain in biodiversity off-site.
37. Therefore, I am of the view that the appellant's reliance on the Preliminary Ecological Appraisal's recommendations to secure the enhancement of biodiversity would not be sufficient to meet the requirements of Policy LP16. There are no calculations or metric to establish the extent of BNG that could be achieved, or how it would be delivered, monitored or managed to ensure its provision for the long term.
38. I note that the Council's ecologist finds that the PEA provides sufficient ecological information to determine the application and that the site has been devoid of ecological features for some time. However, I note that the site was cleared of a large amount of vegetation in 2021. While I would agree from my observations that the appeal site currently has little diversity, this would be even more reason for the site to deliver BNG in accordance with policy requirements. Due to the lack of certainty it would not be reasonable to impose a condition in this respect.
39. For the reasons above, I conclude that it has not been demonstrated that the proposal would deliver 10% BNG as required by Policy LP16.

Early Years contribution

40. Suffolk County Council (SCC) has requested the sum of £25,689 as a proportionate payment towards the cost of a building for the purposes of Early Years provision in the vicinity of the appeal site. The provision of 11 dwellings, the majority of which are large family homes is likely to lead to an increase in the requirement for Early Years provision. I am satisfied therefore that this contribution

meets the requirements of the Community Infrastructure Leavy Regulations 1992 (the CIL Regs) and paragraph 58 of the Framework.

41. While the UU submitted by the appellant includes a requirement to pay the appropriate sum, it is not signed or dated. Therefore, I have to conclude that the proposal does not acceptably include provision for Early Years contrary to policies SP08 and LP30 of the JLP, which state that all new development will need to make provision for appropriate contributions towards community infrastructure and planning permission will only be granted if it can be demonstrated that there will be sufficient infrastructure capacity to support the necessary infrastructure requirements arising from the proposed development.

Other matters

42. Although not a reason for refusal, the Council includes in its statement of case a reference to the requirement for the payment towards the Suffolk Coast Recreational Avoidance and Mitigation Strategy. There is though no detail as to why the appellant should pay the contribution, what the specific protected site is and what harm to integrity may be caused by the development. In any case, while the appellant has included the required payment in the UU, it is not signed or dated. Had I been in a position to allow the proposal I would have sought more information and a completed UU in order that I could undertake an Appropriate Assessment as the competent authority.
43. In that vein the appellant has suggested that it would be acceptable for me to impose a condition requiring that a legal agreement be secured in respect of the affordable housing, early years and childcare provision and the Habitat Mitigation in accordance with the Planning Practice Guidance² (the PPG).
44. However, the PPG states that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency.
45. I am of the view that this is especially so in the matter of the effect of the development on the European Protected Site where the Habitat Regulations require that the competent authority carry out an appropriate assessment to ensure that the integrity of the sites are not adversely affected. Without the surety of the mitigation in the form of a S106 agreement it would be difficult to reach this conclusion. Furthermore, the PPG advocates the use of such a condition only in exceptional cases. There is nothing before me to suggest that would be the case here. Had I not been dismissing the appeal on other matters I would have allowed time for the legal agreement to be finalised.

Planning Balance and Conclusion

46. The proposal would be contrary to the Council's spatial strategy with houses of an unacceptable mix, would fail to secure 10% BNG together with appropriate

² Paragraph 010 Reference ID:21a-010-20190723

affordable housing, infrastructure requirements, habitat mitigation and has not demonstrated that it would not increase or cause flooding elsewhere. Consequently, it conflicts with the development plan as a whole.

47. It would though provide 11 dwellings on previously developed land in an accessible location which would be in accordance with the Framework and the Government's aim to significantly boost the supply of land for housing, notwithstanding the Council's ability to demonstrate a healthy five year housing land supply. I note the appellant's assertion that if the standard method were used to calculate housing land supply, then it would reduce to 5.67 years. However, the Council's development plan is only just over a year old and therefore in accordance with paragraph 78 of the Framework, there is no suggestion that a different method of calculation should be used. In line with paragraph 125c of the Framework I give the housing, in this context, substantial weight. Although not in a settlement, it is in an accessible location.
48. Furthermore, I am aware that there is debate as to whether the previous permission for 20 houses could be implemented on site and provide a relevant fallback position. Even if it could, in my view it would have similar effects in terms of the character and appearance, spatial strategy and mix of size of houses and would be better in terms of flooding and the number of affordable homes secured by a legal agreement and overall would provide more housing. Therefore, I give it limited weight in my consideration.
49. There would also be economic and social benefits from the construction of the houses and the future spend of occupiers in the local economy attracting moderate weight.
50. However, together these considerations are not sufficient to outweigh the conflict with the development plan. Therefore for the reasons above the appeal should be dismissed.

Zoe Raygen

INSPECTOR