
Appeal Decision

Site visit made on 25 March 2025

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 April 2025

Appeal Ref: APP/F3545/W/24/3355965

Land off West Road, Bury St Edmunds IP33 3LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Anglian Water Group Land Holdings Ltd against the decision of West Suffolk Council.
 - The application Ref is DC/23/1865/OUT.
 - The development proposed is an outline application (means of access to be considered) for up to two dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed development was originally described on the application form as an outline application for the erection of up to 4no. residential dwellings. However, this was reduced to 2no. dwellings during the application process. The description in the banner above reflects the amendment and is taken from the appeal form and decision notice.
3. Outline planning permission is sought, with all matters reserved except access. The application includes an indicative site layout plan. I have determined the appeal based on the proposed access in the indicative site layout plan, with the remaining proposed development layout for illustrative purposes only.
4. The National Planning Policy Framework (the Framework) was revised in December 2024. As this could affect the issues and matters in this case, the Council and the appellant were invited to make further comments. My decision reflects the latest version of this document, and the responses received on it.

Main Issue

5. The main issue in this appeal is the impact of the proposed development on the character and appearance of the area, with particular regard to protected trees.

Reasons

6. The appeal site comprises a garden and unused land, accessed via an existing driveway onto West Road. It lies within a predominantly residential area, with a pair of semi-detached houses to the east. There are tall trees close to the south and west boundaries of the site and the adjacent dwellings, comprising a mix of limes, horse chestnuts and sycamores which are protected by a Tree Preservation Order (TPO). The trees provide a significant, well-established landscape feature

visible from West Road and other nearby streets which positively contribute to the character of the area and justify their protection via the TPO.

7. The Tree Survey and Arboricultural Impact Assessment Nov 2024 (AIA) outlines that many of the protected trees within the site are of high or moderate quality with a long life expectancy. Most of them are over 17m tall with sizeable crown spreads. The AIA indicates that the protected trees would be retained, with pollarding of a lower quality horse chestnut and sycamore.
8. The proposal is for up to two dwellings. The indicative site layout plan illustrates that the development could be accommodated outside the root protection areas and canopies of the protected trees. However, due to the type of trees and their location within the site, there would be seasonal nuisance issues, including from falling leaves, conkers, bird droppings and sticky residue which would particularly affect the exterior spaces. As a result of the size of the trees, there would also be actual and perceived risks of damage to buildings and cars from falling branches.
9. The houses could be sited and laid out to minimise shading of rooms from the trees, and the shade analysis in the AIA indicates that reasonable levels of sunlight hours within the houses could be achieved. Notwithstanding this, because of their significant height, crown spread and position to the south and west of the proposed scheme, the trees would cause substantial shading and dominate the setting of proposed exterior spaces, particularly during the spring and summer months when they are in full leaf.
10. Trees provide natural cooling, enhanced wellbeing and air quality benefits. Nonetheless, for the reasons set out, the location of the proposed development relative to the protected trees is likely to create pressure from future occupiers to prune or even remove them, adversely affecting this distinctive landscape feature.
11. The appellant's statement includes an alternative indicative site layout plan. This shows the driveway and parking areas close to the trees, within some root protection areas, and some private amenity space to the north of a semi-detached pair of houses. However, the AIA does not address the implications of the alternative layout for the protected trees. Further, whilst appearance, scale and layout are reserved for future consideration, the revised layout would not overcome issues of seasonal nuisance and risk of damage from the trees, and the resultant pressure on them.
12. Consequently, I conclude that the proposed development would harm the character and appearance of the area, with particular regard to protected trees. This would be contrary to Policies DM2, DM13 and DM22 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document 2015 (DMPD) and Policy CS3 of the St Edmundsbury Core Strategy 2010 (CS). Together, these require developments to contribute to a high quality environment, recognise local distinctiveness, and ensure no unacceptable adverse impacts on landscape character or features, amongst other things.

Other Matters

13. The Town Council supports the proposal, but this does not alter my overall conclusion that it would harm the character and appearance of the area.

14. The Council did not find harm or development plan conflict in relation to several other matters, including the principle of development, contamination, flood risk and drainage, highway safety, parking, ecology, living conditions, energy efficiency and heritage assets. However, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.

Planning Balance and Conclusion

15. The Council accepts that it cannot currently demonstrate a five year housing land supply required by the Framework though this is likely to change once the West Suffolk Local Plan is adopted later this year. The appellant indicates that the housing requirement is now approximately 1,195 dwellings per annum and both parties agree that the Council currently has a 3.6 year supply. This represents a significant shortfall and therefore paragraph 11(d) of the Framework is engaged.
16. Paragraph 11(d)(ii) of the Framework confirms that in such circumstances, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies including directing development to sustainable locations, making effective use of land and securing well-designed places.
17. The Framework seeks to significantly boost housing supply and highlights the important contribution small and medium sized sites can make. The proposal would make a modest contribution of up to two homes to the supply of housing, making better use of land within the housing settlement boundary of Bury St Edmunds with access to services and public transport. It would contribute towards West Suffolk's housing supply, making a modest difference to addressing the shortfall, and therefore I attribute moderate weight to this benefit.
18. The appellant considers that the site is previously developed land as it is within the curtilage of land used for water facilities and two dwellings. However, as it is within a built-up area, includes garden land and does not contain permanent structures or fixed surface infrastructure, it is not clear that it meets the Framework's definition of previously developed land which limits the weight I can attribute to this.
19. In contrast, the proposal would harm the character and appearance of the area. I have concluded that the proposed development would conflict with Policies DM2, DM13 and DM22 of the DMPD and Policy CS3 of the CS. This matter carries significant weight against the scheme.
20. Consequently, the adverse impact I have identified would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. It therefore follows that the proposal does not benefit from the presumption in favour of sustainable development.
21. For the reasons above, the proposal would conflict with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

A Wright INSPECTOR