



Appeal Decision

Site visit made on 8 January 2025

by **Jennifer Wallace BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 April 2025

Appeal Ref: APP/X3540/W/24/3347785

Land Between the River Ore and Station Road, Station Road, Framlingham IP13 9EZ

- 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 Ian and Sheila McLeish against the decision of East Suffolk Council.
 - The application Ref is DC/24/0226/FUL.
 - The development proposed is proposed oak framed dwelling and cartlodge garage.
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Decision

1. The appeal is allowed and planning permission is granted for proposed oak framed dwelling and cartlodge garage at Land Between the River Ore and Station Road, Station Road, Framlingham IP13 9EZ in accordance with the terms of the application, Ref DC/24/0226/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. On 12 December 2024, a revised National Planning Policy Framework (the Framework) and updated Housing Delivery Test results were published. I have sought further views from the main parties and have taken those comments into account in reaching my decision. I will refer to the updated paragraph numbers.
3. A completed planning obligation, dated 10 February 2025 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted which seeks to secure the proposed dwelling as self-build. I therefore consider that this should be considered as a main issue in this appeal. I have sought further views from the parties in respect of this issue.

Main Issues

4. The main issues are:
 - whether the site is a suitable location for the proposed development;
 - whether the site would provide a self-build dwelling in accordance with the policies of the development plan;
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the habitats sites.

Reasons

Suitable Location

5. Suffolk Coastal Local Plan (23 September 2020) (LP) Policy SCLP3.2 establishes the settlement hierarchy for the authority and Policy SCLP3.3 defines settlement boundaries. There is no dispute that the site lies outside, but immediately adjacent to, the settlement boundary for Framlingham, a market town in the second tier of the hierarchy. The site therefore does lie in the countryside and policy confirms new residential development will not be permitted except where allowed by specific policies in the development plan.
6. LP Policy SCLP5.3 sets out the circumstances where housing development would be acceptable in the countryside. Market housing is not such a circumstance. This policy does allow for limited development within existing clusters and LP Policy SCLP5.4 sets the detailed policy framework for this. It defines existing clusters as, relevant to this appeal, having at least 5 dwellings. Given the terms of the policy, these clusters must lie within the countryside, so the dwellings on the opposite side of Station Road would not be considered.
7. There are a number of dwellings along Fairfield Road which lie outside the settlement boundary. The site taken as a whole has a boundary with some of those properties. However, the proposed dwelling would be sited some considerable distance from them and be accessed from Station Road. It would not have sufficient relationship, physically or visually, with those properties to allow it to be considered to be part of that cluster.
8. There is no provision within the locational policies for previous historic linkages between sites and buildings to inform the assessment of whether a site lies in proximity to a cluster.
9. Notwithstanding that the site is well located in relation to Framlingham, I therefore conclude the site would not be a suitable location for the proposed development. It would be contrary to LP Policies SCLP5.3 and SCLP5.4 which together set out the circumstances in which residential development would be allowed in the countryside. I attach limited weight to this harm, given that the siting of a dwelling in this location would not undermine the locational strategy of the development plan which seeks to direct 24% of new dwellings to market towns.

Self Build

10. The Self-Build and Custom Housebuilding Act 2015 (as amended) places a duty on relevant authorities to give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established through the number of entries on a register the relevant authority is also under a duty to keep. LP Policy SCLP5.9 does support the delivery of such dwellings, however it only does so where proposals would be in compliance with all other relevant policies in the LP.
11. It is not in dispute that the Council has not delivered sufficient permissions to meet this duty. The Council also acknowledged that the register is unlikely to reflect the full demand for custom and self build houses.
12. There is also no dispute that a condition would not be an appropriate mechanism to secure a dwelling as self build. The appellant has submitted a planning

obligation to address this. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (CIL Regulations) and paragraph 58 of the Framework set out three tests that planning obligations must meet.

13. I am satisfied that the obligation is necessary to make the development acceptable in planning terms to secure a self build dwelling. It is directly related to the development proposal and is fairly and reasonably related in scale and kind to the development. I am therefore satisfied that the planning obligation would meet the requirements of the CIL Regulations and the Framework in respect of this issue.
14. A monitoring and administrative contribution of £445 is also proposed. Regulation 122 of the CIL Regulations allows for a contribution to be secured towards the costs of monitoring and reporting provided the sum to be paid fairly and reasonably relates in scale and kind to the development and does not exceed the authority's estimate of its cost of monitoring the development. I have no reason to conclude that the monitoring contribution secured through the planning obligation would not comply with these tests.
15. I am therefore satisfied that the proposal would provide a self build dwelling. However, as the proposal would not be in accordance with the policies of the development plan for the reasons set out in the preceding section, it would not comply with LP Policy SCLP5.9.

Character and Appearance

16. The appeal site is an extensive, largely open area formerly in use as a plant nursery. There are residential properties to the opposite side of Station Road and to the rear of the site on Fairfield Road. Heading toward the centre of Framlingham is the Framlingham Technology Centre, while leading away from the town along Woodbridge Road are further large scale employment uses. As a result, the site does not have a rural character or appear as the sensitive countryside edge of the town. Rather, it has the appearance of an attractive break in the built form of the settlement. The site therefore makes only the most limited contribution to landscape character given its size, location and the extent of surrounding development.
17. The River Ore flows through the application site and appears to have retained its free flowing, meandering course. However, the boundary of the site appears dictated by the position of Station Road and does not reflect the meanders of the river. There are dwellings immediately adjacent to the opposite bank of the river, separating it from the surrounding countryside. Along with the extent of tree planting within the appeal site as a whole and the narrow width of the river, its course is not readily apparent in wider views. The site therefore is not perceived as forming part of a river valley.
18. The proposed dwelling would be sited some distance from the river which would reduce the likelihood of the introduction of residential development creating pressure to fell the trees that line the river. Additional controls could be provided through a landscaping condition.
19. The dwelling and cartlodge would be located to the southern end of the site. They would be slightly set back from the road, with a landscaped boundary. It would be viewed in the strongly residential context of the terrace and other dwellings on the opposite side of Station Road, as well as the more dispersed properties on

Kettleburgh Road and the Fairfield Road dwellings. It therefore would not be incongruous with the layout of dwellings in the immediate surrounds.

20. The proposal would result in the loss of a limited number of trees and some works to the boundary landscaping to provide visibility splays. These works would not materially harm the character and appearance of the area given the undeveloped area that would remain. Concerns regarding the installation of hard boundary treatments could be addressed by removing those permitted development rights.
21. I therefore conclude the proposal would have an acceptable effect on the character and appearance of the area. It would not conflict with LP Policies SCLP10.4 and SCLP11.1 which taken together require development to demonstrate it will protect the special qualities and features of the area and require development to be of a locally distinctive and high quality design that demonstrates an understanding of the key features of local character.

Habitats Sites

22. The appeal site falls within the zone of influence for the Alde-Ore Estuary Special Protection Area (SPA) and Ramsar site, the Benacre to Easton Bavents SPA, the Deben Estuary SPA and Ramsar site, Minsmere - Walberswick Heaths & Marshes Special Area of Conservation (SAC), Minsmere – Walberswick SPA and Ramsar site, the Orfordness-Shingle Street SAC and the Sandlings SPA.
23. All of the sites are vulnerable to pressures from recreational disturbance. Due to its proximity to the habitats sites, there is a reasonable likelihood future occupiers of the proposed development would access the habitats sites for recreation. Although such effects would likely be limited from a single dwelling, in combination with other approved and proposed residential development, there would be a likely significant effect on the integrity of the SPAs and SACs as a result of the increased population and associated activity.
24. In these circumstances, the Habitats Regulations require me to undertake an Appropriate Assessment of the implications of the proposed development for the SPAs and SACs in view of their conservation objectives before deciding to grant permission. The conservation objectives of the SPAs include ensuring the integrity of each site is maintained or restored as appropriate and that the site contributes to achieving the aims of the Wild Birds Directive. The SPAs collectively are designated for ruff, avocet, marsh harrier, hen harrier, redshank, lesser black-backed gull, sandwich tern, little tern, bittern, dark-bellied brent goose, white fronted goose, european nightjar, teal, northern shoveler, gadwall, and woodlark. The Orfordness-Shingle Street SAC is designated for coastal lagoons while the Minsmere - Walberswick Heaths & Marshes SAC is designated for European dry heaths. Both SACs are designated for annual vegetation of drift lines and perennial vegetation of stony banks. The conservation objectives of each SAC include ensuring that the integrity of the site is maintained or restored as appropriate and ensuring that the site contributes to achieving the favourable conservation status of its qualifying features and species.
25. Adverse effects on the integrity of the habitats sites would arise from increased recreational disturbance, resulting in disturbance to wintering and passage waterbirds, disturbance to breeding birds, trampling, nutrient enrichment through dog fouling, habitat damage, prey removal, spread of non-native species and fire risk. Strategic mitigation measures to address these effects are set out in the

Suffolk Coast Habitats Regulations Assessment Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). This sets out a tariff based contribution towards the delivery of a mitigation strategy to address these effects and is clear that such contributions should be secured using an appropriate mechanism. I am therefore satisfied that the measures set out in the RAMS would adequately mitigate the potential adverse effects of the development on the integrity of the habitats sites.

26. Natural England, in its role as the Statutory Nature Conservation Body, has confirmed that with this contribution secured, the potential adverse effects that would arise would be suitably mitigated.
27. Since the decision was taken, the appellant has made a direct payment consistent with the RAMS. The Council has provided me with a copy of an agreement that accompanied this payment. While this does not refer to the legislation under which the agreement was made, the RAMS and the written evidence of the Council sets out that this was under the provisions of s111 of the Local Government Act 1972. The submitted document clearly links that payment to this appeal and for it to be used towards the mitigation strategy. I have no reason to doubt the Council will ensure that the money is directed to the intended purpose.
28. I am satisfied that with the proposed mitigation measures in place, secured through the direct payment and agreement, the potential adverse effects of the development would be adequately mitigated, respecting the integrity of the habitats sites. The development would therefore comply with LP Policy SCLP10.1 which requires all relevant development proposals to mitigate the impacts of increased recreation on habitats sites. It would also be in accordance with the Habitats Regulations.

Other Matters

29. The proposal was accompanied by a Flood Risk Assessment (FRA) and Addendum. The FRA confirmed that while the majority of the site falls within flood zone 3, and some in flood zone 2, the site of the proposed dwelling and access route would be within flood zone 1. It is not at risk from any other source of flooding. Paragraph 175 of the Framework confirms that in such circumstances, it is not necessary for the development to be subject to the sequential test.
30. Significant concern has been raised about the accuracy of the information with respect to flood risk in the area following the significant damage caused by Storm Babet in October 2023. However, the comments of the EA are dated 26 February 2024 and do not object to the application. The Council, Environment Agency and Lead Local Flood Authority all had the opportunity to provide updated comments to this appeal with respect to this issue but have not amended their positions. I have not been provided with copies of any of the reports carried out following the flood event, including the report carried out by the Lead Local Flood Authority under the requirements of s19 of the Flood and Water Management Act 2010. There is therefore no substantive evidence before me that would lead me to a different conclusion with respect to the risk of flooding at the site.
31. The proposal was accompanied by a Preliminary Ecological Appraisal Report (PEA) which identified that the site had the potential to be suitable for a number of protected species. However, the likelihood of this was low, and so could be

addressed through precautionary measures and working practices. This could be secured by condition.

32. Issues relating to the bridge between the site and the property on the other side of the river would be a private matter for those parties.

Conditions

33. The Council has suggested conditions should I be minded to allow the appeal. I have had regard to these in light of the tests set out in paragraph 57 of the Framework and the advice in the Planning Practice Guidance (PPG) on the use of conditions. I have made some revisions to the Council's suggested conditions in the interests of clarity and to ensure compliance with the Framework. In particular, a number of suggested conditions include detailed lists of information requirements. I have omitted these so that the parties can agree the precise requirements based upon relevant guidance and site circumstances at the time that the details are agreed. I have imposed standard conditions relating to the commencement of development and approved plans to define the terms of the permission.
34. A number of conditions were imposed with relation to the design of the access. It is not clear if these conditions would be consistent with the approved plans and the clear direction of the PPG is to minimise the number of conditions. I have therefore imposed a condition requiring full access details to be submitted. It is not reasonable to require these works to be carried out before any other part of the development as there is an existing site access and no highway safety concerns with the operation of Station Road have been brought to my attention. The visibility splay is clearly marked on the approved plans so it is not necessary for a condition to specify those. Retaining the visibility splay is reasonable and necessary, as is requiring the provision and retention of parking and turning space. It is not reasonable to specify how those spaces will be maintained given their location within private land, nor is it necessary to require electric vehicle charging points as this is addressed through the building regulations. It is not necessary to require cycle parking given the spacious plot which would allow occupiers to make provision as suits their needs. Notwithstanding bin storage is shown on the submitted plans, there is sufficient space for occupiers to store bins as they wish and the proximity of the site to the highway and other dwellings is such that no additional information with respect to refuse collection is necessary. It is not necessary for a drainage scheme as the site slopes away from the highway.
35. A number of conditions were also suggested with respect to ecology which involved elements of duplication. The PEA also included requirements which would not meet the tests for conditions. I have therefore amended the suggested conditions into those securing appropriate construction management practices, lighting scheme and enhancement measures to ensure compliance with the tests.
36. The Arboricultural Report recommends a method statement and tree protection plan should be provided. I consider this to be reasonable and necessary to maintain the character and appearance of the area. As the effect of the proposal would be mitigated by a suitable landscaping scheme, I consider it necessary for that scheme to be submitted before the development reaches above damp proof course level to ensure that it can be implemented in a timely manner. I have also

required the implementation of the scheme and replacement of any planting within the first five years of establishment.

37. In light of the concerns about flood risk in the area and the conclusions of the FRA, it is necessary to specify finished floor levels. For the previously given reasons, I have removed permitted development rights for the installation of boundary treatments. I have also removed permitted development rights for the installation of outbuildings given the substantial size of the site and the extent of development that could occur.

Planning Balance and Conclusion

38. I have found that the proposal would be in conflict with the policies of the LP with respect to the location of development. However, I attach only limited weight to this conflict given the position of the site in relation to the market town of Framlingham and the relationship of the site to surrounding residential development. This would also make the proposal technically contrary to LP Policy SCLP5.9, however the weight I attach to this conflict is similarly limited as it would in effect be double counting the harm.
39. I have found that the proposal would not have an adverse effect on the character and appearance of the area and that suitable mitigation with respect to the effects of increased recreational disturbance on habitats sites has been secured. However, as these amount to a lack of harm, they would be neutral in my assessment of the proposal.
40. It is not in dispute that the Council has not granted permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The Council also acknowledges that the demand for such homes is likely underestimated. The appellant has submitted a legal agreement which would ensure that the proposed dwelling would meet the definition of self-build. Given the duty imposed by s2A of the Self-Build and Custom Housebuilding Act 2015 (as amended), I attach significant weight to this.
41. I therefore consider that in the specific circumstances of this case, the material considerations indicate that the decision should be taken other than in accordance with the development plan. Accordingly, the appeal should be allowed.

Jennifer Wallace

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos LTD213.001, LTD213.003, LTD213.005, LTD213.006, LTD213.007, LTD213.008, LTD213.009, LTD213.010 and LTD213.011.
- 3) Before the development commences, full details of the site access and road, including any gates, bollards, chains or other means of obstruction shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme before the dwelling hereby approved is first occupied.
- 4) Prior to the first occupation of the dwelling, the visibility splay shown on drawing no. LTD213.003 shall be provided and thereafter retained in the specified form.
- 5) Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction to visibility shall be erected, constructed, planted or permitted to grow over 0.6 metres high within the areas of the visibility splays shown on drawing no. LTD213.003.
- 6) Prior to the first occupation of the dwelling, the vehicle parking and turning area shown on drawing nos. LTD213.005 and LTD213.011 shall be available for use and thereafter retained.
- 7) Before the development commences, a Construction Ecological and Environmental Management Plan (CEcMP) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 8) Prior to the installation of any external lighting, a lighting design strategy for biodiversity shall be submitted to and approved in writing by the local planning authority. The strategy shall:
 - identify those areas/features on site that are particularly sensitive for biodiversity likely to be impacted by lighting and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent relevant species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

- 9) Before the development commences, a scheme showing the provision and maintenance of biodiversity enhancement measures shall be submitted to and approved in writing by the Local Planning Authority. The development shall be

carried out and thereafter retained and maintained in accordance with the approved scheme.

- 10) No development shall commence until an arboricultural method statement and tree protection plan, based on the “Tree Survey, Arboricultural Impact Assessment Preliminary Arboricultural Method Statement & Tree Protection Plan In Accordance with BS 5837:2012” report dated 17/11/2023, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved measures.
- 11) No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include the details of all existing trees and hedgerows on the land and identify those to be retained.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 12) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
- i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
 - ii) the site has been remediated in accordance with the approved measures and timescale; and
 - iii) a verification report has been submitted to and approved in writing by the local planning authority.
- 13) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:
- i) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
 - ii) a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a road.

- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Class E of Part 1 of Schedule 2 to the Order shall be undertaken.

[END]