
Appeal Decision

Site visit made on 22 January 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 May 2025

Appeal Ref: APP/W3520/W/24/3347365

Land At The Gables, Combs Lane, Stowmarket IP14 2DD

- 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 Mr R Roper against the decision of Mid Suffolk District Council.
 - The application Ref is DC/24/00870.
 - The development proposed is erection of detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal scheme relates to an outline proposal, with access to be considered at this stage and all other matters reserved for future consideration. I have determined the appeal accordingly. A plan has been submitted as part of the appeal which indicates how a dwelling could be accommodated on the site. I have taken this plan into account for illustrative purposes only.
3. Since the determination of this application a revised National Planning Policy Framework (the Framework) has been published. The main parties have been given the opportunity to comment, and I have considered the revised Framework in my decision.

Main Issues

4. The main issues are:
 - Whether the proposed development would provide adequate amenity space for future occupiers;
 - The effect of the proposed development on the character and appearance of the area;
 - Whether any harm in respect of the above could be addressed by way of planning conditions relating to land outside of the site; and
 - The effect of the proposed development on biodiversity.

Reasons

Amenity space

5. The appeal site (the site) comprises land to the side of The Gables, a detached dwelling, and fronting onto Combs Lane (the road), a largely residential road in the

town of Stowmarket. The area around the site is characterised in part by broadly consistent building lines on either side of the road. Homes on the northern side of the road are generally detached and occupy the majority of the width of their respective plots.

6. The proposal includes use of the existing vehicular access, meaning that space enough will have to be provided on the site for at least one vehicle to park and, most likely, to turn. Furthermore, whilst the proposal is at outline stage and matters of layout and scale are not before me, it is nevertheless reasonable to presume that, as per the indicative block plan, the proposed dwelling would broadly accord to the local building line and bear at least some resemblance to those around it on the northern side of the road in terms of width. Indeed, even as a point of broad principle, I struggle to envisage a markedly different arrangement to that shown on the indicative block plan that is likely to be acceptable given the context. I find that the likely approximate size and shape of the rear garden can be discerned, therefore.
7. As the site fronts the road, the rear garden area for the proposed dwelling would be the only amenity space capable of providing privacy and tranquillity. The site plan shows the appeal site edged in red. Based on that plan and the factors listed above, the provision of even a modest dwelling on the site would come with a rear garden too shallow and small to provide for such common requirements as an outdoor seating area, play space for children, a space for clothes to be dried, and a standard domestic shed, whilst also serving as an enjoyable, private retreat. Furthermore, the staggered rear boundary line of the site would create an awkward shape, restricting ways in which the garden could be used and exacerbating its constrained feel.
8. The proposed development would provide inadequate amenity space for future occupiers, contrary to Policy LP24 of the Babergh and Mid Suffolk Joint Local Plan (2023) (the Local Plan) where it requires that new development be designed for health, amenity, and well-being, and provide appropriate long-term design principles and measures in terms of garden space.

Character and appearance

9. Land behind houses on the northern side of the road is largely verdant. Whilst there is variety in plot sizes here, even the smallest have deep rear gardens. Substantial wooded areas lay beyond. These features provide a distinctly spacious feel. The site is similar in width to residential plots alongside it but is considerably shallower.
10. The site could accommodate a dwelling comparable in width to those alongside it, and I see no evidence that, once developed, the shallowness of the site would inevitably be discernible from the street. Even so, the rear boundary of the proposed dwelling would be evident to occupiers of both the site and the neighbouring properties, who would see clearly the stark distinction between the compressed nature of the proposed dwelling plot and the expansiveness of those around it.
11. The shallowness of the appeal site would appear incongruous in the spacious setting, introducing a cramped feel harmfully at odds with the character and appearance of the area contrary to Policy LP24 of the Local Plan where it requires that new development respond to and safeguard the existing character/context.

Use of conditions

12. The plans show land behind the site, edged in blue, as being within the appellants ownership. Of this, a section immediately behind the site, hatched in blue, is intended to form part of the garden of the proposed dwelling. It is contended that such an arrangement be secured by way of a planning condition (the proposed condition).
13. Section 72 of the Town and Country Planning Act 1990 (as amended) provides that conditions may be imposed on the grant of planning permission for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the local planning authority to be expedient for the purposes of or in connection with the development authorised by the permission.
14. I have no evidence that the effect of the proposed condition would be anything other than to enlarge the site to include the land hatched in blue. Much of that land is within Flood Zone 2 and, based on the Environment Agency maps provided, part of it appears to be in Flood Zone 3. The Framework states that inappropriate development in areas at risk of flooding should be avoided, and that all plans should apply a sequential, risk-based approach to the location of development so as to avoid, where possible, flood risk to people and property.
15. The land hatched in blue has been omitted from the site expressly to avoid it being subject to a sequential test and, accordingly, the Flood Risk Assessment which has been provided is limited to the site alone. In the circumstances, and even if the lawful use of the land hatched blue is residential, I have no evidence that flood risk can be adequately addressed across all of the land that would be used for the development. To allow the appeal based on use of the proposed condition would, in the circumstances, be unreasonable.

Biodiversity

16. Local Plan Policy SP09 sets requirements as to the enhancement and management of the environment. Policy LP16 elaborates further and requires, amongst other things, that development identify and pursue a net gain in biodiversity. No argument has been advanced by the appellant that the requirements of Policy LP16 do not apply to the proposed development; the dispute is over whether a baseline assessment need be provided upfront, or if it could be addressed subsequently.
17. It is not stated in the policy that an assessment of existing, baseline biodiversity levels must be provided at the initial application stage. Whilst, to my mind, there will inevitably be instances where such an assessment is required so that the possibility of compliance with the condition can be established, so too may there be instances where the condition of the site in question renders that approach unnecessary.
18. The application form states that there are no trees or hedges on the proposed development site, but I saw in my site visit that there are some along the roadside boundary. I see no reason why the removal of these features would be inevitable if the site were developed, and any contribution they make to biodiversity could at least be preserved, therefore.

19. Otherwise, the bulk of the site comprises hardsurface and an area of lawn. These are unlikely to be making any significant contribution to biodiversity. Even accounting for space to park and turn at least one vehicle, the likely creation of a residential garden at the site provides ample opportunity for the requisite biodiversity improvements. Given the circumstances of the site I see no reason to doubt that compliance with Policies SP09 and LP16 is possible, or to find that the absence of a baseline assessment at this stage renders the proposal unacceptable.
20. The Council has provided me with a recent appeal in which a different approach was taken¹. That scheme evidently involved significant development on an open field rather than, as is before me, a site already largely developed. As such, the risk of ultimate non-compliance with Policies SP09 and LP16 are different in the two cases, requiring a different approach.
21. I have no evidence that the proposed development would fail to comply with the requirements of Policies SP09 and LP16 of the Local Plan in respect of the provision of biodiversity gains.

Planning Balance

22. The benefits of the scheme are material in my determination. The proposal would provide one new house towards the Governmental aim of significantly boosting supply and could be built quickly. The supply of new housing carries significant weight but is tempered in this case by the modest scale of the scheme. There would be some temporary economic benefits associated with the construction phase as well as the prospect of work-related training for site operatives. Thereafter, there would be ongoing local economic and social activity relating to the occupation of the site to the benefit of local facilities and services, as well as to the local community.
23. Nevertheless, given the relatively modest scale of the proposal and the small number of new residents brought about, these benefits would be minor, and not sufficient to outweigh the harm resulting from the conflict with the development plan described above.

Conclusion

24. Whilst I have found no reason to consider the proposed development contrary to the Council's biodiversity policies, overall, and for the reasons given above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations that indicate that the development should be determined otherwise than in accordance with it. Therefore, the appeal is dismissed.

A Knight

INSPECTOR

¹ Appeal Ref: APP/W3520/W/23/3325598