



Appeal Decision

Site visit made on 8 April 2025

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 May 2025

Appeal Ref: APP/W3520/W/24/3349998

Land South of Barrells Road, Thurston, Suffolk IP31 3GD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Dover Farm Developments Ltd against the decision of Mid Suffolk District Council.
 - The application Ref is DC/23/05884.
 - The application sought planning permission for outline planning application - (access to be considered) erection of 9no. self-build dwellings, without complying with a condition attached to planning permission Ref DC/19/05114, dated 16 April 2020.
 - The condition in dispute is No 4 which states that: *A footpath within the site shall be constructed in accordance with drawing no: 1234/02 received on 30th March 2020. The footpath shall be carried out in its entirety prior to the first occupation on the site and thereafter retained in this form.*
 - The reason given for the condition is: *To ensure that satisfactory access is provided for the safety of residents and the public.*
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mid Suffolk District Council against Dover Farm Developments Ltd. This is subject to a separate decision.

Preliminary Matters

3. The development has been carried out and I am therefore considering this appeal retrospectively. The appeal site is part of a wider site where an enforcement notice had been issued in relation to non-compliance with approved plans which was upheld at appeal, dated 29 November 2023¹. I have taken the previous Inspector's conclusions into account in my decision. Nonetheless I have reached my own findings based on the circumstances of the present case.

Background and Main Issue

4. Outline planning permission for the erection of nine self-build dwellings included a condition that a footpath within the site be constructed in accordance with drawing no: 1234/02 received on 30 March 2020, carried out in its entirety and retained as such thereafter. The appellant seeks to vary it by amending the approved drawing to enable the footpath to be constructed differently. The Council refused the variation of the plan on the basis that it would harm highway safety and would not

¹ APP/W3520/C/23/3319406 and APP/W3520/C/23/3319407, as provided by the Council.

prioritise movement by foot. Taking the above into account, the main issue is the effect of the proposal on highway safety, with regard to pedestrians.

Reasons

5. The appeal site accommodates a private access track serving six dwellings. It is parallel to the eastern arm of Barrells Road.
6. The approved layout plan shows a separate footpath running alongside an access road, continuing to run adjacent to the boundaries of two houses including No 1 Rooks Mead at the junction of Barrells Road and Stoney Lane. The purpose of securing this footpath route was to provide an alternative to walking on the eastern arm of Barrells Road which is necessary to make the development acceptable in its location.
7. It is not disputed that residents can safely walk on the shared surface access track as constructed and shown on the revised plan, and so a physically separate footpath alongside it is not necessary. However, the appeal scheme footpath does not provide a through link to Barrells Road at its junction with Stoney Lane. As such, residents would have no option but to walk along Barrells Road before joining Stoney Lane to continue into Thurston to access services and facilities. Despite being a short section of road, walking on Barrells Road would not be a particularly attractive route to take on the basis of the absence of footpaths along a narrow national speed limit road with narrow verges. Having visited the appeal site location, I agree with the previous inspector that while Stoney Lane also has no footpath it has a different character to Barrells Road and is more conducive to pedestrian movements and provides a safe onward route for those who would choose to walk.
8. Noting that the footpath is on private land and even if there is no requirement for it to be accessible to the general public, there would be no safe route into Thurston for residents of the housing development who would be likely to be reliant on private vehicles. Consequently, the development would not provide safe and suitable access for all, nor would it prioritise sustainable and active transport and maximise the opportunities to utilise these modes as required by Policy LP29 of the Babergh Mid Suffolk Joint Local Plan – Part 1 (2023) (JLP). It would therefore fail to give priority first to pedestrian movements as directed by the National Planning Policy Framework (the Framework).
9. The appeal site is narrowly drawn to reflect the appellant's land ownership and it is indicated that the extension of the footpath is to be agreed under separate negotiation/application with the owners of the necessary land. On this basis, it is suggested that pedestrians could walk along the shared surface access track to the edge of No 1 Rooks Mead and then take a short connecting footpath as originally envisaged and approved. However, there is currently no connecting footpath and no details of such a scheme to provide an indication that such provisions are feasible or would be pursued. As such, the revised plan would render the condition imprecise, failing to meet the Framework's policy tests.
10. The Framework requires development to provide safe and suitable access to the site for all users, which is reflected in Policy LP29. As such, it is necessary to bear in mind the needs of different people, including the young, the elderly, women and those with mobility problems. Despite some of the current residents indicating that the footpath is not required and would not be used, I am mindful that future

residents may well have different needs, and that priority should be given to pedestrian movements by foot.

11. While a previous scheme at the site did not include a requirement for a footpath, the subsequent permission to which this appeal scheme is related to did, for the reasons set out above, and I too have found this requirement to be justified. Similarly, despite two permissions further along Barrells Road for individual dwellings where the Council accepted the occupants would need to walk along the road, the footpath provision in relation to this appeal is reasonably required by the nature and extent of the development. The appellant suggests that they could prohibit the use of the footpath not only to the public but to the residents of the development. However, I find this to be an unlikely scenario and, in any event, it would be a matter for the Council.
12. The appellant contends that the condition they are seeking to vary cannot be implemented and is not enforceable because in their view it refers to a plan that does not exist, however this is not supported in evidence. While drawing no 1234/02 is not listed as an approved plan on the original decision notice, Site Layout drawing no 1234/01A and Footpath Plan 1234-02 are. In this context, the approved plans show the footpath. Moreover, the same footpath is shown on drawing 1234-01D as part of the reserved matters approvals for each dwelling. On this basis, I agree with the previous inspector that it has not been shown that the condition is not enforceable.
13. To conclude, for the reasons given, the variation of condition would be harmful to highway safety, with regard to pedestrians and would conflict with JLP Policies LP24 and LP29. Amongst other things, these policies require development to be of a high-quality design for health, amenity, wellbeing and safety, prioritising movement by foot, bicycle and public transport and demonstrating safe and suitable access for all.

Conclusion

14. My above findings bring the development into conflict with the development plan, read as a whole. There are no material considerations that indicate a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

F Harrison

INSPECTOR