



Appeal Decision

Site visit made on 23 April 2019

by A Napier BA(Hons) MRTPI MIEMA CEnv

an Inspector appointed by the Secretary of State

Decision date: 15 May 2019

Appeal Ref: APP/W3520/W/18/3217559

Langton Green, Eye IP23 7HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by B&M Pension Scheme against the decision of Mid Suffolk District Council.
 - The application Ref DC/18/01123, dated 14 March 2018, was refused by notice dated 19 July 2018.
 - The development proposed is described as 'erection of 20 new dwellings with garages and internal access road on land adjacent to the settlement boundary of Eye'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application to which the appeal relates was submitted in outline, with all matters reserved. As such, were the appeal to be allowed, these matters, which would provide detail of the appearance, layout, scale, landscaping and access arrangements for the development, would be subject to a separate approval process.
3. From the details provided, the proposed site development plan, Ref 2, was intended to be indicative and was considered as such by the local planning authority in its determination of the application. I shall do the same with the appeal.

Main Issues

4. The main issues in this appeal are the effect of the proposal on:
 - The character of the area and the landscape setting of the site;
 - Ecology and biodiversity, including protected and priority species habitats;
 - Highway safety and whether a safe and suitable access to the site could be achieved; and
 - Whether the proposal would make adequate provision for any additional need for affordable housing, and foul and surface water drainage, arising from the development.

Reasons

Character and landscape setting

5. The site is located outside the settlement of Eye and in an area of countryside, as defined as part of the countryside within the development plan, where the *Mid Suffolk Local Plan 1998* (LP) Policy H7 generally resists new housing development. The appeal site is located to the north of the town and is an open, undeveloped field, largely enclosed by mature hedging, but with a post and rail fence and an avenue of trees separating it from the access drive serving the small group of dwellings immediately adjacent to the north of the site. Trees and hedges border the highway verges to either side of the carriageway adjacent to the site.
6. The site is largely surrounded by agricultural land and, whilst some limited development does exist, the appeal site side of the road is predominantly rural and distinctly different in character to that opposite, which is more extensively developed. As such, the site is visually and physically separated from the suburban development to the south, and the industrial and business development to the north-west. As a result, whilst the appeal site is in relatively close proximity to other development, the site can clearly be perceived as forming part of the open countryside.
7. Given the existing hedging, the site is largely screened from public views, with the exception of those available from the adjacent driveway. Whilst the proposal is in outline, it has been suggested that the hedges would be retained as part of any development of the site and there is nothing before me that leads me to consider otherwise. Nonetheless, whilst these hedges may reduce the visual impact of development on the site, particularly at certain times of the year, I am mindful that they are natural features and, as such, would not provide permanent screening.
8. Moreover, even with screening, the proposal would result in the establishment of a significant amount of built development, which would fundamentally change the character of the site and materially detract from its predominantly rural landscape setting. Given the context of the site and its separation from the established settlement to the south and the industrial estate development to the north-west, I consider that the resulting development would be poorly related to the existing development nearby.
9. The site is roughly triangular in shape and the indicative layout provided indicates an estate form of development, with individual detached houses, garages and parking areas accessed from two cul-de-sac estate roads. Whilst this would not be dissimilar to other established development on the outskirts of the town, I consider that this form of development would be incongruous in this location, with a poor visual relationship to the limited existing development within the immediate area, and would not be sympathetic to its countryside setting.
10. I am mindful that the layout is indicative and the proposal is in outline. However, whilst the appeal site may be of sufficient size to accommodate the number of dwellings proposed, there is nothing before me that leads me to consider that an alternative layout for the development as proposed would satisfactorily overcome the harm identified above.

11. Consequently, for the above reasons, I conclude that the proposal would be significantly harmful to the character of the area and landscape setting of the site. It would not accord with the Mid Suffolk Core Strategy (CS) Policy CS5 and LP Policies H7 and H15, where they collectively seek to protect local character and landscape. It would also not meet the aims of paragraphs 127 and 170 of the National Planning Policy Framework 2019 (NPPF), to ensure that developments add to the overall quality of the area, are sympathetic to local character, including the surrounding built environment and landscape setting, and recognise the intrinsic character and beauty of the countryside.
12. Reference has also been made to LP Policies GP1 and CL2, which concern the layout and design of new developments, and special landscape areas, respectively. As the proposal is in outline and the site is outside a special landscape area, I consider that neither of these policies is of most relevance to the appeal proposal.

Ecology and biodiversity

13. The Council refused the appeal application, in part, due to a lack of information about the potential impacts of the proposal on ecology and biodiversity. As part of the appeal process, a Preliminary Ecology Appraisal, dated November 2018, of the site has been provided, which recommends that further species-specific surveys are undertaken. There is nothing before me to indicate that these surveys have been completed. Whilst the Council has confirmed that the preliminary assessment has addressed its concerns, I am not satisfied that it would be appropriate to control the carrying out of these further surveys by condition, as suggested.
14. In particular, the appraisal recommendation for further surveys follows the identification of the potential for the presence of both reptiles and Great Crested Newts. Consequently, from the evidence before me, I consider that there is a reasonable likelihood of protected species being present, which could be adversely affected by the development. In this regard, I am mindful of Circular 06/2005, which states that it '...is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision' (paragraph 99).
15. In addition, paragraph 175 of the NPPF states that planning permission should be refused for a development, if significant harm to biodiversity cannot be avoided, adequately mitigated or, as a last resort, compensated for. In the absence of the recommended detailed surveys, I consider that it is not possible to determine the likely impact of the proposal on the protected species, or whether an adverse effect could be overcome by any proposed mitigation measures.
16. Accordingly, I conclude that it has not been adequately demonstrated that the proposal would not cause significant harm to protected species and their habitats. As such, I find that there is real potential for the proposal to cause unacceptable harm to ecology and biodiversity. It would be contrary to LP Policy CL8, where it seeks to protect wildlife habitats and protected or vulnerable species, and paragraph 175 of the NPPF.

Highway safety and access

17. The appeal site, as shown by the red line boundary on the submitted plan, does not include a means of access to the public highway. I am mindful that access is a reserved matter, the details of which would need to be agreed as part of a separate approval process. Nonetheless, the appeal submissions indicate that it is envisaged that access would be gained from the existing private drive adjacent to the site, which has a junction with the highway close to the south-east corner of the appeal site.
18. The site is adjacent to the B1077, which provides access to the industrial estates to the north. At the time of my visit, the road was relatively busy, with a range of vehicles using it. Whilst I acknowledge that these circumstances may be different at other times, there are no footways or street lights adjacent to the site, and it is also some distance to the nearest bus stop. As such, I am not satisfied that the details provided are sufficient to demonstrate that a safe and suitable access to the site could be achieved for all users or occupiers of the proposed development, particularly pedestrians and including children.
19. I note that the appellant is willing to extend the footway at Langton Grove along the highway to a point on the opposite side of the road to the appeal site. However, there is nothing conclusive before me to demonstrate that this would be technically feasible or achievable. Whilst the land required has been referred to as within the control of the highway authority, no clear evidence has been provided in this respect and, although reference has been made to the submission of a planning obligation in this regard, none has been provided. Consequently, in the absence of conclusive evidence in this regard, I can only give very limited weight to this matter. In any event, the provision of an extended footway as proposed would not be sufficient to address fully the harm identified above.
20. The adjacent access drive is not shown to be part of the site, nor within the ownership of the appellant. Nonetheless, a gate currently exists in this location, which provides access to the appeal site. Moreover, given the considerable length of the appeal site that fronts the highway and the configuration of the road network in this location, I consider that there is a reasonable prospect that a suitable means of vehicular access could be achieved for the site. However, this would not address the harm identified above.
21. As part of the appeal process, details have been submitted relating to access arrangements for an alternative scheme on the site. From the very limited information available to me, this alternative scheme would appear to be materially different in scale and not directly comparable to the one before me. As such, it does not lead me to alter my findings above on the appeal proposal, which I have considered on its merits and in light of all representations received.
22. Accordingly, for the reasons given, I conclude that the proposal would have the real potential to cause harm to highway safety, as it has not been demonstrated that a safe and suitable means of access to the site could be achieved for all likely future users of the site and occupiers of the development. The proposal would conflict with LP T10, where it seeks to ensure that safe access arrangements for new development are achievable, including for cyclists and pedestrians. It would also not meet the similar aims of paragraphs 108

and 109 of the NPPF, to avoid unacceptable impacts on highway safety and ensure that safe and suitable access to the site can be achieved for all users. Reference has also been made to LP Policy T9, which concerns parking provision. However, given the outline nature of the scheme, this is not directly relevant to the issues before me.

Infrastructure provision

23. I note that the Council has applied a Community Infrastructure Levy, which would address many of the infrastructure requirements for the proposal. However, the *Mid Suffolk Local Plan First Alteration 2006* (ALP) Policy H4(altered) generally requires the provision of up to 35% affordable housing for new developments of this size in this location, taking into account identified local needs, viability and the availability of local services. In addition, paragraph 62 of the NPPF indicates that where a need for affordable housing has been identified, this should normally be met on site, to support the objective of creating mixed and balanced communities.
24. No information regarding viability has been provided to support the proposal, or any details submitted to demonstrate that affordable housing would be unnecessary, or unachievable for other reasons. Furthermore, whilst reference has been made to the submission of a unilateral undertaking by the appellant, to secure provision of affordable housing, this also does not form part of the submissions before me.
25. If allowed, the appeal would grant planning permission for the proposal. Consequently, I am not persuaded that it would be appropriate for this matter to be addressed at the reserved matters stage of the process, or made subject to viability considerations at that stage, as suggested by the appellant. Moreover, having regard to the guidance within the Planning Practice Guidance on the use of conditions, I consider that it would not be appropriate to address this issue in that way. Therefore, the absence of suitable provision for affordable housing is a matter that counts against the proposal.
26. Reference has been made to a more recent assessment of affordable housing need for the area. However, only limited details of this have been provided and, from the evidence before me, the Strategic Housing Market Assessment forms part of the evidence base of the emerging local plan, which is at an early stage of the plan process. As such, it does not lead me to alter my findings on this matter.
27. Following the refusal of permission, additional information has been provided concerning surface water and foul water drainage provision for the proposal. As a result, the Council considers that these matters could be appropriately addressed by condition and there is nothing before me that would lead me to an alternative view in this regard. However, this would not address the harm identified above.
28. Accordingly, overall, whilst I consider that suitable drainage provision could be secured, in accordance with CS Policy CS4, I conclude that the proposal would not make adequate provision for affordable housing. It would not accord with ALP Policy H4(altered) or meet the aims of the NPPF in this regard. Whilst CS Policy CS5 has also been drawn to my attention in these respects, this concerns environment and design, and so is not directly relevant to this issue.

Planning balance

29. In relation to the planning balance, the Council has made reference to the *Mid Suffolk Core Strategy Focussed Review 2012* Policies FC1 and FC1.1, which seek to achieve sustainable development, as well as Policy FC2, which concerns the provision and distribution of housing. It is not a matter of dispute between the parties that the Council cannot demonstrate a 5-year supply of housing land and there is nothing before me that would lead me to a different conclusion in this respect. I am mindful of paragraph 11 and footnote 7 of the NPPF in this regard. Having regard to paragraph 213 of the NPPF, the appellant has also argued that many of the relevant development plan policies are out of date. However, given the position on housing land supply, it is not necessary for me to consider this in detail.
30. The appeal site would not be isolated and is located within reasonable proximity to Eye. The proposal would result in the development of twenty new homes, which would contribute to the local housing supply within the area. The appeal scheme would be very likely to contribute to supporting local services and facilities, both during its construction and following occupation. The future occupiers of the proposed dwellings may also wish to contribute to the community through voluntary and other roles, such as retained firefighters.
31. The characteristics of the local highway network and the distances involved are such that I consider it very likely that future occupiers of the proposed development would be heavily reliant on private cars to access the full range of facilities and services necessary to meet their daily needs. Nonetheless, overall, the scheme would have some social and economic benefits. Having regard to the scale of development proposed, I consider that these benefits would be likely to be relatively modest. Nonetheless, given the support within the NPPF for such development, I give them moderate weight.
32. Whilst I have found above that drainage requirements could be secured, I have also found that the proposal would cause significant harm to the character and appearance of the area and has the real potential to cause significant harm to protected species. It would also not make adequate provision for affordable housing and has the potential to cause harm to highway safety. I accord this harm substantial weight.
33. For the reasons given, I conclude that the proposal would conflict with the development plan as a whole and the adverse impacts of granting permission for the development proposed would significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies in the NPPF taken as a whole. I find that there are no material considerations, including the contribution of the proposal to housing supply, which would justify a departure from the development plan, or represent a compelling reason to allow this appeal.

Other matters

34. My attention has been drawn to a recently approved development in the vicinity of Langton Grove, to the south of the site. I do not have the background to that decision or the full details of the proposal. However, from the information available to me, the location of the site, its relationship to other development nearby and the scale of development proposed are materially different to the appeal proposal. Furthermore, the approval of development

elsewhere does not represent an appropriate reason to allow a proposal that would cause harm and, as such, does not lead me to alter my findings above.

35. Appeal and application decisions on sites elsewhere have also been drawn to my attention. From the limited information available to me, these sites are materially different to the appeal proposal in their location and scale. Consequently, I consider that they are not directly comparable to the appeal scheme before me, which I have considered on its merits and in light of all representations made.
36. Reference has been made within the appeal submissions to the preparation of a Neighbourhood Plan for the area. I understand that it is at a relatively early stage of the plan process and has yet to be published. As such, I am unable to accord it any material weight. Nonetheless, there is nothing in the submitted evidence in this regard that would lead me to alter my findings above.
37. Local concerns have also been raised in relation to the proximity of the appeal site to the safeguarding zone for a major hazard site. Given my findings above, it is not necessary for me to consider this matter further.
38. The appellant has also raised concerns about the Council's approach to the planning application process, including the consideration of proposed amendments. However, this is not a matter that is primarily before me as part of this appeal but is an issue for the local planning authority in the first instance. In any event, it does not alter my conclusions above.

Conclusion

39. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

A Napier

INSPECTOR