



Appeal Decision

Site visit made on 17 February 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2023

Appeal Ref: APP/W3520/W/22/3291190

Land East of Hockey Hill, Wetheringsett-Cum-Brockford IP14 5PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jason Vince (Earlwood Homes) against the decision of Mid Suffolk District Council.
 - The application Ref DC/20/04692, dated 19 October 2020, was refused by notice dated 22 October 2021.
 - The development proposed is redevelopment of the site to provide 11 dwellings, including 4 affordable, with access from Hockey Hill and associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I am considering this appeal at the same time as a proposal for 14 dwellings¹ on a site a short distance to the south along Hockey Hill. I have considered the appeals separately, but in doing so have been mindful of the potential cumulative effects of the two developments were both to be allowed.

Background and Main Issues

3. The appeal relates to a parcel of land to the rear of dwellings on Hockey Hill and Hakluyt Close, accessed via a track to the side of 7 Hockey Hill that would be upgraded and realigned as part of the proposal. The 11 dwellings, comprising 3 bungalows and 8 two storey dwellings, would be laid out in a U-shape around a central area of green space with a balancing pond.
4. Based on the reasons for refusal, the main issues are:
 - whether the proposal represents a suitable location for housing, having regard to the relevant local and national policy context;
 - the effect on the character and appearance of the area;
 - the effect of the proposal on the heritage significance of The Step House, a Grade II Listed building and Wetheringsett Conservation Area, having regard to the effect on their respective settings.
 - the effect of the proposal on the living conditions of neighbouring occupants, with respect to outlook, overlooking, noise and disturbance.

¹ Appeal Ref: APP/W3520/W/22/3292871

Reasons

Location for Housing

5. The development plan for the area comprises the Mid Suffolk District Core Strategy (September 2008) (the CS), the Core Strategy Focused Review (December 2012) (the FR) and saved policies of the Mid Suffolk Local Plan (September 1998) (the MSLP).
6. Policy CS1 of the CS designates Wetheringsett as a 'Secondary Village' at the bottom of the settlement hierarchy for the district. Secondary Villages are defined as villages unsuitable for growth but capable of taking appropriate residential infill and development for local needs only. This may include employment, amenity and community facilities as well as small-scale infill housing and "rural exception" sites for affordable housing.
7. Areas beyond any named settlement are regarded as being within the countryside for planning purposes. Settlement boundaries were established under the MSLP but have not subsequently been updated, despite intentions to do so with the CS. The Council points to new settlement boundaries having been advanced as part of its submitted Joint Local Plan² (JLP). However, the JLP has not yet been adopted, and the evidence before me indicates that it remains at a stage where settlement boundaries and related housing policies may yet change. Consequently, I place limited weight on the proposed boundaries of the JLP and have considered the proposal on the basis of the 1998 boundaries still in place.
8. The site lies adjacent to, but outside the settlement boundary for Wetheringsett (except for the access track). The proposed dwellings would therefore be located in the countryside. Policy CS2 sets out various types of development which are supported in the countryside, but this does not include market-led housing. Therefore, there would be conflict with Policy CS2.
9. The National Planning Policy Framework (the Framework) at Paragraph 79 sets out that housing should be located where it will enhance or maintain the vitality of rural communities, and identify opportunities for villages to grow and thrive, especially where this will support local services. The Framework adds that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes, whilst recognising that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
10. The appeal site is adjacent to the main part of the village, Wetheringsett-Cum-Brockford – Church, which includes a church, village hall, primary school and play area. The addition of dwellings would have a positive effect in terms of support for these facilities, which could be reached on foot. The nearest shop, a convenience store forming part of a petrol station on the A140 some 1.8km away, in Wetheringsett-Cum-Brockford – Brockford Street, is beyond reasonable walking distance, and is said to offer a limited range of goods. That said, the Framework recognises that where there are groups of smaller settlements, development in one village may support services in a village nearby. Mendelsham, around 3.5km away, has additional services including a

² In conjunction with Babergh District Council

health centre, local shop, chip shop, playing fields and a community centre which future residents could patronise.

11. The limited facilities in the village mean that residents are still likely to travel beyond the village to avail of most services and employment opportunities and would rely on the private car to do so as the distances involved would preclude walking or cycling, and with no conveniently located or regular public transport option, the nearest being the 113 service stopping on the A140 some 1.2km away. However, the dispersed layout of Wetheringsett means that any development is going to be closer to some facilities than others, and not all are going to be walkable given the distances and road conditions. The scale of the proposal also means the number of journeys is not likely to be significant and many trips, such as to the facilities in Mendelsham, would be short. Importantly, the proximity of the local primary school and church would encourage regular trips by walking or cycling which would help to reduce the overall reliance on the private car. In addition, I am told that the primary school is undersubscribed. The addition of development close to the school would potentially generate additional demand for pupil places which would support its ongoing viability.
12. In reaching a view, I note the appellant's reference to proposed site allocations in the JLP at Wetheringsett-Cum-Brockford - Brockford Street (Hamlet). Notwithstanding that these allocations are yet to be confirmed, I note that these are located closer to the A140 where there is access to public transport and the convenience store. As such, I do not regard these sites as indicators of the suitability of the appeal site, which I have considered on its own merits.
13. Overall, the proposal would be contrary to the spatial strategy of the CS as set out under Policies CS1 and CS2 due to its location outside the settlement boundary and lack of evidence to demonstrate it constitute a form of development supported in the countryside. I acknowledge that the level of service provision within the village is limited, and as such there would be a reliance on the private car for most journeys. However, the harm in this respect is mitigated by the proximity of the primary school, the support the development would provide to the school, and the potential for many car journeys to be relatively short. Consequently, in terms of accessibility to services and the vitality of the rural community, I conclude on balance that the proposal would represent a suitable location for housing.
14. The Council also cites conflict with Policies FC1 and FC1.1 of the FR in its reason for refusal. These are broad policies reflecting the Framework approach to sustainable development and how it is to be achieved. Given my findings above, there would be no conflict with these policies in terms of the locational aspects of sustainable development.

Character and Appearance

15. The appeal site is an undeveloped field/paddock to the east of development on Hockey Hill. Development along the road is mainly in a linear pattern, albeit with some dwellings set further back from the road than others, and a few dwellings standing behind others. This includes dwellings on Hakluyt Close immediately to the west of the appeal site. There is also a cul-de-sac extending behind roadside dwellings a short distance to the south.

16. The Council points to the proposed development struggling to integrate sensitively with existing development due to its scale, orientation and awkward placement. It also alludes to an intensification of development along this part of Hockey Hill.
17. I address the effects of the proposal on heritage assets and neighbours' living conditions separately below, but in terms of general layout and village character, the proposal would constitute a relatively low density of 13.5 dwellings per hectare that would be consistent with the existing densities of the village. Although a linear pattern predominates along Hockey Hill, there are examples of backland development, and the site would be visually contained by trees to the north, south and eastern sides. Therefore, it would not clearly interrupt a consistent linear pattern, nor visibly extend development into the open countryside in longer views.
18. The Council has not criticised the specific design of the dwellings, which would be a mix of single and two-storey units in a Suffolk vernacular style. The proposal would also incorporate elements encouraged under saved Policy GP1 of the MSLP, including natural surveillance, open space and using existing landscaping features.
19. Overall, I am satisfied that the design of the proposal would respect the existing character and appearance of the village. In terms of the policies cited by the Council there would be no conflict with Policy CS5 which requires development to be of a high quality design that respects the local distinctiveness and the built heritage of Mid Suffolk and enhances the character and appearance of the district. Nor would there be conflict with the design requirements of saved Policy GP1 for the reasons stated.

Effect on Heritage Assets

20. The site abuts the Wetheringsett Conservation Area (WCA) to the north-west corner and along the northern boundary, although a pond within the site is stated to fall within the conservation area. The WCA encompasses a cluster of historic buildings surrounding All Saints Church which sit in a well-treed valley bottom which creates a sense of seclusion from the surrounding farmland on higher plateaus, which contributes strongly to its heritage significance. It is notable that the WCA boundary is drawn at the point where modern development extended the built form south along Hockey Hill. I was able to appreciate this sense of seclusion and the historic relationship between the WCA and the surrounding farmland at my visit.
21. The WCA boundary is also drawn around Step House, a Grade II listed building to the north-western side of the appeal site. This former farmhouse dates from the fifteenth century with later seventeenth and eighteenth century additions. The appellant's heritage statement (HS) acknowledges the building to have high archaeological interest given the surviving elements of different eras, along with moderate architectural and artistic interest and high historic interest related to its function as a farmstead within the village over centuries. There is acknowledgement by both parties that the appeal site is likely to have formed part of the land historically farmed from Step House. Consequently, it forms an important part of the setting of this listed building.
22. The appellant's HS sets out that the main contribution of the appeal site to the settings of the WCA and the listed building is in reinforcing the sylvan backdrop

to both. The HS points to a lack of views of the site from within the WCA and that it is screened from views on Hockey Hill by Step House itself. However, setting is not solely a matter of visibility, but the surroundings in which a heritage asset is experienced.

23. In this respect, although I acknowledge that later development to the south of the listed building has altered its setting, the introduction of an estate-type development within the main remaining area historically associated with the farmstead at Step House would severely erode this surviving rural hinterland through the urbanising effect of the buildings, roads and other elements. I recognise the intention to retain perimeter trees and the existing pond, and to plant new trees, particularly in the area between the listed building and the proposed dwellings. However, although this may provide a visual screen between the two, it and the proposed dwellings would conversely sever the remaining physical connection between Step House and the surrounding countryside, instead enclosing it with a suburban form of development. This change to the setting of the listed building would detract from its historic interest and harm its overall heritage significance.
24. The loss of the undeveloped nature of the site would detract from the setting of the WCA through erosion of the historic connection between the low lying dwellings and the surrounding plateau farmland. I accept that, in the case of the WCA, the effect would be only to one part of its wider setting, and thus the harm to its heritage significance would be more limited.
25. However, for the reasons set out, I conclude that the proposal would harm the settings of both the WCA and the listed building at Step House, contrary to Saved Policies HB1 and HB8 of the MSLP, which together require development to protect the settings of listed buildings and the character and appearance of conservation areas. The Council does not cite conflict with Policy CS5 of the CS, but it is relevant in that it seeks to conserve and where possible enhance the natural and built historic environment. Given my findings above, there would be further conflict with this policy.

Neighbours' Living Conditions

26. The dwellings would be laid out in a horseshoe around a central green. The closest dwellings to the boundaries with dwellings on Hakluyt Close would be single storey in height and stand perpendicular to the boundary, in an effort to reduce the overbearing impact and the potential for direct overlooking.
27. This is a considered approach; however, the proposal would also include two storey dwellings facing the rear gardens and elevations of dwellings on Hakluyt Close. Although the proposed green would separate the dwellings at a distance of some 30m, I saw on site that the existing dwellings have quite open rear boundary treatments, mainly low post-and-rail fencing, which affords clear views over the appeal site and vice versa. The retention of an open green space between the existing and proposed dwellings, potentially for communal use by residents, would enable direct views into what are presently secluded, private gardens.
28. Moreover, neighbouring occupants would face a stark change from open countryside to a small estate-type development that would inherently urbanise the surroundings. The proposal would also bring with it increased activity, noise, vehicle movements and night-time lighting that would starkly change the

environment to the rear undermine existing residents' enjoyment of their properties.

29. For these reasons, I conclude that the proposal would cause significant harm to neighbours' living conditions. The Council on this matter cited conflict with saved Policies GB1 and SB2 of the MSLP. However, neither policy refers explicitly to neighbours' living conditions, and Policy SB2 applies only to development within settlement boundaries. As such, there is not clear conflict with these policies. However, though not cited by the Council, there would be conflict with saved Policies H13 and H16 of the MSLP which require that the amenities of neighbouring residents should not be unduly affected by reason of overlooking, loss of daylight or loss of privacy. There would also be conflict with the aims of the Framework that development should create places with a high standard of amenity for existing and future users.

Other Material Considerations

30. Interested parties have raised concerns on a number of matters, including highway safety, pressure on local facilities, flooding and drainage, ecology and health and safety. The Council has not pursued reasons for refusal in any of these matters, but I address some points raised below.
31. No concern is raised by the local highway authority in terms of the proposed access, which I saw would be located on a straight stretch of Hockey Hill with good visibility in both directions. I have noted comments about traffic problems, notably during school drop-off and pick-up times, but the additional traffic generated by a development of 11 dwellings would not be significant and is unlikely to have a severe cumulative impact on the road network.
32. The site is located within Flood Zone 1 and the appellant's flood risk assessment sets out measures to attenuate surface water run-off using the existing watercourse, detention basin and dry swale. No objections have been raised in respect of these measures by the Council or any relevant consultee, and I have no firm evidence that these measures would not be sufficient to manage site drainage. Therefore, this does not weigh against the proposal.
33. Concern is raised in respect of the pressure on local services; however, I have little evidence to substantiate this. The Council has requested contributions only in respect of secondary school transport. Consequently, this is not a matter weighing against the proposal.

Planning Obligation

34. The appellant has provided a signed and dated Section 106 Agreement. This would secure delivery of the four affordable housing units and payment of a secondary school transport contribution. I am satisfied that each sought obligation meets the tests set out in Paragraph 57 of the Framework for planning obligations. As a result, I have taken the agreement into account.

Planning Balance

35. For the reasons set out above in respect of the main issues, the proposal would not accord with development plan policies when read as a whole. Therefore, it falls to consider whether there are other material considerations which justify a decision other than in accordance with the development plan.

36. The appellant argues that various development plan policies are out-of-date, having been found in previous appeal decisions to be inconsistent with the Framework. The Council contends that the policies are not out-of-date, arguing that it has a healthy housing land supply of 9.54 years, meaning that its policies are not restricting the delivery of housing.
37. However, demonstrating a five year supply of deliverable housing sites does not mean policies for the delivery of housing are necessarily up-to-date. In this case, I accept that Policies CS1 and CS2, in seeking to direct development to the most sustainable locations, are consistent with the Framework, but the approach to development in the countryside is restrictive and does not reflect the more balanced approach of the Framework, which does not explicitly restrict market housing in the countryside, nor does it seek to protect the countryside for its own sake. Consequently, I find that these policies are not consistent overall with the Framework and should be regarded as out-of-date. This is consistent with the conclusions of a previous Inspector in a decision at Woolpit³ in 2019.
38. I also agree with that Inspector that policies FC1 and FC1.1 are broad policies reflecting the Framework approach to sustainable development and how it is to be achieved. These policies are generally up-to-date. Saved Policy GP1 reflects the commitment of the Framework to delivering high quality design and so is up-to-date. Saved Policies H13 and H16 are generally in accordance with the Framework in respect of ensuring a high standard of amenity and are also up-to-date.
39. Policy CS5 goes beyond the statutory duties with respect to the historic environment and does not reflect the balancing exercise of the Framework in circumstances where there is less than substantial harm identified. Therefore, it is out-of-date. The same is true of saved Policies HB1 and HB8, which are also out-of-date as a result.
40. Several of the most important policies in this case are therefore out-of-date. Where policies which are most important for determining the application are out-of-date, Paragraph 11 of the Framework sets out that planning permission should be granted, unless i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
41. Designated heritage assets are one such area or asset of particular importance. The harm identified in this case is less than substantial. The Framework states that great weight should be given to the assets' conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance. Paragraph 202 directs that less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
42. The proposal would deliver 11 dwellings which would contribute to the Government's objective of significantly boosting the supply of homes. However, given the Council's stated housing land supply of over 9.5 years, which is not

³ APP/W3520/W/18/3194926

- directly challenged by the appellant, the proposal would not be essential for meeting housing targets and so this benefit attracts limited weight.
43. There would be economic benefits arising from the construction of the dwellings, and subsequently from engagement by future residents in the local economy. However, given the scale of the proposal, such benefits would attract limited weight.
44. The proposal would deliver a policy compliant four affordable housing units. This would help to meet a local need for such housing as set out under Policy H4 of the MSLP. Notwithstanding the Council's criticism of the site's location, their delivery would still be a benefit attracting moderate weight. As set out above, I afford moderate weight to the potential benefits to the viability of the local primary school through increased demand for places from new families who may occupy the development.
45. Taken together, the public benefits would be insufficient to outweigh the less than substantial harm to the heritage significance of the WCA and listed building at Step House, to which I give significant weight.
46. Given this finding, Paragraph 11(d)(i) of the Framework does not indicate that permission should be forthcoming. The proposal would not therefore represent a sustainable form of development. This is a significant material consideration in the overall planning balance.
47. Being out-of-date does not mean that no weight should be attributed to development plan policies at all. Policies CS1 and CS2 retain relevance in terms of seeking to direct development to the most sustainable locations, and conflict with them still merits moderate weight. So too does the conflict with Policies CS5, HB1 and HB8 in terms of their aims to protect the historic environment. The conflicts with policies found to be up-to-date merit significant weight. This includes overall conflict with the aims of Policies FC1 and FC1.1 of the FR to achieve sustainable development.
48. Drawing these considerations together, and notwithstanding the lesser weight to be afforded to certain development plan policies, I conclude that material considerations in this case, including the Framework and the acknowledged benefits of the proposal, do not indicate that a decision should be taken other than in accordance with the development plan.

Conclusion

49. Therefore, the appeal should be dismissed.

K Savage

INSPECTOR