



Appeal Decision

Site visit made on 30 August 2023

by **G Pannell BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 October 2023

Appeal Ref: APP/X3540/W/22/3311875

Land At Victoria Mill Road, Framlingham, Suffolk , IP13 9DW

- 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 Leaper Land Promotion against the decision of East Suffolk Council.
 - The application Ref DC/20/3326/OUT, dated 7 September 2020, was refused by notice dated 26 May 2022.
 - The development proposed is the erection of up to 50 Custom/Self-Build homes (plots), with all matters reserved apart from access. Development to include 17 affordable homes and 0.5 hectares (ha) of public open space that will include an equipped area of play space and landscaping provisions.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description in the banner heading above is taken from the application. During the Council's consideration of the proposal the scheme was amended and the description of the development on the appeal form and decision notice is a phased development, including the erection of up to 49 self/custom build homes (plots), with the development to include 16 affordable homes, public open space that will include equipped play and multi-use games area, landscaping, and other associated infrastructure. I have therefore considered the appeal on this basis.
3. The appeal is made in outline form only, with all matters reserved for future consideration with the exception of access. I have dealt with the appeal on this basis and I have treated any details on the submitted drawings relating to landscaping, layout, scale and appearance as being illustrative only.
4. On the 1 June 2023 the Council approved DC/22/2831/OUT for a phased development, including the erection of up to 35 custom/self build homes (plots), with the development to include 12 affordable homes, public open space that will include equipped play and multi-use games area, landscaping and other associated infrastructure on the appeal site. This is a material consideration which I will take into account in the determination of this appeal.
5. The appellant has submitted a duly executed legal agreement which I have taken into account. It provides for affordable housing; self building housing plots and delivery of public open space, including a neighbourhood equipped area for play. It also includes a contribution towards ecological mitigation and I have contemplated this further later in my decision.

Main Issues

6. The main issues in this appeal are:

- the effect of the development on an asset of community value (ACV); and
- whether the scale of development proposed is appropriate, having regard to the Council's spatial strategy and the Framlingham Neighbourhood Plan.

Reasons

Asset of community value

7. The proposed development will result in the loss of an area of grass highway verge, which is registered as an ACV, in order to provide the realignment of Victoria Mill Lane and secure highway improvements necessary for the proposed development. This realignment would also provide benefits for the existing residents who access their properties from Victoria Mill Lane.
8. Policy SCLP8.1 of the Suffolk Coastal Local Plan 2020 (LP) sets out that proposals to change the use of an ACV will not be permitted and as such the development conflicts with this policy. However, balanced against this is that the appeal site is allocated for housing in the Framlingham Neighbourhood Plan (NP) and Policy FRAM25 sets out that a restriction on the number of dwellings for the site reflects the limitation placed on it by the need for access off Victoria Mill Road and that the development will include the provision of appropriate vehicle access into the site from this road.
9. Evidence has been provided which demonstrate that in order for the allocation within the neighbourhood plan to be delivered it would be necessary for the road realignment to be undertaken and therefore there is a tension between the neighbourhood plan and development plan in this regard. In addition, the Council have approved a scheme for 35 dwellings which will result in the realignment of the road and loss of the ACV. This is a material consideration to which I have attributed significant weight.
10. As the Council have already accepted the loss of the ACV, in connection with the development of the site for 35 dwellings and I have nothing before me to suggest that this is not a reasonable fallback, I consider that the conflict with Policy SCLP8.1 to be negligible.

Scale of development

11. Policy FRAM25 of the NP was adopted in March 2017 and is the larger of two allocations for residential development in the southern part of the town. The site is allocated for housing for the second half of the plan period, after 2025 and is therefore being brought forward in advance of the date originally intended.
12. As set out above, the policy sets out that the site is considered suitable for approximately 30 dwellings and sets out that this figure was based upon the limitations afforded by the need to access development off Victoria Mill Road.

13. However, Policy FRAM1 sets out an overarching approach to development within Framlingham and expects that development proposals will be supported where they are of a size appropriate to the scale and grain of the town, with an indication that this would also be generally for sites of up to 30 dwellings.
14. The NP also sets out the housing requirements for Framlingham and demonstrates that initially 200 homes were to be identified through the NP but that two proposals were approved whilst the plan was being completed in excess of this number. However, noting that this was a minimum indicative housing requirement the NP considered that it should identify and allocate preferred sites for future growth and that all figures represent a minimum of what must be planned for.
15. The Council's LP was adopted after the NP in 2020, but it recognises that there has been a rapid expansion of Framlingham and on that basis the Local Plan Review does not focus growth in the town. Whilst policy SCLP3.1 seeks to deliver an ambitious plan for growth by significantly boosting the supply of housing, table 3.3 identifies that Framlingham will deliver approximately 2% of the new growth identified in the Local Plan, with an additional 100 dwellings being required between 2031 and 2037. Therefore, the Local Plan does not allocate further development sites within the town and future development is established through the NP, for the period up to 2031.
16. The NP takes a positive approach to housing development through FRAM1. This policy supports development of up to 30 dwellings. The corollary in Policy FRAM1 is that schemes of more than thirty homes would not be supported as this is the scale of development that has been considered appropriate to the scale and grain of the town and reflect the preferred options as consulted upon with the community of Framlingham. The appeal scheme would be far more than the 30 dwellings envisaged by both FRAM1 and FRAM25 and therefore it would be at odds with these policies of the NP.
17. In conclusion, the scale of the proposal would not be suitable when applying the spatial strategy in the development plan, which is a carefully drafted and considered statement of policy. Instead, the proposal would undermine the objectives of the strategy and the neighbourhood plan. This would be harmful given the public interest in having a genuinely plan led system that provides consistency and direction.

Other Matters

18. It would appear that the appeal site falls within a 'Zone of influence' for a designated site and the appellant has provided a planning obligation to secure the necessary mitigation. As the competent decision-making authority, if I had been minded to allow the appeal it would have been necessary for me to complete an Appropriate Assessment for this scheme and consider such an obligation against Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CIL). However, as I am dismissing the appeal for other reasons, I have not taken the matter further.
19. The planning obligation also facilitates the delivery of public open space provision, affordable housing and self-build housing. I am satisfied that the obligation is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related to it in scale and kind.

20. On this basis, I consider the agreement accords with the criteria of Regulation 122 of the CIL and with paragraph 56 of the Framework. I can therefore reasonably take it into account.

Planning Balance

1. The proposal would conflict with the development plan for the reasons previously outlined. However, the proposal would deliver self-build and custom build housing and the evidence before me indicates that this would meet an identified local need for 52 plots, and this is a material consideration to which I have attributed significant weight.
2. The site is well located in terms of its proximity to services and the access would be satisfactory and there is no evidence that highway safety would be compromised, or that local infrastructure would be unable to meet the needs of the development. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services.
3. The provision of affordable houses as part of the development would accord with the Framework which seeks to ensure a sufficient supply of homes to reflect identified needs. The proposed development would also include the provision of a large area of open space which would be greater than that required in the LP and include an equipped area for play. However, I have not been provided with any evidence to suggest that this will meet any identified deficit of open space within the town. As these benefits could be secured for the locality as a result of the proposed development, I have given this moderate weight.
4. However, a significant proportion of the benefits outlined above would be realised with the development of 35 dwellings which already has planning permission. The additional benefits of another 14 dwellings would therefore be only modest. Similarly, any benefit arising from it being a site that could be delivered quickly will largely be realised with the smaller scheme.
5. The PPG states that whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. In this case, I do not consider that the local finance considerations would outweigh the conflict I have identified with the Council's spatial strategy and therefore I have not attributed it any weight in my overall decision.
6. Therefore, the identified adverse impacts of the development, the conflict with the development plan to which I have afforded significant weight, would significantly and demonstrably outweigh the benefits outlined above.
7. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

8. For the reasons given above, I conclude that the appeal should be dismissed.

G Pannell

INSPECTOR