



Appeal Decision

Site visit made on 5 December 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2024

Appeal Ref: APP/W3520/W/22/3311218

Land at Athelington Road, Horham IP21 5EH

- 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 Ms B Capon-Morris against the decision of Mid Suffolk District Council.
 - The application Ref DC/22/03701, dated 18 July 2022, was refused by notice dated 21 September 2022.
 - The development is described as a proposed new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a new dwelling at land at Athelington Road, Horham IP21 5EH, in accordance with the terms of the application, Ref DC/22/03701, dated 18 July 2022, subject to the conditions within the attached schedule.

Preliminary Matters

2. Since the submission of the appeal, the Babergh and Mid Suffolk Joint Local Plan – part 1 (the Local Plan) has been adopted. The Council has subsequently advised that the policies referred to within the decision notice have been superseded by policies within the Local Plan, and they have identified which policies are most relevant to this appeal. Both main parties have commented on the implications of the adoption of the Local Plan. Neither would therefore be prejudiced by my consideration of the proposals against Local Plan policies.
3. A revised National Planning Policy Framework (Framework) has also been published since the appeal was lodged. Although it has not raised any new matters which are determinative in this appeal, updated paragraph numbers are cited within this decision letter.
4. The description of development in the formal decision has been amended to omit the word 'proposed', as this is not an act of development.

Main Issues

5. The main issues are;
 - whether the appeal site would be a suitable location for the proposed development, with particular regard to the local development strategy; and
 - the effect of the proposed development on highway safety.

Reasons

Location of development

6. The appeal site is located outside of a settlement boundary as identified within the Local Plan.
7. Policy SP03 of the Local Plan contains a district-wide development strategy. In locations outside of settlement boundaries, this policy indicates that development will normally only be permitted if it meets one of a number of exceptions. One exception includes development that would comply with Local Plan policy LP01.
8. In principle, Local Plan policy LP01 allows for infill housing development outside of settlement boundaries, where there is a cluster of at least 10 well-related dwellings. Infill is defined within a footnote to the policy, as that which involves 'the filling of a small undeveloped plot in an otherwise built-up highway frontage'. A definition of 'undeveloped' has not been provided, and as such, this word is given its ordinary and natural meaning.
9. There are existing dwellings to 3 sides of the broadly rectangular appeal site. These neighbouring dwellings form part of a wider cluster of residential properties located to both sides of the narrow road passing the appeal site, and which are physically and visually closely related to each other. From the evidence and my observations on site, the number of dwellings within this cluster exceeds 10.
10. The appeal site occupies land between the dwellings at numbers 1 and 2 Athelington Road (numbers 1 and 2) and Rosemead. It has a roadside frontage which is shorter than that at Rosemead, but similar to that at both numbers 1 and 2. The site also has a depth that is less than these neighbouring properties. For these reasons, the appeal site comprises a small plot, in an otherwise built-up highway frontage.
11. Even if the appeal site were deemed to comprise part of the garden or amenity space associated with the house at number 2, it is in separate ownership from that property. Furthermore, and unlike the maintained garden areas at number 2, the site is somewhat overgrown, and except for the infrastructure associated with a single wooden utility pole, no built development was observed within it. On this basis, I find the verdant appeal site to be undeveloped.
12. I note the comments made regarding the accessibility of the appeal site to services and facilities. However, within the explanation of Local Plan policy LP01 it is acknowledged that small-scale windfall infill development can enable sustainable development where it will enhance and maintain the vitality of rural communities. Many journeys to and from the site are reasonably likely to be via private car. However, I do not doubt that the occupation of an additional house in the location proposed, would help to support the services and facilities, which include a shop, church, and community-centre, within the nearby village of Horham.
13. For the reasons given, and with particular regard to the development strategy, the appeal site is a suitable location for the proposed development. Therefore, and in respect of this main issue, it would comply with policies SP03 and LP01 of the Local Plan. It would also comply with the parts of the Framework that seek to boost the supply of housing, and to promote sustainable development in rural areas.

Highway safety

14. The proposals include the formation of a new access on to Athelington Road (the road) to serve the dwelling.
15. The speed limit of the road passing the site is 30mph. Although a snapshot in time, during my mid-week, morning site visit, the narrow road passing the site was found to be very lightly trafficked by fairly slow-moving vehicles. Given the narrow, undulating and windy nature of the carriageway close to the appeal site, I have no reason to suppose that such levels and speeds of traffic are not typical.
16. Even if it had been demonstrated that the use of the existing access would be preferable to the use of the proposed access in terms of highway safety, I must assess the proposal that is before me.
17. In terms of the amount of development that would be served; the proximity of roadside hedgerows; and its width, the proposed access would have similar characteristics to other residential accesses close to the appeal site. Although there are no pavements adjacent to the road close to the appeal site, the evidence doesn't suggest that the operation of these other existing accesses has led to collisions, injury or other highway related harm. As such, and although details of the visibility splays that would be available following the implementation of the development have not been provided, I cannot conclude that the formation and subsequent use of the proposed access on to the lightly trafficked lane, would not be safe for all road users.
18. I therefore find that the development would not cause harm to highway safety. Consequently, it would comply with policy LP29 of the Local Plan, which amongst other things, requires new development to deliver safe and suitable access for all. In addition, it would comply with paragraphs 114 and 115 of the Framework which indicate that development should only be refused on highway grounds where there would be an unacceptable impact on highway safety.

Other Matters

19. Even if the Council can demonstrate a supply of housing land which is considerably higher than the minimum requirement set out in the Framework, the delivery of an additional dwelling which would comply with the relevant provisions of the development plan, would help to meet the Governments objective to significantly boost the supply of homes.
20. At its closest, the proposed house would be constructed several metres from the number 2 facing boundary of the site. An area of hardstanding alongside the house at number 2 which is wide enough for a car to be parked upon would further separate the 2 houses. The proposed building would be visible from within parts of the house and the long gardens at number 2. However, the size of the gap between the proposed house and number 2, and the limited size and scale of the building, would ensure that no harm would be caused to the living conditions of the occupiers of number 2, with respect of outlook.
21. There are tall trees close to the shared boundary between the appeal site and Rosemead. These are to the South of number 2. Even if, at certain times of the day and year, the development would lead to a reduction in the level of sunlight and/or daylight to the garden and appeal site facing rooms within number 2, any such reduction would be small when compared with the shading

effect of the existing trees. Furthermore, and given the separation distance between the proposed house and number 2, no harm would be caused to the living conditions of the occupiers of this neighbouring property, with respect of daylight and/or sunlight.

22. The buildings closest to the appeal site display a variety of construction materials and finishes, including brickwork and render to walls, and clay roof tiles. They also vary in size and design. The mainly rendered walls of the proposed house would differ from that of the brick faced houses at numbers 1 and 2. However, the house would be of a scale which would not be uncharacteristic of other buildings in the area, and it would include a clay tile roof and some brick detailing. Therefore, and in respect of design detailing and scale, it would assimilate satisfactorily with its surroundings.

Conditions

23. Some of the Council's suggested conditions have been consolidated, and the wording has been amended where appropriate. This is for clarity and to meet the six tests within paragraph 56 of the Framework.
24. The statutory condition which specifies the time-period for the implementation of the permission is imposed. For clarity, a plans condition is also added which identifies the plans to which this permission relates.
25. Conditions requiring the provision and subsequent retention of the proposed access and the vehicle parking and turning areas, as well as details of measures to ensure that surface water from the access, parking and turning areas does not flow into the highway are needed. These are to prevent harm to highway safety. Although the Council has not provided full details of its desired visibility splays, I have found that the proposed access would not cause harm to highway safety. Therefore, a condition requiring the provision and retention of visibility splays is not necessary.
26. To promote sustainable travel, a condition requiring the provision of secure bicycle storage within the site is imposed. However, there is no need for a condition requiring the provision of an electrical vehicle charging point, as this would duplicate a requirement of Building Regulations. Nor is there a need for a condition restricting the hours of construction works, deliveries and on-site burning. This is because potential harm in respect of these actions is covered by other legislation.
27. A landscaping condition is imposed to protect the character and appearance of the area. This needs to be a pre-commencement condition, to prevent harm being caused to any on-site vegetation that is to be retained, during any site clearance or other initial works.

Conclusion

28. For the reasons given, and having regard to the development plan as a whole and any other relevant material considerations, I conclude that this appeal should be allowed.

V Simpson

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing number 100 and drawing number 101.
- 3) No development or site clearance shall be commenced prior to a scheme for both hard and soft landscaping works being submitted to and approved in writing by the local planning authority. The scheme shall include;
 - the positions, spread and species of all existing trees, shrubs and hedgerows on the site, and details of which vegetation is to be retained;
 - measures for the protection of retained vegetation during the site clearance, excavation and construction stages of the development;
 - planting plans and schedules of plants – noting species, plant sizes and numbers/densities;
 - details of any proposed changes in ground levels;
 - details of materials to be used for areas of hardstanding;
 - an implementation programme; and
 - a maintenance programme.

The development shall subsequently be undertaken in accordance with the approved details.

If within a period of 5 years from the completion of the development, any trees or plants within the site die, are removed or become seriously damaged or diseased, these shall be replaced in the next planting season with others of similar size and species.

- 4) The dwelling hereby permitted shall not be occupied until the vehicular access and the parking and turning areas have been laid out within the site as indicated on drawing number 101. Thereafter, these spaces shall be kept available at all times for the purposes of access, parking and turning.
- 5) The dwelling hereby permitted shall not be occupied until the access, parking and turning areas have been drained in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Thereafter the drainage of these areas shall be retained and maintained in accordance with the approved details.
- 6) The dwelling hereby permitted shall not be occupied until a covered and secure cycle storage area has been provided within the site, in accordance with details which shall first have been submitted to and approved in writing by the local planning authority. Thereafter, the cycle storage area shall be always kept available for this purpose.

End of conditions.