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# Appeal Decision

Site visit made on 13 August 2013

**by S Stevens BSc (Hons) MSc DipTP DMS MCI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20 September 2013**

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**Appeal Ref: APP/H3510/A/13/2193470**

**12 Turnpike Lane, Red Lodge, Bury St Edmunds, Suffolk IP28 8LF**

- 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 Mrs Neeve against the decision of Forest Heath District Council.
  - The application Ref F/2012/0576/FUL, dated 10 September 2012, was refused by notice dated 7 December 2012.
  - The development proposed is the erection of a single storey dwelling and associated garage/workshop on land to the rear of 12 Turnpike Lane, Red Lodge.
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey dwelling and associated garage/workshop to the rear of 12 Turnpike Lane, Red Lodge, Bury St Edmunds, Suffolk IP28 8LF in accordance with the terms of the application, Ref F/2012/0576/FUL, dated 10 September 2012, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 8154-1; 01; 02 and; 03(A).
  - 3) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include the positions, design, materials and type of boundary treatment; car parking layouts; vehicle circulation areas and hard surfacing materials.
  - 4) The approved hard and soft landscape works shall be carried out prior to the occupation of the dwelling hereby permitted or in accordance with a programme previously agreed in writing with the local planning authority.
  - 5) The car parking and vehicle circulation areas approved and implemented in accordance with conditions 3 and 4 shall be retained for the manoeuvring and parking of vehicles and used for no other purpose.
  - 6) Demolition or construction works shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1330 hours on Saturdays nor at any time on Sundays or Bank Holidays.

### **Procedural matter**

2. The appellant has submitted a unilateral undertaking, dated 16 October 2012, under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended) for a contribution towards public open space. I consider the undertaking in more detail later in my decision.

### **Main Issues**

3. The main issues are the effect of the proposal on the character and appearance of the area and the effect of the proposed development on the living conditions of the occupiers of No 12 Turnpike Lane and other nearby properties with particular reference to noise and disturbance.

### **Reasons**

4. The appeal site falls within the settlement boundary of Red Lodge as identified in the Forest Heath Local Plan 1995 (the Local Plan). No 12 Turnpike Lane is located along a small road which has a variety of dwellings fronting on to it with plots extending to the rear up to the A11 which is located some distance away. To the front of the site, between Turnpike Lane and the B1085, a new development of detached houses is being built and in between Nos 4a and 6 Turnpike Lane there is a cul de sac containing a number of detached properties that are located to the rear of the properties fronting on to Turnpike Lane and Heath Farm Road.
5. The appeal site lies to the rear of the existing property and a detached garage. The site appears unused with rough grass, vegetation and some trees along the boundaries. There is an existing vehicular access to the appeal site which is separated from the garden of No 12 by a high brick wall.

#### Character and appearance

6. Policies 4.14 and 4.15 of the Local Plan permit new housing within the settlement boundaries subject to a number of criteria that include new developments respecting the established pattern and character of development in the locality and not causing loss of residential or visual amenity.
7. Red Lodge has a significant amount of new housing development being built on large new estates and on smaller sites. The area around the appeal site has a wide variety of dwelling types and I cannot identify any distinctive pattern or character in terms of its layout or design. Given the absence of distinctive features I am of the view that the proposed backland development would not adversely affect the character or appearance of the area due to its design or location. It would therefore accord with the aims of Local Plan Policies 4.14 and 4.15 in this regard.

#### Living conditions

8. The existing vehicular access is reasonably wide and I am of the opinion that a single dwelling would generate only a limited number of vehicular movements each day. Whilst the entrance to No 12 faces on to the existing access I do not consider the proposal would cause an unacceptable level of noise or disturbance to either No 12 or No 14a. The proposed dwelling would be set back a considerable distance from the rear of No 12 and the single storey

design would, in my opinion, cause very limited overlooking or loss of privacy to any nearby property.

9. I conclude that the proposal would not adversely affect the amenities of the occupiers of No 12 or neighbouring properties due to noise, disturbance or loss of privacy. Therefore the proposal would not undermine Policies 4.14 and 4.15 of the Forest Heath Local Plan 1995. In reaching my decision I have also taken into account the National Planning Policy Framework and I do not find anything that would lead me to a different decision.

#### Other matters

10. The Council makes reference to the appeal site forming part of a larger site to the north-west that is being considered for residential development as part of the strategic housing land availability assessment. However, no further evidence has been submitted so I have determined the application on the evidence before me.
11. As mentioned above, the appellant has submitted a Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 (as amended). The undertaking would secure a contribution towards public open space plus a monitoring charge. In accordance with paragraph 204 of the National Planning Policy Framework and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 I have considered whether the obligations contained within the undertaking are: necessary; directly related; and fairly and reasonably related in scale and kind to the development proposed.
12. The Council was given the opportunity to provide evidence to justify the need for the contribution. The Supplementary Planning Document for Open Space, Sport and Recreation Facilities October 2011 (SPD) sets out the Council's approach to ensuring adequate open space is provided to meet the need created by new development. The SPD sets out a reasoned justification for open space contributions; identifies the eligible forms of development and; the calculated costs. However, the Council has not identified any particular open space deficiency in Red Lodge or shown how this particular development would impact on provision in this locality. It has not been shown therefore that the undertaking is necessary to make the development acceptable in planning terms. As such, it does not comply with the requirements of regulation 122 and I have not taken it into account in my decision.

#### Conditions

13. I have considered the conditions suggested by the Council having regard to the advice in Circular 11/95 and in some instances have amended the wording to reflect that advice.
14. In addition to the statutory three year time limit condition I consider conditions requiring the development to be constructed in accordance with the plans submitted and a landscaping scheme to be submitted and implemented are necessary to ensure the development provides a satisfactory appearance. A condition requiring car parking and vehicle circulation space to be provided and retained is necessary to ensure there is adequate onsite provision in order to safeguard the users of the nearby highway and a condition restricting construction times is necessary to protect the residents from disturbance. The Council also requested a condition limiting materials to those specified in the

application and I consider this to be covered by Condition 2. I consider the treatment of the boundary is covered by Condition 3 and I do not consider a separate condition is necessary.

**Conclusion**

15. For the reasons given above I conclude that the appeal should be allowed.

*Sarah Stevens*

INSPECTOR