
Appeal Decision

Site visit made on 20 November 2017

by L Fleming BSc (Hons) MRTPI

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

Decision date: 07 December 2017

Appeal Ref: APP/D3505/W/17/3181225

The Podie Fields, Hartest Lane, Lawshall IP29 4PS

- 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 Mr & Mrs J Eden against the decision of Babergh District Council.
 - The application Ref B/17/01020, dated 13 April 2017, was refused by notice dated 14 June 2017.
 - The development proposed is Erection of a detached dwelling with garage block. Re-siting of manege and erection of stable block consisting of 3 stables, tack room and hay barn and associated hard standing and erection of lighting to manege (previously approved by Planning Permission ref: B/16/00679/FUL).
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Decision

1. The appeal is dismissed.

Planning Policy

2. Since the submission of the appeal the Lawshall Neighbourhood Plan 2016-2036 (2017) (NP) has been made. This now forms part of the development plan and I must base my decision on the policies from the development plan prevailing at the time of determination. Moreover, the appellant is aware of these changes and has had the opportunity to comment upon them. Consequently no prejudice has been caused to the appellant's case.

Main Issue

3. The main issue is whether the proposed development would amount to sustainable development having regard to the development plan and the National Planning Policy Framework (the Framework).

Reasons

4. The appeal site comprises paddocks and a small stable block in the open countryside detached from the main built up area and defined settlement boundary of Lambs Lane Lawshall.
5. Lawshall is designated as a hinterland village through Policy CS2 of the Babergh Core Strategy & Policies (2014) (CS) which makes clear that development will be directed sequentially to the towns, urban areas, core villages and hinterland villages and that outside of these areas, development will only be permitted in exceptional circumstances subject to a proven justifiable need.

6. Policy LAW1 of the NP states outside of the built up area boundary small scale development proposals will be permitted, provided they accord with the other provisions of the development plan and where they contribute towards meeting local needs and are well related to the existing pattern of development within Lawshall. Furthermore, it makes clear that for a site to be considered well related it should be adjacent to the built up area boundary or within the confines of a specified cluster of eight or more dwellings. Policy LAW3 of the NP permits single dwellings outside of built up areas within clusters identified in Policy LAW1 of the NP.
7. The appeal site is not within a specified cluster. Furthermore, it is outside and separated from the main built up area by a wooded and moated parcel of land, it therefore cannot be considered adjacent to it. Thus the appeal site is not well related within the terms of Policy LAW1 of the NP. Moreover, there is no substantive evidence before me which demonstrates the proposal would meet an identified local need. The proposal is therefore in direct conflict with Policy CS2 of the CS and Policies LAW1 and LAW3 of the NP.
8. However, the Council acknowledge that it cannot currently demonstrate a five year supply of deliverable housing land in accordance with paragraph 47 of the Framework. The proposal must therefore be considered in accordance with the presumption in favour of sustainable development which means the Framework taken as a whole and the tilted balance is engaged.
9. Paragraph 55 of the Framework encourages housing in rural areas where it will maintain or enhance the vitality of rural communities but requires isolated new homes in the countryside to be avoided. I have considered the Braintree Judgement¹ and note the proposed dwelling would be opposite another dwelling and relatively close to other dwellings such that in my view it would not be isolated.
10. Lawshall has three main built up areas each with its own settlement boundary. However, whilst I acknowledge the combined built up areas of Lawshall have some basic services including a primary school, a public house, a shop and some recreational facilities the occupants of the proposed dwelling would need to travel further afield to meet many of their day to day needs such as secondary education, healthcare, and employment.
11. Furthermore, the route to the main built up areas of Lawshall does not benefit from a public footpath for the majority of the way and there are no significant services or facilities in the immediate group of buildings that the proposed dwelling would form part of.
12. Therefore for convenience reasons, at night and in poor weather future occupants would be dependent on and would choose to use a private car for the majority of their journeys which is the least sustainable mode of transport. Whilst I acknowledge the appellant's family would no longer need to travel nine miles twice a day to tend to horses, this does not negate the need for other daily journeys which in my view would be greater. Thus, the proposed development would be in conflict with Policy CS15 of the CS and contrary to the aims of the Framework which seeks to promote sustainable forms of transport and reduce greenhouse gas emissions.

¹ Braintree District Council v Secretary of the State for CLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin)

13. I note the proposal would provide a new self-build family home. Whilst, I attach substantial weight to these benefits, one dwelling would do very little to address the housing shortfall. I also acknowledge there would be economic benefits in terms of new customers and employees for local businesses and there would be economic benefits associated with construction. I have also considered the personal benefits to the appellant's family as evidenced by the personal circumstances detailed in the appeal documents.
14. However, when all of the benefits are combined the vitality of the local community would be at best maintained. Furthermore, even though I attach substantial additional weight to the benefit of housing provision in the absence of the five year supply and attach significantly reduced weight to the conflict with the development plan, the combined benefits are relatively modest.
15. Thus, the combined benefits of the scheme are significantly and demonstrably outweighed by the harm arising from the dependence on the private car. Consequently the proposed development would not amount to sustainable development.

Other Matters

16. In reaching these conclusions I have considered the planning permission granted by the Council at Leathean House². However, that scheme is not before me. Whilst I note the appeal site is closer to Lawshall – The Street, the Leathean House scheme relates to a proposal within the Lawshall – Bury Road settlement boundary whereas the appeal site is within the countryside. It is not therefore directly comparable.
17. Furthermore, I have also considered a number of appeal decisions³ and Council decisions⁴ put before me. However, they relate to proposals some distance from the appeal site and the full details of those cases are not before me. I have therefore afforded them limited weight.
18. I have also noted that the Council provided positive pre application advice and the Parish Council have not objected to the proposal. However, I have determined the appeal on its planning merits and these matters or any other raised do not outweigh the harm I have identified.

Conclusion

19. For the reasons set out above and with regard to all other matters raised, I conclude that the appeal should be dismissed.

L Fleming

INSPECTOR

² Council Reference B/17/00475

³ Appeal Reference APP/T3725/W/17/3169765, APP/W3520/W/16/3152185, APP/D3505/W/16/3152019, & APP/D3505/W/16/3151571

⁴ Council Reference B/16/00328/FUL