



Appeal Decision

Site visit made on 2 May 2019

by C J Leigh BSc(Hons) MPhil MRTPI

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

Decision date: 23rd May 2019

Appeal Ref: APP/D3505/W/18/3214989

38 Main Road, Woolverstone, IP9 1BA

- 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 Kris Meadows against the decision of Babergh District Council.
 - The application Ref DC/18/01364, dated 28 March 2018, was refused by notice dated 1 June 2018.
 - The development proposed is a residential dwelling, detached garage and new vehicular access.
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Procedural matters

1. The application was made in outline with approval sought for access, layout and scale.

Decision

2. The appeal is dismissed.

Main issues

3. The main issues in this appeal are:
 - a) whether the proposed development would be suitably located having particular regard to the accessibility of services and facilities, and to the settlement pattern,
 - b) the effect of the proposed development on the character and appearance of the Woolverstone Conservation Area,
 - c) the effect of the proposed development on highway safety and the free flow of traffic.

Reasons

Accessibility of services and facilities

4. Policy CS2 of the Babergh Local Plan 2011-2031 Core Strategy & Policies (Part 1 of the New Babergh Local Plan) February 2014 ('CS') sets out the settlement strategy policy for the District: development will be directed sequentially to towns/urban areas, 'core villages' and 'hinterland villages'. In the countryside, outside those areas, development will only be permitted in exceptional circumstances subject to a proven justifiable need.
 5. The overall strategy for growth and development is set out further in Policies CS3 and CS15, which look to direct growth within the existing settlement
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- pattern and to demonstrate the principles of sustainable development. Section 2.1 of the CS further explains the Council's strategy of targeting housing development as an approach that sees 'functional clusters' of settlements. It is evident to me that this broad strategy for development is largely consistent with the National Planning Policy Framework's objective to seek sustainable development, which was the recent conclusion of a colleague Inspector¹.
6. For this reason I also do not accept the appellant's submission that Policy CS2 is inconsistent with the Framework by seeking to protect the countryside 'for its own sake'. The Policy does not state that read as a whole, but is part of a hierarchy of where development is targeted in order to comply with the CS's whole strategy; the general restriction on housing in the countryside is part of that strategy. Paragraph 78 of the Framework says that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services, and Policy CS2 read as a whole provides that. I acknowledge, though, that there is some tension between the policy and the Framework, as the latter does not stipulate the requirement for any 'exceptional circumstances' for development in the countryside and so does not contain the balanced approach of the Framework, hence the weight attached to Policy CS2 is reduced in this regard.
 7. The appeal site comprises the side garden to 39 Main Road, which is one half of a pair of semi-detached cottages that is at the edge a short stretch of housing on the southern side of Main Road. This group of properties lies in the countryside south east of Woolverstone, which is a village with few facilities, and north west of Chelmondiston that contains a broader range of facilities.
 8. The proposal would see a new dwelling erected on the garden land. There is no footway connecting the site to the two villages, and the rural Main Road is unlit and winding. The Borough Council and Parish Council state that traffic speeds and levels are high, and from my site visit I concur with that view. I have little doubt that future occupants of the proposed house would not chose to walk along Main Road and, given the character of the road, cycling would be an unattractive and unlikely prospect. Thus, I also think that walking to bus stops further along Main Road is doubtful.
 9. On the basis of the evidence I have seen and read I therefore consider future occupants in this countryside location would be reliant on the private car to reach shops and services. As the development plan has set out the settlement strategy for the District and how new housing in villages and towns may support each other for services, then I place little weight on the appellant's assertion that the single proposed dwelling on this site in this location would enhance or maintain the vitality of rural communities. Housing on the site would conflict with the settlement pattern and the strategy for development, as set out in Policies CS2, CS3 and CS15.
 10. The appellant has drawn my attention to paragraph 79 of the Framework, which seeks to avoid isolated homes in the countryside unless certain circumstances apply. I accept that as the appeal site is on a busy road, adjoining a group of other houses and is between two villages then, having regard to relevant case law², the physical location of the site would not constitute an isolated house. However, the fact that there is no conflict with

¹ Ref. APP/D3505/W/18/3206160

² *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610

paragraph 79 does not mean the proposed development accords with the development plan; as set out above, the CS seeks to prevent housing in countryside locations such as this. The conflict with the development plan therefore remains.

11. I note the appellant's reference to the appeal site constituting previously developed land, since it lies within the curtilage of 38 Main Road. Whilst that may be the case, the Glossary to the Framework states that it should not be assumed that the whole of a curtilage should be developed.
12. On the first main issue it is therefore concluded that the proposed development would not be suitably located having regard to the location of the site and the accessibility to services and facilities. The proposed dwelling would also not have regard to the settlement pattern and the strategy for growth and development as set out in the CS and with the Framework's objective in supporting a built environment with accessible services.

Effect on character and appearance

13. The appeal site lies within the Woolverstone Conservation Area. Under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Area.
14. Saved Policy CN08 of the Babergh Local Plan Alteration No.2 2006 ('LP') sets out the considerations to which the Council will have regard for development within conservation areas. One of those considerations is that the development should preserve or enhance the conservation area or its setting; other considerations are more detailed criteria. The Framework sets out in Section 16 from paragraph 189 onwards how to consider the impact of a proposed development on all heritage assets³, but the absence in CN08 to any reference of the Framework's approach does not make CN08 out of date, as the appellant claims; Policy CN08 is consistent with the 1990 Act and the general objectives of section 16 of the Framework.
15. No. 38 and its neighbour are part of the grouping of former farm workers' cottages, which I understand form part of the wider Woolverstone village and estate connected to Woolverstone Hall. They display their original character well, as small rural workers' houses set in spacious plots that would have once provided for a degree of self-sufficiency. The loose-knit development of small pairs of houses with much room around them contributes positively to the character of the conservation area and are important to its significance.
16. There have been changes to the row of houses with extensions and alterations to individual properties. There has also been the infilling of space between Nos. 36 and 37 with 'Hilary House', which dates from the 1970s. However, this one exception does not diminish the overall spacious character of the grouping of houses: Nos. 33 & 34 have much space around them, Nos. 35 & 36 similarly, and the spacing around the pair of Nos. 37 & 38 now derives a large part from the open area to the south east of that pair, ie the undeveloped garden to No. 38. The appeal would see building a new house on that area and so the pair of Nos. 37 & 38 would no longer be set spaciouly. I saw at my site visit that this would be especially visible in views travelling north westwards into Woolvestone, where the new house would be most noticeable. The pair of

³ Which includes conservation areas

houses would appear cramped, and would be harmful to the character and appearance of the Conservation Area.

17. The proposed development would therefore conflict with Policy CN08 of the LP, as well as Section 16 of the Framework. Thus, there would be harm to the significance of the conservation area as a heritage asset, and I attach considerable importance and weight to this harm. That harm would be less than substantial and in these circumstances the appellant has put forward matters to be considered benefits to outweigh this harm.
18. I do not consider the provision of housing numbers or choice in this area, or the more efficient use of land for housing, to be a public benefit, as I have found in relation to the first issue that housing on the land is not suitably located for housing and not consistent with the Council's strategy for growth and development. I do not see how housing on the land secures the optimum viable use of the Conservation Area; the Area will remain in its current use whether the development goes ahead or not. There would be a short-term benefit from construction jobs, but in my view this does not outweigh the long-term harm from the proposed development. My conclusions on the second main issue therefore remain the same.

Highway safety

19. The Council have referred to the consultation response from the Highways Authority that seeks visibility splays into the site to be provided in accordance with the Design Manual for Roads and Bridges (DMRB). That document states in Section 1 that it shall be applied to the appraisal and design of motorways and trunk roads. Main Road is not a trunk road.
20. The appellant says that the guidance in Manual For Streets 2 (MfS2) should be used. That document states in Section 1.3 that it is recommended the starting point for any scheme affecting non-trunk roads should be MfS2; it is said that DMRB may be used, but only where the guidance in MfS2 is not sufficient or where there is particular evidence that MfS2 is not applicable.
21. It is therefore apparent to me that MfS2 is the starting point in this appeal and, if the requirements of DMRB are suitable, then the highway designer must provide reasons for that. Neither the Highways Authority nor the District Council have provided any such reasons. I therefore concur with the appellant that MfS2 is suitable, and my own observations at the site visit do not lead me to conclude there is any clear need to depart from those requirements.
22. The submitted drawings show visibility splays that can meet the requirements of MfS2. I saw at my site visit these could be achieved with the alterations to the hedgerow as shown. Thus, on the third issue I am satisfied that the proposed development would not be harmful to highway safety or the free flow of traffic and so there would not be any conflict with paragraph 109 of the Framework that resists development which would be adversely impact on highway safety.

Planning balance and conclusion

23. For the reasons given, the proposed development would have an adverse impact due to the conflict with the relevant development plan policies, with the Framework, and with the Planning (Listed Buildings and Conservation Areas) Act 1990.

24. At the time of refusing planning permission the District Council accepted they did not have a 5 year supply of housing. On 11 July 2018 the Council published their Annual Monitoring Report 2017-2018 that states there is a 6.7 year housing land supply.
25. The appellant disputes this and has drawn my attention to an appeal decision in neighbouring Mid Suffolk District Council that disagreed with that Council's housing land supply figures⁴. The appellant states that, as Babergh District Council used the same housing land supply evidence, this points to their calculation of supply also being short. However, the Council have drawn my attention to a subsequent appeal decision in Babergh District Council⁵ that commented the Mid Suffolk decision was for a different local planning authority area where the site specific circumstances of the case were also different. I concur with those observations and so I agree the Mid Suffolk decision is of limited relevance to my current decision. However, even if I were to conclude with the appellant that there is a shortfall in the five-year housing land supply, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of granting permission for the dwelling.
26. The proposed development therefore is not in accordance with the development plan and there are no material considerations that indicate permission should be granted. The appeal is dismissed.

C J Leigh

INSPECTOR

⁴ Ref APP/W3520/W/18/3194926

⁵ Ref APP/D3505/W/18/3199391