
Appeal Decision

Hearing Held on 28 August 2019

Site visit made on 28 August 2019

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2019

Appeal Ref: APP/D3505/W/18/3211347

Manor Farm, East End Lane, East Bergholt, Suffolk CO7 6XA

- 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 Mr Henry Birch (East Bergholt Property Company) against the decision of Babergh District Council.
 - The application Ref DC/18/00235, dated 15 January 2018, was refused by notice dated 14 May 2018.
 - The development proposed is the erection of 9 new dwellings, construction of new vehicular access and improvements to existing agricultural access, demolition of outbuilding to Manor Farm House and erection of new cart lodge and demolition of modern agricultural building.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are whether the proposal:
 - would be appropriate in this location with regard to accessibility to services and facilities, and
 - provides an acceptable mix of housing sizes.

Reasons

Whether appropriate location with regard to accessibility to services and facilities

3. The appeal site is adjacent to an enclave of housing centred on East End Lane and Mission Lane. This area lies a short distance outside the larger and more consolidated settlement of East End. Sited at both sides of Manor Farmhouse, which itself adjoins three farm buildings each approved as single dwellings, the proposal would create a further section of residential development extending from this existing enclave. There is a large holiday park nearby, but the wider surroundings otherwise comprise countryside, part of a largely undeveloped area between the villages of East Bergholt, Brantham and Bentley.
4. Each of these villages, including East End, have Built Up Area Boundaries (BUAB) defined in the 2006 Babergh Local Plan Saved Policies. The 2014 Babergh Core Strategy and Policies (CSP) refers to the BUABs as providing a useful starting point when considering the relationship of proposed development to the existing settlement pattern, for defining the extent of a

- developed area and making a distinction between built-up areas and countryside.
5. The overall settlement hierarchy is set out in CSP Policy CS2. This states that BUABs as previously defined for the towns/urban areas, Core and Hinterland Villages remain in effect but will be reviewed. There is an emerging Joint Local Plan which might be undertaking this process. However, the Council had not relied on this in its evidence, other than advising of its early stage and limited weight, nor submitted any of these emerging policies.
 6. The appeal site is far removed from the BUABs defined for the core village of East Bergholt and the hinterland villages of Brantham and Bentley. The closest BUAB is that defined for East End. This village lies on the opposite side of the enclave of housing to the appeal site, separated by a sinuous stretch of quite narrow highway that runs through an intervening gap of mainly undeveloped countryside.
 7. The development plan includes also the 2016 East Bergholt Neighbourhood Plan (EBNP). The Council considers the principle of the proposal is supported by EBNP Policy EB2 provided it meets with other criteria in the plan. My reading of EB2 is that this policy would support the nine dwellings if considered to be within or immediately adjacent to the village BUAB provided, *inter alia*, these also fell within 800 metres of the Village Heart or Focal Points. The appeal site is within one of these latter zones, a pink shaded area representing 800m radius from the centre of the East End BUAB cluster. However, the proposal conflicts with EBNP Policy EB2 as being neither within the East End BUAB nor, due to the intervening countryside, immediately adjacent to it.
 8. CSP Policy CS2 establishes a strategy to steer housing and other growth sequentially, firstly to the towns/urban areas, secondly to the Core Villages (which like East Bergholt are identified to have a lead role within a functional cluster of settlements) and thirdly to the Hinterland Villages, such as Bentley and Brantham. In the countryside, defined as outside the above three settlement categories, development will only be permitted in exceptional circumstances subject to a proven need.
 9. I consider that by extending housing beyond the limit of the adjacent enclave of housing, which is itself outside the East End BUAB, the proposal is contrary to CSP Policy CS2. This is insofar as this policy seeks to restrict housing in the countryside other than in exceptional circumstances and subject to a proven need, a case for neither having been made.
 10. The settlement pattern sought through CSP Policy CS2 supports the development plan's overall strategy for implementing sustainable development. In addition to assessing proposals against the general presumption in favour of this set out in CSP Policy CS1, Policy CS15 lists specific aims that should be sought where appropriate to the scale and nature of the proposal. These include both to ensure that an appropriate level of services, facilities and infrastructure are available or provided to serve the proposed development and also to seek to minimise the need to travel by car using the following hierarchy: walking, cycling, public transport, commercial vehicles and cars; thus improving air quality.
 11. Apart from the nearby public house, there appear to be no other services within the developed enclave next to the appeal site. Other than a butchers

and hairdressers, there are few services in the nearest settlement of East End. These, and services in the villages further afield, might be conveniently cyclable. However, the distances to these along sometimes winding country roads, unlit and without footpaths, would discourage walking. In this particular location, even the nearest bus stop is a significant distance away and not conveniently accessible by foot.

12. Babergh is predominantly rural in nature and many of its settlements might only offer a limited range of services, with private car dependency likely to be comparatively high when compared with more urban areas. However, even in this context, occupiers of the dwellings proposed would be particularly reliant on private car journeys or deliveries to meet daily needs. For this reason, the proposal would conflict with CSP Policy CS15 in respect of its aims to minimise commercial vehicle and car journeys in favour of more sustainable and less polluting travel modes.
13. Although a relatively modest proposal for nine dwellings, there would be significant harm from locating these where there would be such a high dependency on vehicular travel and limited opportunities for walking and public transport use to access regularly required needs.
14. There is some tension between Babergh development plan policy and that of the National Planning Policy Framework (the Framework). This is mainly insofar as, in seeking to restrict housing in the countryside other than in exceptional circumstances and subject to a proven need, CSP Policy CS2 is imposing a test that Framework paragraph 79 applies only to isolated homes in the countryside. Adjacent to existing housing the appeal site is clearly not isolated.
15. Furthermore, Framework paragraph 78 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. It concludes by stating that where there are groups of smaller settlements, development in one village may support services in a village nearby.
16. The settlement pattern sought in CSP Policy CS2 might not align entirely with this more flexible approach provided in the Framework. However, along with CS15, as a policy it is largely consistent with the Framework's aims for sustainable development and promoting sustainable transport. Framework paragraph 103 seeks this be achieved through actively managing patterns of growth to focus significant development on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes and thus helping to reduce congestion and emissions and improving air quality and public health.
17. Paragraph 103 concludes by stating that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. However, I do not construe this as encouraging housing in locations away from services. Rather, this recognises that situations vary and that services will inevitably be spread more thinly and public transport opportunities be less readily available in rural areas compared to urban ones.

18. Overall, the consistency with the Framework means the harm found from the conflict with CSP policies CS2 and CS15 attracts significant weight.

Whether acceptable mix of housing sizes

19. The proposal does not meet the aim of EBNP Policy EB4 that at least 40% of new dwellings should be one and two bedroom homes. This policy has a reasonable basis in seeking to ensure an adequate supply of smaller homes based on the underpinning evidence of need. The appellant has referred to the Examiner's report and that the intention was not intended to impose the target on every site but to seek to deliver more small homes to meet this need. In the context of a relatively small scheme for 9 dwellings, the one third provision of such small homes is sufficient to support the aims of this policy. Therefore, I find no further material harm to arise from any conflict with the precise terms of EBNP Policy EB4 in this regard.

Planning balance and conclusion

20. I have found that the proposal would result in harmful opposition with CSP policies CS2 and CS15 but that any conflict with EBNP Policy EB4 would be inconsequential. However, an assessment needs to be made as to whether those policies are out of date with regard to the Framework. This relates to assessing whether the presumption in favour of sustainable development applies, as set out in paragraph 11. Where development plan policies most important for determining the appeal are out-of-date, and the application of those in the Framework that protect areas or assets of particular importance provide no clear reason for refusing the development, this means granting permission. This is unless the so-called 'tilted balance' applies, whereby any adverse impacts of approval would need to significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
21. Inspectors in the other recent Babergh appeals presented in evidence have concluded slightly differently in this regard. There is some degree of tension between the Framework and development plan policies which link to BUABs that apply blanket restrictions on new housing in the countryside. Overall though, I have already found the aim of settlement pattern policy in the CSP to be broadly consistent with the main objective of the Framework for securing sustainable development and therefore consider Policy CS2 as not out of date. I have concluded the same for Policy CS15.
22. However, for applications involving the provision of housing, footnote 7 of paragraph 11 makes it clear that out of date includes situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Paragraph 73 of the Framework requires that local planning authorities identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their local housing need where strategic policies are more than five years old.
23. According to the 14 May 2018 delegated report, at the time the application was determined, the Council estimated that there was a 4.1 year housing land supply (HLS) based on the CSP. This had changed at the time of the appeal, whereby the appellant's statement refers to the Council currently claiming to be able to demonstrate a 6.7-year HLS based on their CSP.

24. Following the appeal, the Council had relied on the same delegated report for its appeal case. However, in a covering letter of 11 February 2019, it was advised there was now considered to be a five-year housing land supply, based on the Council's 2018 Annual Monitoring Report (AMR). Evidence of this was not supplied and neither was there a detailed rebuttal of the appellant's statement including the opposing calculation of a 3.69 year HLS. The latter was based on the recent Standardised Housing Needs Assessment and new definition of deliverable sites brought through the revised Framework of July 2018.
25. The appellant's further comments of 15 March 2019 rebutted the Council's case on the basis of the July 2018 AMR just pre-dating the new Framework, now further revised in February 2019. This included the case that with the CSP being over five year's old, the local housing need of the District needed to be based on the standardised methodology.
26. There appears to have been a subsequent claim of 4.92 years HLS by the Council, although I have only the appellant's rebuttal of this dated 11 June 2019. This did, however, accept the Council's calculation of housing need, based now on the standardised methodology.
27. In view of the conflict over HLS the appeal was made the subject of a Hearing. Through a Statement of Common Ground dated 10 July 2019 agreement was reached between the main parties over a 4.86 year HLS. The report from the Council on which this was based was not sent prior to the Hearing and so I am unable to consider this subsequently. However, a 4.86 year HLS stands as the Council's current position.
28. Although a 5.81 year HLS is calculated in a July 2019 Council Position Statement, as the consultation on this has only recently closed, it remains a draft figure. On the basis of the reports before me, and discussion at the Hearing, the HLS position in this District is evidently quite volatile and any pending five year position potentially quite fragile. Based on footnote 7, I must at this point find the CSP policies out-of-date and give weight to the tilted balance required under the Framework.
29. The Framework seeks that the planning system achieves the interdependent economic, social and environmental objectives of sustainable development and pursues these in mutually supportive ways. The nine dwellings would provide moderate benefits to the local economy through both their construction and on-going servicing and from the expenditure of occupiers supporting local services. There would be moderate social benefits in boosting the supply of homes and the land necessary to help secure the delivery of at least five years' worth of housing. I give some further weight to paragraph 68 of the Framework which recognises that small sites such as this can make an important contribution to meeting the housing requirement of an area as they are often built-out relatively quickly.
30. However, I have found significant environmental harm from the housing proposed conflicting with the settlement pattern policy of the development plan in respect of accessibility to services and facilities. Locating a further nine dwellings in the countryside would conflict with the wider aims to minimise private car travel and vehicular movements in order to reduce pollution, address climate change and foster the healthier options of walking and cycling.

31. When assessed against the Framework, the adverse impacts in respect of poor accessibility to regularly-required services and facilities, with a relatively high degree of private car use dependency, would significantly and demonstrably outweigh the moderate social and economic benefits the residential development would provide. Therefore, this proposal would not benefit from the presumption in favour of sustainable development in the Framework. Consequently, the material considerations would not exist for the proposal to be determined other than in accordance with development plan policy, with which there would be clear conflict. For this reason, having taken into account all further matters raised, I conclude that the appeal should be dismissed.

Jonathan Price

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Andrew Cann	Planning Direct
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Nikki O'Hagan	Planning Direct
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FOR THE LOCAL PLANNING AUTHORITY:

Jack Wilkinson	Babergh and Mid Suffolk District Council
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Alex Roberts	DLP Consultants
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INTERESTED PERSONS:

Tony Brigden	East Bergholt Society
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Joyce Baker	East Bergholt Society
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John Barford	Local resident
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Valerie Barford	Local resident
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OBSERVING

Jo Hobbs	Babergh and Mid Suffolk District Council
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Paul Hankins	Babergh and Mid Suffolk District Council
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