
Appeal Decision

Site visit made on 20 November 2019

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 10 December 2019

Appeal Ref: APP/D3505/W/19/3233887

Land south of The Street (adjacent to The Old Rectory), Freston IP9 1AH

- 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 L Woods against the decision of Babergh District Council.
 - The application Ref DC/18/05628, dated 21 December 2018, was refused by notice dated 17th May 2019.
 - The development proposed is residential development with associated parking and access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is for outline permission with all matters being reserved for future consideration. A site layout plan (Drawing No 5342/PA_01 Rev A), a plan showing the proposed street scene (Drawing No 5360/PA_02) and a plan showing proposed visibility splays (Drawing No 5360/PA_03) were submitted with the application. I have taken the details shown on these plans as being illustrative only.
3. The application for planning permission was made in the name of Mr L Woods. However, the appeal has been made by Ms Jacqueline Heywood. Mr Woods and Ms Heywood have confirmed, in e-mails dated 26 July 2019, that the land is jointly owned, but that the appeal can proceed in Mr Woods name.
4. During the course of the application revised plans were submitted which showed a reduction in the number of dwellings within the plot from two to one.
5. During the course of the application the description of the development was changed to "Erection of 1 No dwelling, garage, parking and access". This description agrees with the number of dwellings shown on the revised illustrative plans.

Main Issues

6. The main issues are: -
 - Whether the site would be an appropriate location for a new dwelling, with particular regard to accessibility to everyday local facilities and services by a range of modes of transport;

- The effect of the proposal on the character and appearance of the area, with particular reference to trees; and: -
- The effect of the proposal on highway safety with particular regard to the access onto the public highway.

Reasons

Suitable location for a dwelling

7. The appeal site lies within a small cluster of dwellings fronting The Street, within the village of Freston. Freston is a small, predominantly linear village developed along The Street. To the west of the site lies Freston Village Hall, whilst to the east lies Freston Old Rectory. To the north, across The Street, and south, lie agricultural land, that to the south being wooded, whilst that to the north is an open field.
8. The site is located outside the Built Up Area Boundary (BUAB) for any settlement identified within the Babergh Local Plan 2011-2031 Core Strategy & Policies -2014- (the Core Strategy) and is therefore considered to be in the countryside, where policy restricts the development of new housing. Policy CS1 of the Core Strategy supports sustainable development, having regard to the National Planning Policy Framework -2019- (the Framework).
9. Freston provides a very limited range of services and facilities. The closest BUABs to the site are located around the settlements of Holbrook, to the south, and Ipswich, to the north. The facilities provided by Holbrook are reflected in its status as a "Core Village" within Policy CS2 of the Core Strategy, whilst the Babergh Ipswich Fringe is identified as a Town/Urban Area.
10. Policy CS2 identifies a settlement hierarchy and seeks to direct development principally to more sustainable locations in larger towns and villages, with successively lesser development as the size of settlement decreases, down to Hinterland Villages. This policy is in general accord with the aims of the Framework in seeking to focus new development in sustainable locations. However, it is more restrictive than the proactive approach taken in the Framework which does not impose a blanket restriction on development outside defined settlements or stipulate that the requirement for any 'special circumstances' has to be met by all development in the countryside.
11. The refusal notice refers to Policy CS11 of the Core Strategy which provides criteria for allowing development in Core and Hinterland Villages. The policy identifies the requirement that development must be in or adjacent to Hinterland Villages. As the appeal site lies well outside the built up area boundary of an identified Hinterland Village the proposal does not benefit from the fulfilment of criteria within the policy supporting development.
12. The appeal site is located in close proximity to existing dwellings and is not isolated and so the countryside location does not conflict with paragraph 79 of the Framework. Paragraph 78 supports new housing where it will enhance or maintain the vitality of rural communities and so, whilst the site is outside the settlement boundary this in itself does not persuade me that the site is in an unsustainable location.

13. Paragraph 8 of the Framework identifies three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways: an economic objective, a social objective and an environmental objective.
14. Policy CS15 of the Core Strategy sets out criteria for proposals to be assessed as sustainable development, including the need for new development to seek to minimise the need to travel by car. As such the policy would be in accordance with the aims of the Framework to promote sustainable transport through the maximising of use of more sustainable modes.
15. Only very limited services are present within and close to the village, requiring residents to travel further afield for their day-to-day needs. The village hall is adjacent to the site allowing the future occupiers of the development to participate in the local community. However, the parish church and nearest public house are some distance away requiring a longer journey. Bus stops are located on the B1456, close to its junction with Freston Street.
16. Whilst the distances to the pub and church are walkable and cyclable, the unlit nature of the intervening roads, with their lack of footways, vehicular speeds and the distances involved would, even though some trips may be being made on that route, be likely to deter pedestrians and cyclists, particularly in adverse weather conditions and during the hours of darkness. Further, these provide only limited services to cater for the day-to-day needs of residents of the site, who would almost certainly rely heavily on the private car to meet their day to day needs.
17. There is a bus link to Ipswich and other settlements providing employment opportunities and a full range of services and this runs an hourly service during the day. However, this service does not run throughout the evening. On the basis of the information before me, although the bus service could make a contribution to satisfying the travel needs of future occupiers of the proposals it is unlikely to cater for many of their day-to-day needs and so the future occupiers would still remain heavily reliant upon the use of private motor vehicles.
18. It has been brought to my attention that there is a National Cycle Route just over two miles from the site that provides a link to the centre of Ipswich. However before reaching this facility, cyclists would need to negotiate unlit, fast roads. It is acknowledged that cyclists are entitled to use the public highway network, other than those parts of the network from which they are excluded by law. However, just as I would make appropriate consideration of safety and likelihood of use in regard to any other mode of transport in assessing the merits of a proposal, I have considered the merits of the local roads in terms of cycle safety and likelihood of use.
19. The Framework recognises that sustainable transport solutions will vary between urban and rural areas and that rural housing development in smaller settlements can enhance or maintain the vitality of rural communities. Given the restricted services available in nearby villages, and their positions relative to the site, it is likely that occupiers would make a trip into the local town to satisfy their day-to-day needs. It could not, therefore, be said that the development would contribute meaningfully to the vitality of villages outside the town. Further, there is very limited alternative to using the private car to satisfy these needs. With, for such a limited scale of development no real scope

to improve connexions for walking, cycling or public transport, dependency upon private motor vehicles would be almost total.

20. My attention has been drawn to a recent appeal decision (Ref APP/D3505/W/18/3206195) within the village of Lower Holbrook. However, I do not have sufficient evidence before me to determine whether, or not, that case provides a direct contextual similarity to the proposal before me. I have, in any case, determined this appeal on its own merits.
21. I therefore conclude that the proposed developments, whilst not isolated, and therefore not contrary to the aims of paragraph 79 of the Framework, would not be an appropriate location for residential development having regard to development plan and national planning policies. The proposal is therefore in conflict with Policies CS1 and CS15 of the Core Strategy which, amongst other things, seek to ensure that development is located where it is served by an appropriate level of services, facilities and infrastructure and minimises the need to travel by car. The proposal is not located adjacent to or within to a Hinterland Village and so does not fulfil the requirements of Policy CS11 of the Core Strategy. Furthermore, the proposal would be contrary to paragraph 78 of the Framework in as much as it would fail to enhance or maintain the vitality of rural communities.

Trees

22. The drawings accompanying the proposal indicate the removal of two trees within the site, an oak and a beech. These, and other trees around the site, are the subject of a Tree Preservation Order (TPO). The trees make a significant contribution to the attractive, verdant character of the area.
23. During the course of the application the appellant reduced the proposal from two dwellings to one and the appellant now considers that the trees could be retained. However, the information before me, including the revised arboricultural report that accompanied the revised application, show these trees as being removed.
24. Even following on from the amendment to the application, and notwithstanding that the proposal is in outline with all matters reserved, the illustrative plans indicate that the canopy of the beech tree would still be very close to the proposed structure.
25. Furthermore, the beech and oak trees lie in a position where they would cast shade over the garden and, in combination with the proximity of the beech to the dwelling, this is likely to engender concerns from future occupiers regarding damage to the structure and overshadowing of the garden. Similar pressure may come on other trees surrounding the site with branches overhanging and shading the site.
26. The beech tree is in a location where its roots are likely to suffer damage and/or its branches require pruning. Further, there is likely to be a necessity for ongoing pruning to the beech and likely future pressure for pruning of other trees protected by TPOs around the site.
27. Whilst any future works on TPO trees would require the permission of the Council, the presence of the development would be likely to be a factor in any future decision of the Council in regard to the trees. I can neither rely on the requirement for tree works to protect the TPO trees in the future, nor be

certain that ongoing tree works would not result in the loss or damaging of the trees. The loss of the trees, or their significant damage would have a detrimental effect on the verdant character of the area, and, in this instance that damage would constitute material harm.

28. My attention has been brought to a recent permission for the removal of a protected tree at the Old Rectory, adjacent to the site, Council Ref DC/18/04317. I have little substantive evidence before me regarding the circumstances of this decision from which I could draw a conclusion as to whether these tree works form a contextual comparison to the proposal before me. In any case, I have determined this application on its own merits.
29. I therefore find that the proposal would result in harm to the character and appearance of the area. The proposal would thus be contrary to Policy CN01 of the Babergh Local Plan Alteration No.2 -2006- (the Local Plan) which requires development to, amongst other things, retain and incorporate local features, including natural features. Similarly, the proposal would be contrary to the aims of paragraph 170 of the Framework in that it fails to recognise the intrinsic character and beauty of the countryside, and the wider benefits from trees and woodland.

Highway safety

30. The proposal would have direct vehicular access onto The Street, which is a rural road. In the vicinity of the site The Street is subject to a 30 MPH mandatory speed limit and there are several existing accesses similar in form to that proposed. The proposal could incorporate turning facilities within the site to allow vehicles to enter and leave in forward gear.
31. Furthermore, in this location The Street is narrow and requires the use of localised widening for two vehicles to pass. At the time of my site visit, albeit that this provides only a snapshot in time, I observed that vehicle speeds were relatively low.
32. The Highway Authority have required visibility splays to provide 90 metres of visibility at a setback of 2.4 metres from the edge of the carriageway. This would accord with the requirements for visibility set out in the Design Manual for Roads and Bridges (DMRB) for a 30 MPH design speed. However, Manual for Streets 2 -2010- (MfS2) is the starting point for the design of roads and streets that are not Trunk Roads, and a presumption in favour of applying the standards set out within that document would normally be appropriate unless local context demands otherwise.
33. The number of accesses and visibility of the dwellings fronting The Street provide active frontages and, together with the speed limiting effect of the restricted width of the carriageway, the "movement" and "place" functions of the road as referred to in MfS2 are, in this instance, balanced more in favour of the "place" function. I would, therefore, consider that the design guidance contained within MfS2 would be appropriate for this instance.
34. The Street has a narrow verge on its southern side, and this provides some visibility for, and of, emerging vehicles. However, it is likely that vehicles will edge forward onto the running carriageway until drivers consider that they are able to pull clear of the access. This would mean that the bonnet of the vehicle would intrude into the carriageway during the egress of the vehicle.

35. As The Street, at this point, is relatively straight, the protruding bonnet of a vehicle would be clearly visible to approaching drivers on the road, and I am mindful of the advice given in paragraph 10.5.8 of MfS2 regarding the acceptability of such circumstances. I have no substantive evidence before me of a record of personal injury accidents associated with the existing accesses. Notwithstanding of the absence of any supporting speed survey to ascertain the speed of vehicles in the vicinity of the access, I therefore conclude that the proposal is unlikely to result in a significant additional risk of accident to highway users in regard to the visibility provision at the proposed access.
36. I therefore find that the proposal would not result in significant harm to highway safety. The proposal would therefore be in accordance with paragraph 109 of the Framework which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

37. The site is located within the zone of influence of the Stour and Orwell Estuaries Special Protection area and Ramsar site which is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
38. The Court of Justice of the European Union recently ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA). This responsibility now falls to me within this appeal.
39. Had I been minded to allow the appeal, it would have been necessary for me to seek additional information from the parties and consult Natural England in order to undertake an AA. The AA is required on a case-by-case basis to determine whether or not the project would adversely affect the integrity of the European Site. It would also have required a consideration of whether or not any proposed mitigation would be adequate, effective, could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it would not change the outcome of this appeal.

Planning Balance

40. There is dispute whether the Council is able to demonstrate a five year housing land supply.
41. The development would provide benefits in terms of delivering an additional home to boost housing supply. There would be minor benefits to the local economy in terms of short term employment in the construction industry and longer term support to shops and businesses. The long term support to shops and businesses would be mainly felt elsewhere, rather than supporting rural villages. The proposal would provide support to local bus services. The proposal would be located within an existing village and future occupiers would be likely to participate in the social life of the community. However, given the scale of the development these benefits would be small and so together they carry limited weight.
42. Given the location of the site and the lack of access to safe walking and cycling routes and limited access to public transport to provide for day-to-day needs it

is likely that future occupants of the development would be heavily reliant on private motor vehicles to access local shops and services. This, together with the harm that the development would cause to the character and appearance of the area, are significant factors weighing against the scheme.

43. Whilst the issue of the effect of the site on European Sites remains unresolved the effects could only be, at best, neutral in my considerations.
44. In conclusion, even if I were to accept the appellants view that the policies most relevant to the supply of housing within the Development Plan are out of date, the identified harm would significantly and demonstrably outweigh the limited benefits provided by the scheme when considered against development plan policies and the Framework when read as a whole.

Conclusion

45. For the reasons given above the appeal is dismissed.

I Dyer

INSPECTOR