



Appeal Decision

Site visit made on 12 August 2019

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 January 2020

Appeal Ref: APP/D3505/W/19/3229317

Old Coach House, Bluegate Lane, Capel St Mary IP9 2JX

- 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 & Mrs Rita & Mick Shapland against the decision of Babergh District Council.
 - The application Ref DC/19/00470, dated 30 January 2019, was refused by notice dated 3 April 2019.
 - The development proposed is described as "*1 & ½ storey dwelling using existing vehicular access. New vehicular access to Old Coach House.*"
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is whether the appeal site would be an appropriate location for residential development, having regard to the aims and objectives of local and national planning policies for the delivery of housing.

Reasons

3. The appeal site lies outside of the defined boundary of Capel St Mary. For the purposes of planning policy it is in the countryside. The Council's planned strategy for new residential development is set out in its development plan, specifically Policies CS1, CS2, CS11 and CS15 of the Babergh Local Plan 2011-2031 Core Strategy & Policies February 2014 (the CS). Together these policies direct development sequentially towards Towns/Urban areas, Core Villages, Hinterland Villages and the countryside, as defined in Policy CS2. Capel St Mary is a Core Village. Within the countryside Policy CS2 states that development will only be permitted in exceptional circumstances subject to a proven justifiable need, none of which apply in this case.
4. Policy CS11 sets out the strategy for development for Core Villages. While the appeal site lies outside of the village, the criteria of the Policy includes, among other considerations, a requirement for proposals to score positively when the locational context of the village and the proposed development is considered. It is therefore of some relevance to a scheme which lies beyond the village boundary.
5. Policy CS1 states that in considering proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development

contained in the National Planning Policy Framework (the Framework). Policy CS15 sets out a number of criteria with which development must accord to be considered sustainable development. Among other criteria, Policy CS15 requires that development promote healthy living and be accessible to people of all abilities including those with mobility impairments, and seek to minimise the need to travel by car, prioritising walking, cycling and public transport.

6. The appeal site is separated from Capel St Mary by the A12 dual carriageway, and there is no pedestrian crossing point between the site and the village. I consider that the A12 is a barrier preventing easy access to the village for most people.
7. The most direct route into the village is therefore approximately 1.5 miles in length, primarily along country roads. This approach to the village passes a petrol station on its outskirts, and this is the closest point to the appeal site that would meet the day-to-day needs of future occupiers. I consider that regular use of this route would not be attractive for pedestrians given the distance, intermittent paving and lack of lighting for much of its length. While the petrol station would be more readily accessible to cyclists, I consider that it is more likely that future occupants would drive to it from the appeal site, either as a separate trip or as part of a longer journey.
8. Based on the evidence before me, the village of Bentley lies a similar distance from the appeal site, also along country roads. I do not consider that the site is any better located with regard to Bentley than it is to Capel St Mary. In any event, based on the evidence before me, Bentley has fewer local facilities. Paragraph 78 of the Framework states that housing should be located where it will enhance or maintain the vitality of rural communities. In view of the distance between the site and the villages the opportunities for supporting local services is therefore very limited.
9. There is a bus stop a short distance from the appeal site that provides transport into Colchester. Based on the evidence before me any return journey would, at the closest point to the appeal site, stop on the far side of the A12. This would require walking back to the appeal site along the intermittently lit and paved country roads. The bus service would not assist residents in directly accessing Capel St Mary, and I have not been provided with any evidence that the bus service serves any other rural settlements that might benefit from the development proposed. I therefore only give limited weight to the presence of public transport as an option for future occupiers in determining this appeal.
10. The appellants have drawn my attention to previous appeal decisions and a previous decision by the Council in support of their case. Two of the appeal decisions¹ refer to sites adjacent to or within the settlements in question, and therefore these differ significantly from the appeal before me. Another refers to the nearest village being a short distance away². None of these cases are therefore directly comparable with the appeal proposal.
11. The appeal decision at Mannings Farm appears to raise similar issues to those in this appeal. However, based on the evidence before me it appears that the Council refused permission at least in part because they considered the appeal site to be isolated. The High Court judgement referred to in the decision by my

¹ APP/D3505/W/18/3196882 and APP/D3505/W/18/3196511

² APP/D3505/W/17/3182786

colleague clarifies this point, and I note that the Council has not referred to the appeal site as isolated in this instance. In addition, only Policy CS2 is referred to in the appeal decision, and in considering this appeal I have also had regard to the requirements of Policies CS11, CS1 and CS15. I therefore do not consider the Inspector's conclusions in the Mannings Farm case to set a precedent that I am bound to follow.

12. With regard to the Council decision which relates to the applicability of Policy CS11 I have only been provided with a short extract from the officer's report. As I do not have the full facts of that case in evidence, I cannot be sure to what extent the circumstances of that case relate to the appeal before me.
13. Taking all the above factors into considerations I therefore conclude that the appeal site would not be an appropriate location for residential development in conflict with the requirements of Policies CS2, CS11, CS1 and CS15 of the Babergh Local Plan 2011-2031 Core Strategy & Policies February 2014 (the CS). These policies, when taken together, seek to ensure the provision of sustainable development in accessible locations which minimise the need to travel by car.

Other Matters

14. The site lies within the 13 kilometre 'zone of influence' for the Stour and Orwell Estuaries Special Protection Area and Ramsar site. This is protected under the Ramsar Convention (1971) and the European Union Birds Directive (2009) as a wetland of international importance. No substantive evidence or Appropriate Assessment (AA) has been submitted to demonstrate that the proposal would not adversely affect the integrity of the habitats site. Had I been minded to allow the appeal, the responsibility for undertaking the AA would have fallen to me. However, as I am dismissing the appeal for another reason it has not been necessary for me to consider this matter further.

Planning Balance

15. The Council has acknowledged that it is unable to demonstrate a five-year supply of deliverable housing sites, and that less than full weight should be given to Policy CS2 due to that policy being inconsistent with the Framework. In these circumstances the presumption in favour of sustainable development identified in Paragraph 11(d) of the Framework is engaged, and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
16. A single dwelling would make a minimal contribution to the District's supply of housing. Its construction and occupancy would make a minor contribution to the local economy and ongoing provision of services and the local community.
17. The use of sustainable construction methods and high standards of water and energy efficiency would be a benefit, but not one that is dependent on a new house being built in this particular location. It therefore carries little weight in the overall balance.
18. However, I have identified significant harm that would arise from locating a new house on the site due to the distance from local services and the over-reliance on private transport by future occupants. This is a matter that carries significant weight.

19. I therefore conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. Consequently, the presumption in favour of sustainable development does not apply in this case.

Conclusion

20. I have found that the proposal conflicts with the development plan, when read as a whole. There are no material considerations that outweigh that conflict. For this reason, I conclude that the appeal should be dismissed.

M Chalk

INSPECTOR