The Planning Inspectorate

Appeal Decisions

Site visit made on 21 September 2020

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th October 2020

Appeal A: Ref: APP/D3505/W/20/3249558
Plot 2, Land north of Springfield, Brockley Road, Hartest, Bury St Edmunds IP29 4EQ

- 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 Mrs D Wilson against the decision of Babergh District Council.
- The application Ref DC/19/01751, dated 10 April 2019, was refused by notice dated 10 December 2019.
- The development proposed is erection of 2/3 bed (98m^2) single-storey dwelling and associated works (utilising existing vehicular access).

Appeal B: Ref: APP/D3505/W/20/3249556
Plot 1, Land south of Springfield, Brockley Road, Hartest, Bury St Edmunds IP29 4EQ

- 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 Mrs D Wilson against the decision of Babergh District Council.
- The application Ref DC/19/01754, dated 10 April 2019, was refused by notice dated 10 December 2019.
- The development proposed is erection of 2/3 bed (98m^2) single-storey dwelling and associated works (utilising existing vehicular access).

Decision

1. Appeal A is dismissed, and Appeal B is dismissed.

Procedural Matter

2. There are two appeals relating to similar proposals on two separate appeal sites within the same existing residential plot. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Main Issues

3. The main issues are whether the proposed developments:

   - would be an appropriate form of development having regard to policies for the location of housing; and,

   - would be in a suitable location having regard to the accessibility of services and facilities.

Reasons

Policies for housing

4. Policy CS2 of the Babergh Local Plan 2011-2031 Core Strategy & Policies (February 2014) (the CSP) sets out a settlement hierarchy, directing development sequentially to towns/urban areas, core villages, and hinterland villages (including Hartest). In all cases the scale and location of development depends upon matters such as local housing need, the role of settlements, the capacity of infrastructure and environmental constraints. The appeal sites are in the countryside approximately 1.1km south of Brockley and 1km north of the Built-Up Area Boundary (BUAB) of Hartest amongst a small cluster of buildings.

5. Policy CS2 states development in the countryside will only be permitted in exceptional circumstances subject to a proven justifiable need. In referring to hinterland villages, CS2 states all proposals will be assessed against Policy CS11. The Rural Development & Core Strategy Policy CS11 Supplementary Planning Document (2014) (the SPD) explains the sequential approach and that development outside BUABs needs to meet all criteria in Policy CS11 for hinterland villages. This includes having a close functional relationship to the existing settlement and being adjacent or well related to the pattern of development for that settlement.

6. The sites are amongst a small informal cluster of buildings. However, the distance to Hartest village and the intervening areas of open and undeveloped countryside between modest clusters of buildings, means the sites do not have a close functional relationship with Hartest (or Brockley) and are not well related to the existing pattern of development for Hartest. Therefore, even if the sites were to be classed as brownfield or previously developed land, the developments conflict with Policy CS11.

7. The SPD requires a sequential approach to development. Outside and not adjacent to the BUAB, development requires special justification. The appellant's evidence from the second draft Hartest Neighbourhood Plan (2018) (the NP) indicates some need for limited additional dwellings and adaptations. However, it does not explain how much need has been met since evidence was collected, the up to date amount of any current shortfall of smaller homes, or, demonstrate that some needs cannot be met by adaptations to existing dwellings. The households on the housing register are for affordable dwellings, so these may not necessarily be met by these market dwellings. However, the size and layout of these dwellings would be suitable for a variety of different occupiers, including those with mobility difficulties and self-builders.

8. At the time of determining the applications the Council advised it could demonstrate a five year supply of housing land. I do not have detailed up to date information before me to confirm the exact supply. The appellant has suggested the supply is marginal and referred to the current standard method figure (which is a limited amount higher than the previous 3 years delivery) and a new standard method set out in the Planning White Paper (Planning for the Future). However, the White Paper proposals are yet to be adopted. These appeal proposals would make a small contribution to the supply of housing by providing two dwellings and a small contribution to the vitality of rural communities and services, recognised by paragraph 78 of the Framework.

9. Heritage designations such as the Conservation Area and other constraints might limit development in and adjacent to the BUAB, but the evidence does not show it precludes development entirely. The evidence before me does not demonstrate that local need and constraints are acute that it constitutes special or exceptional justification for either proposal, required in relation to CS11 and by CS2. I note the findings of the high court case[1] relating to a proposal for six dwellings to the east of the village. The location and relationship of it with Hartest, its merits, compliance with planning policies, and contribution to need, are markedly different to the proposals before me. A previous legal case[2] I have also been referred to does not relate to dwellings in Hartest. It relates to schemes for considerably more dwellings. Therefore, its merits, compliance with planning policies, and contribution to need, are markedly different to these appeal proposals.

10. The NP makes provision for some development outside the built-up boundary at 'clusters' under Policies HAR1 and HAR3. The Pear Tree Farm Cluster (PTFC) includes the appeal sites. However, notwithstanding the proposals having some compliance with HAR3, the PTFC is not consistent with CS2 of the CSP, or, Policy LP01 of the draft local plan as there is less than 10 dwellings in the cluster. As the developments conflict with CS11 they are not in accordance with the development plan, and so also conflict with Policy HAR1. The NP and draft local plan are at an early stage of production and could be subject to changes before an examination. Therefore, having regard to the National Planning Policy Framework (2019) (the Framework), their policies attract very limited weight.

11. For the reasons set out above, the developments would conflict with Policy CS2 of the CSP and they would conflict with Policy CS11, as they would be located within the open countryside, not well related to Hartest, and no special justification or exceptional circumstances subject to a proven justifiable need have been demonstrated.

Access to services and facilities

12. Combined, Brockley and Hartest have few facilities. These include the Hartest Institute, a pub, butchers, primary school and church. Approximately 6km from the appeal site Glemsford has more but still a limited range of facilities, such as a few pubs, small grocery shops, doctors surgery, hairdressers, beauty salon, garage and takeaways. To the south the B1066 does not have a footway until approximately halfway to Hartest and to the north the route to Brockley has even less footway. Much of journey to Glemsford would be on unlit national speed limit roads with few stretches of footway or verges for walkers or cyclists. Trips by foot or cycling would not be attractive or convenient for those able or competent enough to manage them.

13. Bury St Edmunds is approximately 10km to the north and Long Melford a similar distance to the south. These would provide many services and facilities required for day to day living, such as secondary and further education, a hospital, dentists, a range of shops, professional services, and employment opportunities. The routes to both settlements have long stretches of generally unlit national speed limit roads with few suitable verges for refuge from traffic.

[1] Gare v Babergh District Council [2019] EWHC 2041 (Admin)
[2] R (East Bergholt Parish Council) v Babergh District Council & Agett [2016] EWHC 3400

The distance and nature of the highway means it would be highly unlikely many trips would be made by walking or cycling.

14. The No 374 bus service runs 4 times a day each way between Clare and Bury St. Edmunds, via Hartest and Glemsford. The location of the bus stop and the frequency of service means it is unlikely to be utilised for many trips. Therefore, occupiers of the new dwellings would be heavily reliant upon a motor vehicle for accessing most services and facilities. The number of trips generated would be modest, but given the distances to many services and facilities, would add up to a considerable number of vehicular miles per year.

15. Impacts from carbon emissions would diminish as combustion engines are phased out and replaced by ultra-low emission and electric vehicles. Nevertheless, the houses would be likely to be constructed in the short term, so it is not clear that future occupiers would use these vehicles. Accordingly, this cannot be relied upon as a means of mitigating the inaccessible location of the sites in the short to medium term. In any event, the poor accessibility to services and facilities would not promote the social and health benefits conducive with safe and convenient opportunities for walking and cycling.

16. Details and copies of a number of appeal decisions have been provided by both the appellant[3] and the Council[4]. The full details of the circumstances of the proposals and evidence before each Inspector is not clear, so a fully reasoned and direct comparison of the appeal schemes with these appeal proposals is not possible. In many the full detail of type, proximity and distribution of all services and facilities, and public transport are not explicit. In Ref 3222867 the Inspector was of the view the Council could not demonstrate a 5 year housing land supply and in Ref 3196882 the Inspector refers to the site being in proximity to Sudbury. Refs 3204723, 3203705 and 3221579 were in a different Council area with a different development plan and a shortfall in housing land supply. Therefore, the cases are not directly comparable with the proposals before me, which I have considered on their own merits.

17. I note the application nos. and brief descriptions of proposals in the vicinity of the appeal site. However, as the full details, merits and circumstances of those proposals are not before me, I cannot make parallel comparisons with these appeal proposals.

18. Whilst car dependency is not necessarily unusual in rural locations, it conflicts with a core planning principle of the Framework which encourages development to take place where the fullest use of walking, cycling and public transport can be made. The developments conflict with paragraphs 8, 91 and 103 of the Framework which seek to use natural resources prudently, minimise pollution, focus development towards locations that limit the need to travel, offer transport choice, and enable and support healthy lifestyles through developments that encourage walking and cycling. The developments would also conflict with Policy CS15 of the CSP, which requires development demonstrates the principles of sustainable development through (amongst

[3] APP/D3505/W/18/3201905, APP/D3505/W/19/3222867, APP/W3520/W/18/3204723, APP/W3520/W/18/3203705, APP/W3520/W/18/3221579, APP/D3505/W/18/3196882, APP/W3520/W/19/3239632, APP/D3505/W/19/3240526

[4] APP/D3505/W/20/3246576, APP/D3505/W/19/3240715, APP/D3505/W/19/3239589, APP/D3505/W/19/3239726, APP/W3520/W/19/3225625, APP/D3505/W/19/3233033, APP/D3505/W/19/3229317, APP/D3505/W/19/3236288, APP/W3520/W/19/3238025, APP/W3520/W/19/323897, APP/W3520/W/19/323965, APP/W3520/W/19/3236366

other things) ensuring an appropriate level of services and facilities are available to serve the development and seeks to minimise the need to travel by car.

Other Matters

19. The appeal sites are located within the setting of the Grade II Listed Burnthouse Farmhouse to the north. Under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 there is a duty to have special regard to the desirability of preserving the setting of the listed building. Its significance derives from its traditional 17th century timber frame, plaster exterior and central chimney stack and shafts. The significance of its setting is the rural, agricultural and verdant surrounds interspersed with modest amounts of development, which can be appreciated from the highway, fields and some nearby properties. The appeal site contributes to the setting by its low level dwelling, wide verdant plot and considerable mature vegetation.

20. Overall, the height, width, depth, massing, materials and alignment of the dwellings would be keeping with existing development. Retaining much of the trees and hedgerows surrounding the plot would maintain the verdant rural character of the appeal sites and the setting. Consequently, the developments would maintain the eminence and significance of and preserve the setting of the designated heritage asset. Due to the position of the Grade II Listed Northend Cottages to the south, the curve of the highway, and intervening vegetation, the developments would not affect the setting and significance of that asset. The development would not conflict with Policy CS15 of the CSP, Policies CN01 and CN06 Babergh Local Plan (2006) (the Local Plan) or the Framework in this regard.

Planning Balance

21. The proposed developments would result in harm in respect of a conflict with Policies CS2, CS11 and CS15 of the CSP. The Framework states that applications for planning permission shall be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration.

22. The approach of Policies CS2 and CS11 of the CSP are consistent with the aim of the Framework to direct housing to locations where it is supported by local services and facilities through an established pattern of distribution. However, the requirement for exceptional circumstances to be demonstrated and a delay in a settlement boundaries review, means that CS2 is not aligned with the more balanced approach to rural housing in the Framework, so it is out of date. The more balanced criteria based approach required under Policy CS11 in relation to Hinterland Villages is aligned with the approach of the Framework.

23. Policy CS15 of the CSP is consistent with the Framework in terms of the accessibility of development in relation to services and facilities. However, CS15 and Policies CN01 and CN06 of the Local Plan do not acknowledge the balancing exercise required by paragraphs 195 and 196 of the Framework for heritage assets, so are out-of-date for the purposes of the Framework. Policy CS1 of the CSP duplicates paragraph 14 of the 2012 version of the Framework, so is out-of-date. I have not found in relation to CS1, although I address below whether the proposals would be sustainable development.

24. I have been provided with details of appeals and decision letters by the appellant[5]. Each proposal differs from these proposals either in terms of the pre-existing nature of the site, number of dwellings, relationship to settlements, services and facilities and public transport. However, my findings that CS2 and CS15 are out of date, accord with the findings of those Inspectors. In accordance with paragraph 11d) ii) and footnote 7 of the Framework planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, even if the Council could not demonstrate a 5 year housing land supply, the tilted balance applies.

25. In respect of design, landscaping, the setting of heritage assets, emissions from construction, waste management, contamination, and flood risk, subject to appropriate conditions, the developments would not conflict with aspects of Policies CS11 and CS15 of the CSP, Policy CN01 and CN06 of the Local Plan or HAR1 and HAR3 of the NP. It could also provide a suitable on site access and parking. The absence of harm in these regards attracts neutral weight.

26. The developments would result in a small temporary economic benefit during construction, a CIL payment, and some small on-going spend in the local economy once occupied. There would be a small social benefit from the provision of two dwellings. The evidence before me does not demonstrate there would be net benefits to biodiversity or renewable energy generation. Measures to decrease resource and energy consumption would reduce and partially mitigate the environmental impacts of the developments. This is therefore more of a neutral matter than a benefit. These combined economic, social and environmental benefits of the two dwellings are modest and only afforded limited weight.

27. Due to the location of the sites, and distance from facilities and services, the developments significantly conflict with the planned approach to housing and undermine the sustainable transport and accessibility objectives of Policies CS2, CS11 and CS15 of the CSP and the Framework. Policies CS2 and CS15 are out of date so the conflict with them does not carry full weight. However, given the specific circumstances of these proposals, the conflict with the policies still carries significant weight in this instance, given the significant harm that would occur from the poor accessibility to services and facilities. Overall, the harm from each proposal, whether considered individually or together, significantly and demonstrably outweighs their benefits when assessed against the Framework taken as a whole. The proposals would not amount to sustainable development under the terms of the Framework.

Conclusion

28. The proposed developments would be contrary to the development plan and there are no other considerations, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, appeal A and appeal B should not succeed.

Dan Szymanski

INSPECTOR

[5] APP/D3505/W/19/3242769, APP/D3505/W/20/3246576, APP/W3520/W/19/3239632, APP/D3505/W/19/3240526