



Appeal Decision

Site visit made on 17 September 2020

by Steven Hartley BA(Hons) Dist.TP (Manc) DMS, MRTPI, MRICS

an Inspector appointed by the Secretary of State

Decision date: 8 October 2020

Appeal Ref: APP/D3505/W/20/3251308

Land North of 4 Hedgerow Cottage, Windsor Green, Cockfield.

- 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 R Cornell (L.A. Cornell and Son) against the decision of Babergh District Council.
 - The application, Ref DC/19/03793 dated 8 August 2019, was refused by notice dated 20 February 2020.
 - The development proposed is for the erection of 2 no semi-detached dwellings.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of 2 no semi-detached dwellings on land North of 4 Hedgerow Cottage, Windsor Green, Cockfield in accordance with the terms of the application, Ref DC/19/03793 dated 8 August 2019, subject to the conditions set out in the attached schedule.

Procedural Matter

2. The application is described as the '*proposed erection of a pair of cottages*'. The Council, in its decision notice, describes it as for the '*proposed erection of 2 no semi-detached dwellings*'. The appellant refers to it likewise in the Appeal Statement. I have used the latter as I consider it gives a more accurate description of the proposed development, and I have determined the appeal on this basis.

Main Issues

3. The main issue is whether the development would be in a sustainable location, including whether it would be accessible to facilities and services by means other than the private motor vehicle.

Reasons

Location and policy background

4. The appeal site is located on the southern edge of Windsor Green. To the South are two pairs of semi-detached properties (1-4 Hedgerow Cottages) and to the North is a Grade II listed detached dwelling known as Roundwood House. Open countryside extends to the east and hedgerows align the front and northern side boundaries of the site.

5. Both parties have referred to the emerging Joint Local Plan for Babergh and Mid Suffolk, but as it has not yet been adopted, I afford it and its policies only limited weight as part of the determination of this appeal.
6. The parties refer to Policy C1 of the Babergh Core 2014 (CS) which aims to support sustainable development and to Policy CS2 which restricts development to towns, defined core villages and Hinterland Villages, the latter category of which includes Cockfield.
7. That part of the appeal site fronting the road and the land to either side, lies within the Built-up Area Boundary (BUAB) defining the village of Cockfield – Windsor Green in the adopted Babergh Local Plan 2011-2031 Core Strategy (2014) (CS).
8. The adopted Rural Development and Core Strategy policy CS11 Supplementary Policy Document 2014 (SPD) states that *'where sites in Core and Hinterland Villages are within an existing BUAB (as defined in the 2006 Local Plan) the principle of development has already been established and in most cases sites will be compliant with the criteria set out in CS11'*.
9. So far as that part of the appeal site which lies outside the BUAB is concerned, Policy CS2 of the CS states that *'in the countryside, outside the towns/urban areas, Core and Hinterland Villages defined above, development will only be permitted in exceptional circumstances subject to a proven justifiable need'*.
10. However, for proposed development not within the BUAB, the SPD states that *'to be considered under CS11 proposals must be in or adjacent to a Core Village or a Hinterland Village'*. The part of the appeal site not within the BUAB clearly abuts the part within it. Even so, development is only permitted by policy CS11 if it relates well to the character of the Hinterland Village and if it meets other criteria, including a proven local need such as affordable housing or targeted market housing identified in an adopted community local plan/neighbourhood plan.
11. I have not been made aware of any such assessed need for the Hinterland Village, but I have no reason to disagree with the findings of the Local Planning Authority (LPA) when it states that *'three bedroom dwellings will serve a district need to some extent, and therefore in the planning balance this is not an element fatal to the scheme'*. Likewise, I concur with the LPA that the proposed development would be visually well contained and would read as a logical infill site. It would support rural communities, local facilities and services. I see such matters as giving some social and economic benefits.
12. CS policy CS15 also stresses the need for new development to be sustainably located and stipulates 19 criteria for their assessment.
13. However, CS policies CS2 and CS15 are not wholly consistent with paragraph 79 of the National Planning Policy Framework 2019 (the Framework), which is less restrictive in terms of residential development in the countryside. I therefore afford the proposal's conflict with Policies CS2 and CS15 of the CS moderate weight in the overall planning balance.
14. Both parties quote various appeal and other decisions relating to whether such inconsistencies are sufficient to mean that paragraph 11d of the Framework is

engaged and which states that '*Plans and decisions should apply a presumption in favour of sustainable development*' and that '*For decision-taking this means: d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*'. However, those quoted decisions are themselves not consistent.

15. I afford the proposal's conflict with Policies CS2 and CS15 of the CS moderate weight in the overall planning balance, though when the basket of such development plan policies is taken as a whole, I consider such conflict with the Framework to be insufficient to engage paragraph 11d of the Framework.
16. The appellant also considers that the Council cannot demonstrate a 5-year supply of deliverable housing land, though no compelling evidence of this is included. The LPA includes documentary evidence to show that in September 2019 it could show a housing supply sufficient for 5.67 years. On the information before me, I consider that housing supply is insufficient reason to engage paragraph 11d of the Framework.

Access to services

17. A central issue is whether the development of the site would be sustainably located in relation to local services.
18. Policy CS15 assesses sustainability in terms of 19 criteria. Criteria (iv) aims to ensure an appropriate level of services, facilities and infrastructure are available or provided to serve the proposed development. The LPA considers that the nearest services are in Cockfield, including a church, post office, store, and primary school, and which are not within walking distance.
19. However, the SPD states that '*where sites in Core and Hinterland Villages are within an existing BUAB (as defined in the 2006 Local Plan) the principle of development has already been established and in most cases sites will be compliant with the criteria set out in CS11*'. This is in spite of the view of the LPA that when assessed against CS11 '*the locational context criterion is not compelling*'.
20. I consider that the part of the appeal site located within the BUAB is sustainably located. The part which is outside the BUAB abuts it and accords with the terms of the SPD. I concur with the LPA's conclusion that the proposed development '*will serve a district need to some extent and therefore in the planning balance this is not an element fatal to the scheme.*'
21. I conclude that the proposed development would be sustainably located and would accord with CS policy CS1 which promotes such sustainable development and with CS policies CS11 and CS15 which aim for the same. I acknowledge the conflicts of the latter two policies with the Framework, but I have found that the proposed development is not constrained by those more restrictive policies. It would accord with the Framework's paragraphs 7,8 and 11 which also promote sustainable development and with paragraph 78 which

encourages development that would maintain and enhance the vitality of local communities.

Other matters

22. The appeal site adjoins Roundwood, a detached listed building within its own grounds with hedging to its boundaries. Its setting reflects its semi-rural character. I have no reason to disagree with the Council's Heritage and Design Officer who concludes that, subject to conditions relating to materials and boundary treatment, there would be no adverse impact upon the preservation of the setting of the listed building.
23. Concerns have been raised regarding the possible presence of great crested newts on adjoining land within the confines of the listed building, but the submitted ecological report concludes that they are not present.
24. I conclude that there are no other matters which outweigh my conclusions on the main issue.

Conditions

25. I consider it necessary to impose certain pre-construction conditions. The appellant has had an opportunity to comment on these and he has agreed with their imposition.
26. I have imposed the standard time condition as well as a condition relating to the approved plans for certainty.
27. I have imposed a condition relating to proposed levels in order to ensure that the proposed development is acceptable in the street scene and I have also imposed a condition relating to external materials for the same reason.
28. Notwithstanding what has been submitted with the appeal, it is necessary to impose a landscaping condition to protect the character and appearance of the area.
29. I have imposed conditions relating to the site access and parking area in the interests of highway safety.
30. I have not found it necessary to impose a condition relating to the storage areas for refuse collection.

Conclusion

31. I have concluded that the proposed development generally complies with CS policies CS1, CS15, with SPD CS11 and with paragraphs 7,8,11 and 78 of the Framework. I acknowledge some conflict with the CS and the less restrictive terms of the Framework, and that part of the site lies outside of the village boundary. I have concluded that such conflicts are insufficient to outweigh my conclusion regarding the sustainable location of the proposed development. I do not consider that there are any other matters which outweigh my conclusions and therefore the appeal should be allowed subject to the stated conditions

Steven Hartley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Plan number 1689/18/01 Rev H -existing site plan, sections and location plan
Plan number 1689/18/02 Rev D – proposed floor plans and elevations
Plan number 1689/18/03 Ref I– proposed site plan, sections and fence elevations.
- 3) Before the access is first used, visibility splays shall be provided as shown on Drawing No. 1689/18/01 Rev H with an X dimension of 2.4m and a Y dimension of 76m and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6m high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.
- 4) No other part of the development shall be commenced until details of the new vehicular access have been submitted, approved in writing and completed in all respects and with an entrance width of 4.5m and been made available for use. Thereafter the access shall be retained in the specified form.
- 5) The use shall not commence until the areas within the site, shown on 1689/18/03i for the purposes of manoeuvring and parking of vehicles, has been provided and thereafter those areas shall be retained and used for no other purposes.
- 6) No development/works shall be commenced above slab level until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved in writing by the Local Planning Authority. Such materials as may be agreed shall be those used in the development and fully applied prior to the first use/occupation.
- 7) Notwithstanding what is shown on plan number 1689/18/03 Rev I, details of the proposed hard and soft landscaping and boundary treatment shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be implemented prior to the first occupation of any part of each property.