
Appeal Decision

Site visit made on 6 October 2020

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2020

Appeal Ref: APP/D3505/W/20/3248107

Brickpath Cottage, Boxford Road, Milden, IP7 7AN

- 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 and Mrs Richard and Sandy Histed against the decision of Babergh District Council.
 - The application Ref DC/19/02886, dated 13 June 2019, was refused by notice dated 15 November 2019.
 - The development proposed is the erection of a single dwelling and garage.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Richard Histed against Babergh District Council. This application is the subject of a separate decision.

Main Issue

3. The main issue in this appeal is whether the proposal would be in an appropriate location having regard to national and local planning policies which seek to achieve sustainable development.

Reasons

4. It is accepted by all parties that the site is located in the countryside. There is an existing dwelling, belonging to the appellants, adjacent to the appeal site and other sporadic development further afield. However, the site is predominantly surrounded by agricultural fields. The small hamlet of Milden, comprising a more closely knit cluster of dwellings, is approximately 400 metres away.
5. Milden has no shops, services or facilities and very limited public transport. The roads in the area are unlit with no footpaths and are for the most part subject to the national speed limit. The nearest larger settlements, offering some services and facilities, are not within reasonable walking or cycling distance. As such, a new dwelling in this location would not support any existing services and facilities nearby and future residents of the proposed dwelling would be reliant upon private car use and/or delivery services, to meet the majority, if not all, of their basic daily needs.

6. I have been advised that a local bus service, operating from Milden to Sudbury, is proposed to be introduced in the near future. However, I have no evidence of when this is likely to happen or how frequent that service would be. In this location the service is likely to be very limited. Although the National Planning Policy Framework (the Framework) recognises that sustainable transport solutions will vary between urban and rural areas, this does not suggest that the provision of new housing should be supported or encouraged where there are no services and facilities nearby.
7. Policy CS2 of the Babergh Core Strategy and Policies Local Plan, adopted February 2014, (the CS) directs development to the larger towns and urban areas first, followed by Core Villages and then Hinterland Villages. Outside of these areas, in the countryside, development is only permitted in exceptional circumstances. Policy CS15 of the CS seeks to ensure that development is sustainable by requiring, amongst other things, that proposals are served by an appropriate level of services, facilities and infrastructure, that they retain, protect or enhance local services and facilities and seek to minimise the need to travel by car. These policies are generally consistent with paragraphs 77-79 of the Framework, which encourages housing in rural areas to be located where it will enhance or maintain the vitality of rural communities in order to promote sustainability.
8. Having had regard to the Court of Appeal decision in Braintree¹, the word "isolated" in the phrase "isolated homes in the countryside" simply connotes a dwelling that is physically separate or remote from a settlement. This replaces the previous High Court² meaning of isolated, which was "far away from other places, buildings or people; remote" and thus could have led to new homes not being considered isolated simply because they are next to another home.
9. For the reasons set out above, I find that the proposed dwelling would be isolated and accordingly paragraph 79 of the Framework does apply. In reaching this view, I have had regard to the appellants case and other appeal decisions³ in the district, which I have been referred to. However, these all refer to the 2017 High Court meaning of isolated and not the more recent Court of Appeal ruling. Moreover, whilst I do not have the full details of the other appeals referred to and have determined this case on its own merits, it is clear that there are differences between the cases. The Mannings Farm appeal site was described by the Inspector as being located within a group of dwellings and the Stondon Lodge appeal site was found to be unsustainable despite not being considered isolated.
10. The appellants are of the view that even if the proposal is isolated, it would comply with circumstances set out in paragraph 79b and d of the Framework. However, as the proposal neither utilises a heritage asset nor sub-divides an existing dwelling, I cannot agree with this view.
11. The appellants consider policy CS2 to be out of date and in this respect refer to the Stondon Lodge appeal, which was based upon the Inspector finding that paragraph 79 of the Framework was not engaged. In this case I have already judged the appeal site to be isolated, taking account of the most up to date case law.

¹ Braintree DC v SSCLG [2018] EWCA Civ 610

² Braintree DC v SSCLG [2017] EWHC 2743 (Admin)

³ APP/D3505/W/18/3201905 and APP/D3505/W/18/3210361

12. Having regard to Annex 1 of the Framework and the degree of consistency between the relevant policies and the Framework, I find that policies CS2 and CS15 of the CS are up to date and therefore the tilted balance is not engaged.
13. I have had regard to the appellants personal circumstances. However, I do not consider these to be unusual or to amount to any public benefits. Moreover, the new dwelling would remain long after the appellants personal circumstances cease to exist. I note that the appellants are retired and would not need to commute to work but this would not necessarily reduce their ability to get out and about or their need to travel in order to access other services and facilities. I have also considered the mixed views of local people, including the support of a District Councillor and the objection of the Parish Council. These do not raise any further material considerations that would lead me to reach a different view on the main issue.
14. I therefore conclude that the proposal to create an isolated new home in the countryside would not constitute sustainable development. Accordingly, the proposal is contrary to policies CS2 and CS15 of the CS and the sustainability objectives of the Framework.

Other Matters

15. Adjacent Brickpath Cottage is a Grade II Listed Building. Both parties are agreed that the proposal would have no impact on the setting of this building. Having had regard to the statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I would concur with this view. The proposed dwelling and garage would be sited some distance beyond the curtilage boundary of the listed cottage, which is well screened by existing mature landscaping. Consequently, I find that the proposal would not harm the setting of the listed building and would have a neutral effect on the significance of the designated heritage asset.
16. The appellants costs application refers to the council's Homes and Housing Strategy 2019-2024 and to other applications approved by the council in Mildenhall. The Housing Strategy document does not form part of the development plan or any other adopted planning guidance. No details of the other applications referred to have been provided and I am unaware of the circumstances under which these were approved. As such, the weight I can give to these matters is very limited and does not alter my findings on the sustainability of the site location in this appeal.

Conclusion

17. For the above reasons the appeal is dismissed.

Rachael Bartlett

INSPECTOR