

Appeal Decision

Site visit made on 9 November 2020

by Mrs J A Vyse DipTP Dip PBM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2020

Appeal Ref: APP/W3520/W/20/3254964

**Land adjacent to Hollywell House, Flatts Lane, Tostock,
Bury St Edmunds IP30 9NZ**

- 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 Keith Ollett against the decision of Mid Suffolk District Council.
 - The application No DC/20/01125, dated 13 March 2020, was refused by a notice dated 12 May 2020.
 - The development proposed is the erection of a new 1.5 storey, 4 bedroom dwelling and detached garage with access off an existing driveway.
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Decision

1. For the reasons that follow, the appeal is dismissed.

Main Issues

2. The main issues in this case relate to whether this is a suitable site for the development proposed having regard to local and national policies concerned with the location of new development and accessibility to goods and services, and its effect on the character and appearance of the surrounding area.

Reasons for the Decision

Locational Suitability

3. The development plan for the area includes the Mid Suffolk Core Strategy (2008). Policies CS1 and CS2 are among the most important policies for determining this appeal. Together and among other things they direct new housing development to a hierarchy of existing settlements and limit housing in the countryside to specific circumstances. The appeal site is located in the open countryside, beyond the built-up settlement boundaries of Tostock as defined by the development plan and none of the specified exceptions for development in the countryside are relevant to the appeal scheme. That brings the proposal into conflict with the development plan.
4. Notwithstanding that the appeal site lies beyond the built-up boundaries of the village, Tostock is, in any event, identified by policy CS1 only as a Secondary Village, being a location unsuitable for growth but capable of taking appropriate residential infill and development for local needs only. The only facilities identified by the appellant in the settlement are a public house, a village hall and a playing field. Whilst there is a bus stop on The Green, close to the southern end of Flatts Lane, that is some distance from the appeal site (more, it seems to me, than the 250 metres referred to by the appellant) along a single-track unlit lane with no footways. Moreover, as acknowledged by the

appellant, it is not a frequent bus service. All told, I consider that future occupiers would be heavily reliant on the private car to access the facilities and services that would be required on an everyday basis.

5. The appellant draws attention to an appeal allowed some five years ago, in relation to use of a building at The Barn on Flatts Lane as a holiday let.¹ That building lies some 50 metres or so to the south to the appeal site. However, as holiday accommodation, the development was considered under different policies from those relevant to consideration of market housing, including policies that support rural tourism. It also related to conversion of an existing building that had been approved as a residential annex. That is quite different from the current appeal scheme, which relates to the erection of a new dwellinghouse.
6. In that decision, the Inspector considered the site to be within easy walking distance to the village facilities, including the public house. He also noted that there were bus services from the village. On that basis, he went on to conclude that the site had what he considered to be a reasonable degree of accessibility. However, the Inspector does not describe the route to the public house. As I have noted, the lane is narrow and unlit and to my mind is not conducive for walking, particularly in the dark or at times of inclement weather. Moreover, the Inspector gives no indication as to the level of the bus services available at that time. The appellant describes the current bus services as infrequent. In any event, the needs and demands of holiday makers in terms of travel patterns are very different from those of the permanent occupiers of a private dwelling house. On that basis, I am content that the previous appeal decision has little, if any direct resonance with the scheme before me.
7. I recognise that Mid Suffolk is a rural District and that public transport is not readily available. I am well aware in this regard, of the Braintree judgement referred to by the appellant,² in which the judge in the lower court noted, among other things that in rural areas, where public transport is limited, people may have to travel by car to a village or town to access services and that the general policy in favour of locating development where travel is minimised and use of public transport is maximised, has to be sufficiently flexible to take account of the differences between urban and rural areas growth. I fully recognise that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. In this case however, there is no identified need for the dwelling proposed to be located here. The high car dependency I have identified would conflict with the policy of the National Planning Policy Framework to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.

Character and Appearance

8. The appeal site comprises a roughly rectangular parcel of grassed land adjacent to the western edge of a loose-knit organic cluster of buildings at this end of Flatts Lane. I am content, in this regard, having regard to the Braintree judgement relied on by the appellant, that the proposal would not constitute an isolated dwelling in terms of paragraph 75 of the National Planning Policy Framework. Indeed, it was no part of the Council's case that it would be.

¹ Ref APP/W3520/W/15/3005675

² *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610* on appeal from the Administrative Court Planning Court

However, the cluster is separated by a large agricultural field from the well-defined, tight-knit built-up edges of Tostock away to the west. The site is separated from the adjacent dwelling within the cluster by an access drive that leads to a dwelling to the north. The boundaries to those existing properties are defined by well-established hedgerows and vegetation, as is the boundary of the plot to the south. In contrast, the appeal site is not contained by any defined boundary to the west. As such, in views from the site entrance, across to the wider countryside beyond, the site is perceived effectively as part of the much larger open field.

9. A public footpath runs westwards from Flatts Lane at the site entrance, along the southern boundary of the site, leading out across the large open field to Norton Road. Irrespective of the design of the building and the potential for boundary planting, the imposition of the development proposed, including the large detached garage and associated parking and turning space, would intensify and consolidate the existing loose-knit cluster and its organic boundary with the adjacent agricultural land to a degree that would detract materially from the rural character and appearance of the area. That impact would be readily apparent not only from the site entrance off Flatts Lane and the start of the well-used public footpath, but also when approaching the cluster along the footpath from Tostock towards Flatts Lane.
10. The boundary planting proposed would have only a limited effect on the extent to which the development would be seen and, in any event, it would be many years before it provided any meaningful contribution in terms of screening. In my view, it would not materially minimise the extent to which the site would appear developed. The development proposed would intrude into the countryside here and would be fundamentally at odds with the landscape qualities that define the site, causing harm to the character and appearance of the area. There would be conflict in this regard, with policy CS5 of the Core Strategy which, among other things, seeks to enhance the character and appearance of the District. There would be conflict too with paragraph 170b) of the Framework, which requires that planning decisions should contribute to and enhance the local environment by recognising the intrinsic character and beauty of the countryside.

Other Matters

11. The appellant refers to the emerging Mid Suffolk and Babergh Joint Local Plan. However, that is still at an early stage and carries little if any material weight at this time, in relation to the appeal scheme. I am mindful, in this regard, that the settlement boundaries for Tostock are not proposed to be altered such that the appeal site might, in the future, lie within or adjacent to the village boundary.
12. The development proposed would contribute a single family home to the local housing supply although the Council indicates that it can currently demonstrate a five year housing land supply. In addition, there are likely to be some social benefits through the contribution of future occupiers to the local community and neighbouring settlements, together with some temporary economic benefits during the construction process. However, given the scale of the development proposed, those benefits would be limited.
13. The appellant draws attention to planning permissions granted by the Council

for residential development on land off Perkins Way and Norton Road.³ However, whilst both were in open countryside outwith the boundary for Tostock, they each have a contiguous boundary with the built-up edge of the settlement. That contrasts with the appeal site, which has no contiguous boundary with the built-up area of Tostock, being separated from the defined built-up edge by a large agricultural field. I have no information either about the circumstances that prevailed at the time of those decisions, for instance, what the Council's housing land supply position might have been, or any relevant planning history. I find nothing in those decisions to be directly comparable to the development before me, which I have considered on its own particular planning merits in the light of its particular physical context.

Overall Planning Balance and Conclusion

14. As with all planning decisions, the starting point is the development plan. In this case, the policies that are most important for determining the appeal are CS1, CS2 and CS5 of the Core Strategy. As set out above, I have found conflict with those policies. That brings the scheme into conflict with the development plan as a whole. However, the Council accepts that those policies are out of date as a consequence of inherent inconsistencies with the more recent National Planning Policy Framework, which engages the so-called tilted planning balance set out at paragraph 11d) of the Framework.
15. However, that a policy is out of date does not mean, necessarily, that it has no currency. Inasmuch as these policies seek to manage carefully additional housing in rural areas in order to secure an overall sustainable pattern of development and to ensure that new development respects local distinctiveness and enhances the character and appearance of the area, they still have a resonance with the policies of the Framework and are a material consideration.
16. The adverse environmental effects identified above, in respect of harm to the character and appearance of the countryside and poor accessibility to services and facilities, would significantly and demonstrably outweigh the limited social and economic benefits of an additional dwelling in this location when assessed against the Framework policies taken as a whole. The proposal does not, therefore, benefit from the presumption in favour of sustainable development. Consequently, for the reasons set out above, I conclude on balance that the appeal should not succeed.

Jennifer A Vyse
INSPECTOR

³ Application Nos 4238/16 and 4974/16 respectively