
Appeal Decision

Site visit made on 17 November 2020

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2020

Appeal Ref: APP/D3505/W/20/3250117

Street Farm, The Street, Belstead IP8 3LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs P Botterill against the decision of Babergh District Council.
 - The application Ref DC/19/05855, dated 17 December 2019, was refused by notice dated 25 February 2020.
 - The development proposed is described as "erection of single-storey dwelling with garage (self-build)".
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Outline planning permission is sought with the matter of access to be determined at this stage. I have had regard to the access details provided and have determined the appeal on that basis. I have treated all other submitted information as indicative.

Main Issues

3. The main issues are (i) whether the site would be in a suitable location for the proposed development having regard to the development strategy for the area and accessibility to services and facilities; (ii) highway safety; and (iii) whether or not the proposal would preserve or enhance the significance of nearby grade II listed buildings, 38 and 38A Blacksmiths Corner, Blacksmiths Shop and Horsestock.

Reasons

4. Policy CS2 of the Babergh Core Strategy 2014 (CS) directs new housing growth to within defined settlements, only allowing development in the countryside in exceptional circumstances if it is for a proven justifiable need. The requirement for exceptional circumstances to be demonstrated for development in the countryside beyond settlements is not wholly consistent with the 'exceptional circumstances' test found in the National Planning Policy Framework (the Framework), which only applies to isolated development. Policy CS2 is out of date and the Council accepts that the weight given to any conflict with this policy is thus reduced.

5. Nonetheless, there is nothing in the Framework to indicate that the definition of settlement boundaries is no longer a suitable policy response. I consider the remainder of Policy CS2, in terms of housing spatial strategy, is broadly consistent with the aims of the Framework, which similarly requires new development to be accessible to services.
6. The appeal site is situated some 0.3 km outside of the 'built up area boundary' of the village of Belstead, which is classified as a Hinterland Village within the CS and is part of a functional cluster for the Babergh Ipswich Fringe. Given its grouping with other dwellings and consistent with the Braintree judgement¹, the proposed dwelling would not be isolated. However, the evidence suggests that there are few services and facilities, none which have been specifically identified, within the village which would meet the day to day needs of future occupiers of the proposed development. I acknowledge that the village is part of a cluster of settlements whereby residents in one village can provide support for services in another.
7. However, future occupiers would be heavily reliant on the use of private motorised transport to access services within the cluster, including those in the suburb of Pinewood. A significant number of journeys would likely be further afield, in order to access a full range of services, facilities and employment opportunities, even when taking into consideration any general increase in opportunities for people to work from home. Whilst this would not be dissimilar to existing residents close to the site, and the number of trips generated would be commensurate with the provision of a single dwelling, the proposal would nevertheless, result in a considerable additional number of vehicular miles per year.
8. The evidence suggests that a regular bus service is available to and from Ipswich town centre, however, it is unclear from that evidence, how the service physically relates to the appeal site. Nevertheless, the appellant suggests that the bus stops are within cycling distance of the site. The need to cycle to a bus stop means the bus service is unlikely to be utilised for many trips. In any case, although the distance for cycling to a bus stop, or indeed to the services and facilities in Pinewood, may be reasonable, the roads are narrow and unlit and such journeys would be unlikely to prove particularly attractive. Accordingly, the opportunities to regularly walk, cycle or use public transport to access services and facilities would not be convenient or realistic, particularly with children, after dark or in inclement weather.
9. Paragraph 103 of the Framework states, amongst other things, that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Arguably, the lack of options available to the appeal site in terms of access to means of transport other than the private car is reflective of its rural location. However, the Framework's statement in this regard is a recognition of the challenges rural areas face and should not to my mind be used as a justification for the siting of development in unsustainable locations.
10. As well as setting out how sustainable transport should be promoted, section 9 of the Framework, and paragraph 103 in particular, explain that significant development should be focused on locations which are or can be made sustainable. However, I do not consider that it is the intention of the

¹ Braintree District Council v SSCLG, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)

Framework, given its general stance on promoting sustainable patterns of new development, to conversely mean that lesser development, such as the appeal proposal, can be located in unsustainable locations. In any event, the lack of genuine choice of transport modes to access services and facilities would not promote the social and health benefits conducive with safe and convenient opportunities for walking and cycling.

11. I conclude that the appeal site is not in a suitable location for a dwelling having regard to the development strategy for the area and accessibility to services and facilities. The proposal would conflict with CS Policies CS1, CS2, CS11 and CS15 and Paragraphs 8, 78, 102 and 103 of the Framework which together, and amongst other matters, seek to ensure that development can be served by an appropriate level of services and facilities and minimises the need to travel by car.
12. I do not consider Paragraph 104 of the Framework to be relevant as it is concerned with planning policies rather than development proposals.

Highway Safety

13. The Highway Authority (HA), Suffolk County Council, object to the proposal, advising that due to the intensification of use of the existing access that the proposal would create, visibility splays would be required to be demonstrated and maintained and be within the ownership and control of the applicant. It considers that these should be in accordance with the requirements of the Design Manual for Roads and Bridges (DMRB) because 'the function of greater significance is "movement" not "place"'. The HA therefore considers that the visibility splays needed would be 2.4m x 90m in both directions.
14. Although access is a matter for determination, the appellants have not sought to demonstrate by way of submission of a detailed plan, the provision of visibility splays at the site. They maintain that the use of DMRB is not appropriate as the local road is not a trunk road and consequently, they consider that the visibility splays requested would be excessive and unnecessary. They assert that Manual for Streets guidance (MfS) should be used to determine appropriate splays and that additional use of the existing access would not have any material adverse impact on highway safety. However, no substantive evidence has been provided to indicate what the MfS guidance considers acceptable, nor whether or not the existing access meets that guidance or what could be achieved at the site.
15. I note that the site frontage is within a 30 mph zone and that cars passing the site from the west are likely to be travelling at low speed having just negotiated the bend in the road. However, even if I were to accept the appellants' suggestion that the size of visibility splays required by the HA are excessive and unnecessary, the submitted drawings do not demonstrate what size of visibility splays are achievable.
16. It appeared to me at my site visit that visibility from the access is restricted in both directions. I am concerned, despite there being 'Crashmap' data evidence that there have been no incidents near the proposed site associated with the existing access, that safe visibility has not been demonstrated.
17. Having regard to a clear objection on highway safety grounds by the statutory highway authority and in light of my own concerns, and in the absence of

substantive evidence that demonstrably overcomes these concerns, I cannot be certain that the proposal would provide safe access.

18. I therefore conclude that it has not been satisfactorily demonstrated that the proposal would be acceptable in respect to impact on highway safety. The proposal would conflict with paragraphs 108 and 109 of the Framework with regards to ensuring safe access.

Heritage Assets

19. There are three grade II listed buildings situated south west of the site on the opposite side of The Street. They are identified as 38 and 38A Blacksmiths Corner, a pair of 16th Century timber framed, brick clad and rendered dwellings, a 19th century red brick Blacksmiths Shop and a 19th or 20th century Horsestock. The appellants' planning statement, which accompanied the planning application, included a brief heritage statement which concluded that no harm would be caused to the listed buildings because of the topography of the local area, the existing landscaping features and the spacing between buildings. It further concluded that any perceived harm would be so negligible that it would be outweighed by the economic, social and environmental benefits of providing a new family home in this location.
20. However, although it appears that the historic environment record was consulted and some level of consideration has been given to these nearby heritage assets, no specific identification or analysis of the significance of the assets and their setting has been provided. The Planning Practice Guidance (PPG) states that heritage assets may be affected by direct physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals².
21. The PPG also states that applicants are expected to describe in their application the significance of any heritage assets affected, including any contribution made by their setting. The level of detail of the analysis should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on the significance of those assets³.
22. I am required under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
23. However, because of the absence of the relevant listing descriptions and any reasoned identification of the particular significance of the listed buildings by either the appellants or the Council, I do not have enough information before me to make a reasoned technical and professional judgment as to what the significance and special interest of the nearby heritage assets are. Consequently, I cannot be certain of the relationship of the appeal site with those assets and their setting. I am, therefore, unable to reach a clear conclusion that harm to the heritage assets would not occur. I have not

² Paragraph: 007 Reference ID: 18a-007-20190723 Revision date: 23 07 2019

³ Paragraph: 009 Reference ID: 18a-009-20190723 Revision date: 23 07 2019

returned to the main parties to obtain further details to enable a satisfactory assessment to be carried out in this instance as, given my conclusions on the other main issues, this matter would not affect the overall outcome of the appeal.

24. I conclude that the proposal has failed to demonstrate that it would not result in harm to the setting of the nearby heritage assets and whether or not the particular significance of those heritage assets would be preserved. Consequently, the proposal conflicts with paragraph 189 of the Framework.

Other Matters

25. The development falls within the 13 km 'zone of influence' for the Stour and Orwell Estuaries Special Protection Area and Ramsar site, as set out in the emerging Suffolk Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that new housing development in this area is 'likely to have a significant effect', when considered either alone or in combination, upon the interest features of European sites due to the risk of increased recreational pressure caused by that development. The Council advised that a financial contribution is required towards the RAMS and that this contribution should be secured by a unilateral legal agreement.
26. No such agreement has been submitted for me to consider and I have not been provided with any details of the special features of the European sites, the level of contribution required, or the mitigation that would be delivered by the contribution. Nevertheless, as the appeal is being dismissed on other grounds, it has not been necessary for me to consider this matter any further in this case. Should I have found no harm with regard to the main issues, it would have been necessary for me to give consideration to the impact upon the protected sites in accordance with the Habitats Regulations.
27. I note the support received for the proposal from a third party and that the Parish Council did not object. However, I do not consider these matters capable of outweighing the harm I have identified.

Planning Balance

28. The Framework indicates that great weight should be given to the conservation of designated heritage assets. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 196 of the Framework requires that this harm should be weighed against the public benefits of the proposal in such circumstances. As it has not been possible in this case to identify whether or not harm would occur in this context, it is also not possible to undertake this balancing exercise.
29. The proposal would provide an additional dwelling, thereby making a small contribution to the supply of housing and self-build plots. There would be some short term economic benefit by employment during the construction phase and by support for services by future occupants. Whilst these matters weigh in favour of the proposal, and taking into account the current economic situation, they are of modest benefit given the proposal's minor nature. I attribute modest weight to these benefits because of the scale of development proposed.
30. I have found that the proposal would provide future occupiers with poor access to services and facilities by a range of transport options, which would be

contrary to Paragraphs 8, 78, 102 and 103 of the Framework. I have also found that it has not been satisfactorily demonstrated that the proposal would be acceptable in respect to impact on highway safety, contrary to paragraphs 108 and 109 of the Framework. Further, the proposal conflicts with paragraph 189 of the Framework in relation to heritage assets. These conflicts attract significant weight.

31. I have also found conflict with CS Policies. Although the weight to be given to the conflict with Policy CS2 is reduced because it is out of date, nevertheless it is broadly consistent with the aims of the Framework, where it requires new development to be accessible to services. I therefore attribute considerable weight to the conflict with this policy and CS Policies CS1, CS11 and CS15 in determining the appeal. In addition, the conflict with the Framework in terms of designated heritage assets provides a clear reason for refusing the development.
32. Accordingly, the conflict with the development plan is not outweighed by other considerations including the Framework and for the reasons set out the appeal must fail.

Conclusion

33. For the above reasons the appeal is dismissed.

S Tudhope

Inspector