



Appeal Decision

Site visit made on 1 October 2020

By Mark Caine BSc (Hons) MTPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12/01/2021

Appeal Ref: APP/D3505/W/20/3249865

The Case Restaurant, Further Street, Assington, CO10 5LD

- 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 & Mrs B Kappes against the decision of Babergh District Council.
 - The application Ref DC/19/05831, dated 12 December 2019, was refused by notice dated 11 February 2020.
 - The development proposed is described as 'proposed conversion of existing restaurant/ancillary residential unit and detached single storey outbuilding providing 7 no. bed and breakfast rooms, plus associated external works, to provide 5 no. dwellings including a new vehicular access (existing access to be retained as shown)'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal would provide a suitable site for the proposed development with particular reference to its location and accessibility to local services and facilities; and whether the loss of the employment use of the buildings have been adequately justified.

Reasons

Location and accessibility

3. The appeal site lies within a small cluster of buildings that front the A134 Further Street. However, the presence of these properties and other more scattered development along this highway does not alter the prevailing character of the area which is dominated by open fields and agricultural land. It is uncontested that the appeal site lies outside of the built up boundary of Assington and is therefore situated in the countryside.
4. Policy CS2 of the Babergh Core Strategy and Policies Local Plan, adopted February 2014, (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 CS11 of the CS elaborates on this further and amongst other things requires development in such locations to meet a proven local need, such as targeted market housing identified in an adopted community local plan / neighbourhood plan. Policy CS15 of the CS also 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.

5. CS Policy CS2's overall spatial strategy is consistent with the objective of the National Planning Policy Framework (the Framework) in taking a responsible approach to spatial distribution, requiring the scale and location of new development to take into account local circumstances and infrastructure capacity. Nonetheless, the exceptional circumstances test is not consistent with the Framework's approach to rural housing which requires no such test. The inconsistency with the Framework in this regard therefore reduces the weight that I can give to the conflict on this ground.
6. Furthermore, to be considered under Policy CS11 of the CS proposals must be in or adjacent to a Core Village or a Hinterland Village. Given the degree of separation between the appeal site and the built up area boundary of Assington it is not within or adjacent to a Hinterland Village. As such I concur with the appellants in that Policy CS11 is not relevant in this instance.
7. However, given the lack of public transport in the area, access to the nearest services and facilities would have to involve utilising the unlit main A134 road which in the vicinity of the appeal site has no pavements. The distances involved and the nature of the roads would therefore be likely to deter pedestrians and cyclists, particularly after dark and in bad weather. As such there would be a strong likelihood that most future occupiers would be dependent on the private car to access the majority of the services in the area and further afield.
8. Nonetheless, I am mindful that the Framework suggests that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. It goes on to state that greater dependency on car use is therefore inevitable in some rural locations, particularly to access opportunities for employment or schools. The appellants also contend that the proposal would re-use existing buildings and that the levels of vehicular movements that are associated with the restaurant and seven bed and breakfast rooms would be likely to be reduced by the proposed quantum of residential development. This has not been contested by the Council and there is little evidence before me to suggest otherwise. On this basis, I am unable to conclude that the proposal would not minimise the need to travel by car or conflict with CS Policy CS15 in this respect.
9. I therefore find that the proposal's location in regard to accessibility to local services and facilities to be acceptable. Although there would be some conflict with the spatial growth objectives of CS Policy CS2, I attribute limited weight to this due to its inconsistency with the Framework in respect of rural housing.
10. I have not found against Policy CS1 of the CS as the Council has referred to this policy in the context of whether the proposal would amount to sustainable development, which I shall address within the Planning Balance.

Loss of employment use

11. Saved Policy EM24 of the Babergh Local Plan Alteration No.2 2006 (LP) seeks to protect existing or vacant employment land, sites and premises in the District. This policy allows a change of use for non-employment purposes

where it can be demonstrated that the retention of employment land, sites and premises for an appropriate employment use has been fully explored. This can be undertaken in one of two ways. Firstly, by an agreed and sustained marketing campaign; or secondly, by demonstrating that the land, site or premises are inherently unsuitable or not viable for all forms of employment use.

12. The appellants contend that the appeal properties have been marketed since 2013. During this time it has been marketed by 3 local agents, though it has also been advertised online via national property portals and has appeared in local property publications. However, the submitted marketing history evidence shows that the marketing campaign has not continuously been sustained since 2013, with the property being taken off the market a number of times.
13. Furthermore, this evidence shows that a number of viewings have taken place and that an offer was made during this time. I am also mindful that the latest marketing campaign from Fleurets received 808 expressions of interest from people requesting full sales particulars. To my mind, all of these provide confirmation of a likely market demand for the existing use.
14. It is also unclear whether the asking price reasonably reflects the condition of the building or its current use class. I am aware that the property has been reduced in price a number of times, by in the region of £300,000, since first being marketed in 2013. However, without a detailed valuation report from the marketing agent or a range of independent valuations, which Saved Policy EM24 seeks, it is not currently possible to gauge how the asking price has been arrived at. If marketed at too high a price, it is likely that prospective purchasers would be put off.
15. My attention has been drawn to an appeal decision for the erection of four dwellings in Boxford (Ref: APP/D3505/W/19/3240526) in which the Inspector's reasoning included reference to a viability appraisal and amongst other supporting factors within it, an oversupply of employment land in the area. In support of their case the appellants have also quoted a paragraph from the Ipswich and Waveney Economic Areas Employment Land Needs Assessment (EAELNA) (March 2016) to demonstrate that there are significant areas of employment land available in Babergh. However, I do not have the full details of the appeal case, including the viability appraisal, before me and therefore cannot be sure that its circumstances are directly comparable to those which apply for this appeal. Other than for the quoted paragraph I have also not been provided with any further information from the EAELNA, so am again unable to be certain that is an accurate representation of the employment needs in the area, or to demonstrate that the retention of the appeal site for employment purposes is not necessary. I have, in any case, determined this appeal based on its own merits.
16. In the absence of any conclusive evidence of how the property has been valued, it would be premature to conclude that the loss of the employment use has been justified. As such the proposed change of use would conflict with Saved LP Policy EM24.

Other matters

17. The Council has not raised any objections to the impact of the proposed development on the setting or character and appearance of The Old Farmhouse

which is a Grade II listed building. I have had regard to the statutory duty to pay special attention to the desirability of preserving the listed building and its setting or features of special architectural or historical interest which it possesses. In these respects, I am satisfied that it would preserve those interests.

18. I note the appellants' disappointment and frustration with the Council's processing of the application. However, I can confirm that in this respect I have only had regard to the planning merits of the proposal that is before me.

Planning Balance

19. I have identified conflict with Policy CS2 of the CS. However, this is a restrictive policy that offers support to development in the countryside only in exceptional circumstances. It is not wholly consistent with the Framework in terms of its approach to rural housing. The fact that the site is located outside of any defined settlement boundary is therefore not a determinative factor in this case and I apportion limited weight to the proposal's conflict with Policy CS2.
20. Given the likely levels of vehicular movements that are associated with the existing restaurant and bed and breakfast rooms I have found no material harm arising by virtue of the site's lack of accessibility to local facilities and services. However, the lack of harm in this respect is neutral and does not weigh positively in the planning balance.
21. The appellants consider that the redevelopment of the site would make effective and efficient use of the land and buildings with no tangible environmental effects. They state that the proposal would provide smaller housing units, including single-storey accommodation, that could be built out relatively quickly, and that there would be economic and social benefits that would result from the construction and delivery of these houses. In addition, it has been put to me that the delivery of these new dwellings in a rural area would meet local needs in a location that the community recognises is suitable for new development, and in a district where the land supply position has been found to be 'marginal'.
22. I have also taken into account the appellants' reference to other objectives within the Framework. These advise that decisions should reflect changes in demand for land and promote a positive approach to applications for alternative uses of land that are developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs.
23. Nonetheless, the scale of the proposed housing is such, that any benefits in all of these respects (economic, social and environmental) would be somewhat limited. Moreover, in the absence of a robust and sustained marketing campaign a lack of demand for the employment use of the site has not been substantiated. As a result, I have found that the proposal would not comply with development plan policy in respect of the harm caused by the loss of employment land. The tourism and rural economy benefits of its use as a restaurant and bed and breakfast facility would also be lost if the appeal were to succeed. I apportion significant weight to this harm.
24. The adverse impacts identified above would therefore significantly and demonstrably outweigh the benefits when assessed against the policies in the

Framework taken as a whole. The proposed scheme would therefore not result in sustainable development for which there is a presumption in favour.

Conclusion

25. For the reasons given above, I conclude that the appeal should be dismissed.

Mark Caine

INSPECTOR