
Appeal Decision

Site visit made on 2 December 2020

by I Jenkins BSc CEng MICE MCIWEM

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 19th January 2021

Appeal Ref: APP/F3545/W/20/3254394
Common Road, Hopton, IP22 2QU

- 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 Mrs Linda Hawes against the decision of West Suffolk Council.
 - The application Ref DC/20/0548/OUT, dated 24 March 2020, was refused by notice dated 1 June 2020.
 - The development proposed is 2 no. dwellings.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The planning application subject of this appeal is in outline with all detailed matters except access reserved for future consideration.
3. On 5 September 2019, the Planning Inspectorate issued an appeal decision (Ref. APP/G0908/A/04/1163345) on a previous application for outline planning permission for the erection of 4 self-build dwellings within the appeal site. That appeal was dismissed and is a significant material consideration in the case now before me. The current appeal differs, not least, in that it involves the erection of 2 dwellings, rather than 4 in the case before my colleague.

Main Issues

4. I consider that the main issues in this case are the effect of the appeal scheme on the Council's spatial development strategy and on the character and appearance of the area.

Reasons

Spatial development strategy

5. The main section of the appeal site comprises an area of land situated to the rear of Lower House and Cherry Tree Cottage, 2 properties which front onto the northwestern side of Common Road. The appeal site also includes an access track, which runs between the facing side boundaries of those 2 neighbouring properties, linking the main section of the site to Common Road. The main section of the appeal site adjoins gardens of neighbouring properties to the northeast and agricultural land to the northwest and southwest.
6. Policy CS1 of the *St Edmundsbury Local Development Framework Core Strategy, 2010* (SECS) seeks to focus the majority of new housing

development within the towns of Bury St Edmunds and Haverhill, supported by appropriate levels of development in the rural areas in Key Service Centres, Local Service Centres and Infill Villages, which have a range of services and facilities to meet local needs. Hopton is identified as a Local Service Centre by SECS Policy CS 4. Policy RV3 of the Council's *Rural Vision 2031* gives encouragement to housing development within defined settlement boundaries. I consider that these Policies are consistent with the aims of the *National Planning Policy Framework* (the Framework), which seeks to focus development in locations well served by services and facilities and indicates that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. SECS Policy CS13 seeks to control development outside the defined settlements in the rural area through Policies set out in the Council's *Joint Development Management Policies Document, February 2015* (JDMPD). Policies DM27 and DM5 of the JDMPD identify a number of potential opportunities for housing in the countryside. In common with my colleague, who dealt with the previous appeal, I consider that those Policies, which allow some opportunities for development in the countryside and do not impose a blanket restriction, are generally consistent with the Framework.

7. The appeal site is situated in the countryside and outside the development boundary of Hopton. Furthermore, in my view, the proposal would not meet the full requirements of JDMPD Policies DM27 or DM5; a position which appears to be accepted by the appellant.
8. I conclude that the proposal would conflict with SECS Policies CS1, CS4 and CS13 as well as JDMPD Policies DM27 and DM5, and RV Policy RV3, and so undermine the Council's spatial development strategy.

Character and appearance

9. Lower House and Cherry Tree Cottage form part of a short row of residential development that fronts onto the northwestern side of Common Road and faces towards another short row of dwellings that front onto the opposite side of the highway. Whilst there is some variation in front garden depths, this small cluster of properties is characterised by a simple and limited linear pattern of development on either side of the highway. Situated some distance to the north of the built-up area of Hopton, it gives rise to a gradual transition between the built-up area and the open countryside.
10. There is no dispute that the appeal site comprises previously developed land, some features of its former use as a builder's yard, such as hardstanding, small mounds and piles of materials and the remains of a small open fronted, roofed structure being visible when within the site. However, from public vantage points, outside the site, the visual impacts of these relatively low-profile features are negligible and they do not materially contribute to the character or appearance of the area.
11. The scheme is in outline with layout reserved for future consideration. Nonetheless, given the position of the main area of the site, I consider it is likely that, in common with the previously rejected scheme, the proposed buildings would be set back, well beyond the front building lines of the neighbouring dwellings. This backland form of development would be at odds with the existing simple linear pattern of roadside development that characterises the existing cluster of properties. Furthermore, the added depth

of development, which would be easily discernible from Common Road, would consolidate the built development found hereabouts, to the detriment of the gradual transition between the built-up area and open countryside. As a result, it would harm the character and appearance of the area.

12. My colleague, who dealt with the previous 4 dwelling scheme, considered that *'whilst there may be scope on the site for a different quantum, layout and form of residential development that reflects the rural character of this edge-of settlement village location, I cannot be certain of this...'*. However, in my judgement, the scheme before me does not do this, for the reasons set out above.
13. Overall, I conclude that the proposal would harm the character and appearance of the area, contrary to JDMPD Policies DM2, DM22 and DM13 and SECS Policy CS3. In keeping with the aims of the Framework, which seeks to ensure that development is sympathetic to local character, between them, these Policies give encouragement to development that recognises and addresses the characteristics of the locality, and seek to ensure that the location of development will protect the character of the landscape, including the setting of settlements.

Other matters

14. Given the space within the appeal site, I consider that it would be possible to design and lay out the proposed dwellings in a manner which would not have an unacceptable impact on the amenities of neighbouring residents. This would be within the control of the Council when considering reserved matters. Furthermore, in my view, noise likely to be associated with the proposed dwellings, such as that caused by the comings and goings of domestic vehicles, would be unlikely to be significantly different to that associated with the former use of the site as a builder's yard. In my judgement, it is likely that the effect of the scheme on the living conditions of neighbouring residents would be acceptable. Furthermore, the access to the site is on the outside of a bend in Common Road and I consider that, as a result, the sightlines available to drivers emerging from the site would be sufficient to satisfactorily limit the risk that they would come into conflict with others travelling along the highway. The effect on highway safety would be acceptable. In these respects, the scheme would accord with JDMPD Policy DM2.
15. I have had regard to the Government's objective of significantly boosting the supply of homes and the Framework's aim of locating rural development where it will enhance or maintain the vitality of rural communities. However, whilst I acknowledge that the 2-dwelling scheme may well be built-out quickly, its contribution towards housing land supply in the area would be small and so I give it limited weight. I found that the appeal site is within a reasonable walking distance of the services and facilities found within the Hopton Key Service Centre (KSC), and so, in common with my colleague, I regard the KSC as being reasonably accessible from the site without relying on a car. However, the contribution made by future residents of only 2 dwellings to the viability and vitality of local shops, services and organisations would be small and any local employment associated with the construction of the scheme would be short lived. I give those benefits of the scheme limited weight.
16. Given the proximity of existing residential development, the proposed dwellings would not be isolated, and the proposed use would make more efficient and

effective use of the previously developed appeal site. However, the appellant acknowledges that it is outside the formal settlement boundary of Hopton and I have found that the scheme would harm the character and appearance of the area. Under these circumstances, I consider that it would not fit well with the aims of the Framework as regards the development of brownfield land within settlements or the effective use of land in meeting the need for homes while safeguarding the environment. The Framework also gives encouragement to the remediation of contaminated land. Contamination Assessments (CAs) submitted in support of the appeal scheme indicate that although there is a potential risk to human end-users from stockpiled soils within the site, this could be satisfactorily addressed as part of the scheme. However, the CAs do not indicate that existing contamination currently poses a risk to neighbouring residents. Whilst it has been suggested that without development the condition of the site may deteriorate further and/or pose a risk to human health, there is no evidence before me to show that this risk is significant. Overall, I consider that little weight is attributable to the benefits of the scheme in relation to these matters.

17. In common with my colleague who determined the previous appeal, I acknowledge that paragraph 11 of the Framework, which indicates that decisions should apply a presumption in favour of sustainable development, is a material consideration in this case. The appellant considers that the Council is effectively 'silent' in terms of policies and land allocations to deal specifically with the supply of self-build and/or custom housebuilding and that this triggers the so called 'tilted balance' set out in paragraph 11d)(ii). It indicates that where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
18. I have had regard to paragraph 61 of the Framework, which indicates that when determining the number of homes needed, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies, including those people wishing to commission or build their own homes. The Planning Practice Guidance identifies that a relevant authority should use the evidence of demand for this form of housing from its register of those who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding. Local authorities, such as the Council, are required under section 1 of the *Self-build and Custom Housebuilding Act 2015* (SBCH Act) to keep such a register and section 2(1) of the SBCH Act places a duty on relevant bodies to have regard to the register when carrying out its planning, housing, land disposal and regeneration functions.
19. Whilst the *Rural Vision 2031* identifies a need to promote initiatives to help facilitate self-build as a housing option, I am not aware of any Development Plan policies that specifically set out how the Council would meet an identified demand for self-build housing in its area. Nonetheless, in the case before me, the Council has confirmed that it has a register in place, and this is not disputed by the appellant. Furthermore, there is no evidence before me to show that there is an unmet registered demand for serviced plots, which might otherwise support specific policy provision for self-build and custom housebuilding in the Local Plan. Under these circumstances, I consider that the

absence of such a policy does not amount to a shortfall in policy provision. In relation to this matter, it is not clear whether the evidence associated with the previous appeal was the same as that in the case before me, which I have considered on its own merits. In any event, as I have identified above in relation to the main issues, there are relevant Development Plan policies in this case, which are consistent with the aims of the Framework.

20. Furthermore, the Council has indicated that it is able to demonstrate a five-year supply of deliverable housing sites. The appellant does not dispute that this is supported by the Council's 5-year Land Supply Statement. However, she considers that the position should be regarded as marginal, at best, and is cast into greater doubt by a number of factors. Whilst I understand that the Council's assessment has not been considered through the process set out in paragraph 74 of the Framework, nor has the appellant provided any compelling evidence to contradict its conclusion or to show that delivery, if currently slowed by the pandemic, would not be likely to be recovered and ultimately achieved over the five year period. Nor has it been shown that the conditions that led to a shortfall in housing delivery over past years in the St Edmundsbury part of the Council's area, as judged by the Housing Delivery Test Measurement 2019, are likely to compromise the Council's position. Based on the evidence before me, I consider that the Council's position can be relied upon and the conditions set out in footnote 7 of the Framework do not apply.
21. In addition, in my judgement, the Development Plan policies which are most important for determining the application are sufficiently consistent with the Framework so as to be considered up to date.
22. Therefore, I consider that the criteria of paragraph 11d)(ii) related to relevant and out of date policies are not met in this particular case. However, even if they were, I consider that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.
23. Whilst it is suggested that 11d)(ii) was considered to be triggered by my colleague, in my view the position on that matter is unclear. He dismissed the appeal having concluded that there were relevant policies which were not out of date and the proposal did not accord with the Development Plan. Furthermore, whilst he found that the benefits of the scheme would not significantly and demonstrably outweigh the harm identified, he did not explicitly apply the 'tilted balance'; whether the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits.
24. In addition to that associated with the appeal site, the appellant has drawn my attention to a number of previous appeal decisions related to other sites. However, based on the information provided, it is not clear that the circumstances in those cases are directly comparable to those in the case before me. For example, appeal decision Ref. APP/X3540/W/19/3232531 involved the conversion of an existing outbuilding to form a separate dwelling. Therefore, I have found them to be of little assistance in the determination of this appeal.

Conclusions

25. The proposal would undermine the Council's spatial development strategy and harm the character and appearance of the area. Notwithstanding that in some

other respects it would be consistent with policy, I consider on balance that the appeal scheme would conflict with the Development Plan taken as a whole.

26. Although a number of factors weigh in favour of the scheme, such as its contribution towards housing land supply, the supply of self-build plots and the regeneration of previously-developed land, amongst others, the benefits associated with the 2 dwelling proposal would be small. Even if the 'tilted balance' were applicable for the reasons cited by the appellant, in my judgement, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. The circumstances in this case do not indicate that a decision other than in accordance with the Development Plan would be justified.
27. For the reasons given above, I conclude on balance that the appeal should be dismissed.

I Jenkins

INSPECTOR