
Appeal Decision

Site visit made on 24 March 2021

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 April 2021.

Appeal Ref: APP/D3505/W/20/3263192
Brick House, Bury Road, Hitcham IP7 7PX

- 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 Michael and Andrea Hilliard against the decision of Babergh District Council.
 - The application Ref DC/20/00499, dated 4 February 2020, was refused by notice dated 9 July 2020.
 - The development proposed is 'the creation of a new single storey detached bungalow, involving the subdivision of the host property Brickhouse Farm, Bury Road, Hitcham IP7 7PX site'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the suitability of the location for the proposed dwelling, with particular regard to access to local services and facilities; and whether or not there is an identified local need for the proposed dwelling.

Reasons

Access to Local Services and Facilities

3. The appeal site is part of the grounds of Brick House, a Grade II listed building that is situated to the western end of the village of Hitcham. The site is an open grassed area to the north of Brick House.
4. Reference is made to an earlier unsuccessful application for residential development at the appeal site¹. While I note this earlier application and decision, this appeal involves a separate proposal which I have considered on its own merits.
5. Policy CS2 of the Babergh Core Strategy & Policies (2014) (the CSP) sets out the settlement pattern with regard to the plan's development strategy to 2031. Hitcham is identified as a Hinterland Village, which together with the other listed villages in this category, will accommodate some development to help meet the

¹ Ref DC/18/03474.

needs within them. While the site is outside the settlement boundary, the Council indicates that this is not a determinative factor upon which the application turns. Therefore, the proposal has been assessed against Policy CS11 of the CSP, as Policy CS2 requires.

6. Policy CS11 says that development in Hinterland Villages will be approved where proposals are able to demonstrate a close functional relationship to the existing settlement, as well as meeting a number of other criteria. The Supplementary Planning Document (SPD), *Rural Development & Core Strategy Policy CS11* provides guidance on interpreting Policy CS11. The SPD says that development proposals should be within recommended walking distances of available services and facilities, ranging from a desirable distance of 400 metres to a preferred maximum of 1200 metres. It also indicates that these distances should be considered alongside the quality and continuity of the footpath connection and that the need for and appropriateness of street lighting will be considered on a case by case basis².
7. There are a number of facilities within the walking distances from the appeal site indicated in the SPD, including bus stops, a public house, a post office/stores, churches, the village hall and a play area. The main parties refer to the fact that residents of Hitcham look to Bildeston and Hadleigh for most main service provision, with Bildeston relatively close as the appellants contend. Nonetheless, the facilities within the village should be accessible to meet day-to-day needs, as required by Policy CS11 and the SPD.
8. The appeal site is within the 30mph defined zone of the village, not 60mph as the Council states. However, there is no footpath available from the site of the proposed access along Bury Road until close to the White Horse public house. I acknowledge the appellants' contention that this is not a considerable distance. However, as I observed during the inspection, walking from the site to connect with the footpath involves negotiating several blind bends in Bury Road, with relatively high and narrow verges to the roadside. Consequently, this is not conducive to walking even relatively short distances due to concerns about pedestrian safety. This would be exacerbated during the hours of darkness because of a lack of street lighting.
9. The appellants draw attention to an appeal decision in Essex, in which similar accessibility issues were considered³. While I accept that the distances to facilities in larger settlements were not dissimilar to those involved here, the Inspector also found that the road into the village was not so narrow to prevent a cyclist or walker traversing it safely. I have found differently in this case and that, for the reasons given above, there are safety concerns. As such, this appeal decision cannot be seen as directly comparable to the proposal before me.
10. Reference is also made to a decision by the Council with regard to Magnolia House, Hitcham, which involved a successful residential proposal further outside the settlement boundary than in this case, with the same accessibility issues to village services and facilities. I accept on the basis of the available information that there appears to be some inconsistency of approach between the two

² Paragraph 15.

³ APP/Z1510/W/19/3242370 dated 30 June 2020.

decisions with regard to this particular issue. However, I have considered the appeal proposal on its merits and have found that it would not enable safe pedestrian access to local services and facilities and that in this regard there is not a close functional relationship to the existing settlement. In these circumstances, the previous permission cannot properly be a basis for overcoming these concerns. I give little weight to the arguments concerning the emerging Joint Local Plan given its early stage of preparation⁴.

11. The appellants raise a number of other matters concerning Policy CS11, particularly with regard to whether or not it is out-of-date in the context of the presumption in favour of sustainable development included in the National Planning Policy Framework (the Framework). These are considered below with regard to the planning balance in this case, which is separate to consideration of the main issues against relevant development plan policies.
12. Accordingly, for the reasons given above, I conclude that this would not be a suitable location for the proposed dwelling, with particular regard to access to local services and facilities, due to the conflict with Policy CS11 of the CSP and the SPD.

Local Housing Need

13. Policy CS11 of the CSP includes the requirement that development proposals should meet a proven local need, such as affordable housing or targeted market housing identified in an adopted community local plan/neighbourhood plan. I note that there is currently not a neighbourhood plan that includes Hitcham, although the appellants indicate that the Parish Council have approached the District Council to allocate a neighbourhood plan area.
14. The SPD provides guidance on this aspect of Policy CS11. It says that proposals should be accompanied by a statement that analyses the local housing, employment and community needs of the village and how they have been taken into account in the proposal. It is anticipated that such statements should be prepared in consultation with the Council using evidence from a number of sources.
15. I am not aware that these sources are specified, but in this case the appellants contend that there does not appear to be any specific local needs information available for the village. There is no other evidence to suggest that this contention is inaccurate. The Council refers to the 2014 Suffolk Housing Needs Survey, which shows a demand for smaller homes across all tenures and that affordability is a key issue. However, this survey is now somewhat dated and does not reflect the finer grain of local need focused on Hinterland Villages expected by Policy CS11.
16. The appellants note that there were no new properties completed in the village, between 2014/15 and 2017/18, although the position for more recent years is not clear. Reference is also made to a proposal for a single dwelling in Brettenham⁵, also a Hinterland Village where Policy CS11 applies, where the Council applied a flexible approach to this issue and decided that the relevance of a housing needs survey to a single dwelling development is very limited.

⁴ In accordance with paragraph 48 of the National Planning Policy Framework.

⁵ Ref DC/18/03627.

Given the apparent lack of up-to-date information on which the appellants can base an assessment of local need, I agree with the approach taken by the Council in the other proposal, that while there is some conflict in policy terms, this omission should not be considered fatal to this proposal for a single dwelling.

17. Therefore, for these reasons, I conclude that while there is no identified local need for the proposed dwelling, the lack of apparent evidence on which to base an assessment of need means that, in the particular circumstances of this appeal, any conflict with Policy CS11 is reduced to the extent that there is no resultant harm from the proposal for a single dwelling.

Other Matters

18. I have had regard to all other matters raised, including by interested parties both in support of and opposing the proposal. While I acknowledge the concerns raised about the possible effects on the setting of the Grade II listed Brick House, the proposed dwelling would be well-separated from the listed building to the south and it would largely be built into the landscape. I note in this regard that the Council's Heritage and Design Officer found that in views from the surrounding land it will appear very subtle. Based on the site inspection and appeal submissions, I agree. As such, it would preserve the setting of the listed Brick House. In reaching these findings I am particularly mindful of the statutory requirement for decision makers to have special regard to the desirability of preserving the setting of a listed building⁶.
19. For the same reasons, the proposal would not have a harmful effect in views from the surrounding landscape. While the site is currently relatively open, the landscaping proposed will further mitigate any visual effects. I have no evidence to suggest that the landscaping cannot be successfully implemented or that it would need to take place on land outside the defined site; or that the green roof would not be maintained. Concerns about the reflective effects of glazing or illumination at night would be overcome by the position of the building close to the ground and the fact that it is not distant from the edge of the village where these effects are already apparent from other buildings.
20. Management of excavated soil could be addressed through a Construction Method Statement, required by condition. I disagree that the access would be too close to the bend in the road to the south. This is within the village's 30mph speed limit zone and the plans show that the requisite sightline distances could be achieved.
21. Concerns are also raised about the possible effect of the proposed access on the existing hedgerow to the site frontage. The Highway Authority indicates that visibility splays of 90 metres in either direction are required by condition in accordance with its own standard access layout; the extent of these are shown on submitted drawing reference D.PR.0.06.5, albeit not in any detail. I note that the Design and Access Statement submitted with the application says that the current established hedgerows, trees and other planting to the street and side boundaries are to be retained and are not affected by the proposal. However, due there being no footpath, the boundary hedge is directly next to

⁶ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

the road. As such, based on the site inspection it is not clear that the required form of access could be achieved without a material effect on the hedgerow. It appears that there are no submitted drawings that show clearly the proposed site frontage, although drawing reference D.PR.1.6 shows a 3D view of the dwelling from the rear. The shows an open frontage, which appears not to reflect the intent in the Design and Access Statement. Furthermore, drawing reference D.PR.0.07 shows the view from above with some trees either retained or planted, but it is not clear how this relates to the required visibility.

22. The hedgerow includes a number of trees and this overall feature makes an important contribution to the rural character and appearance of this part of the road as it approaches the village, including close to Brick House south of the site. In the circumstances described, material changes to, or loss of, the hedgerow and trees cannot be discounted, which would have a harmful effect on the character and appearance of the area. While this is not a main issue, it has nonetheless been raised by a number of interested parties and, therefore, I am required to have full regard to it. Moreover, given that these representations were made in respect of the planning application, the appellants have had the opportunity to respond, although I am not aware there is any clarification of the position. Consequently, given the lack of certainty, this is a substantive matter that weighs against the proposal. I have considered whether this matter could be addressed by a condition, but given the lack of certainty created through the particular circumstances of this case, this would not be feasible.
23. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions⁷. It says that plans and decisions should apply a presumption in favour of sustainable development⁸. In the circumstances of this appeal where there are relevant development plan policies, this requires an assessment of whether the policies which are most important for determining the application are out-of-date.
24. The most important policies are included in the CSP, which pre-dates the current Framework. However, the Framework is clear that existing policies should not be considered out-of-date simply because they were adopted prior to the Framework's publication. Due weight should be given to them according to their degree of consistency with the Framework⁹.
25. The Council has indicated that with regard to Policy CS2 of the CSP, the fact that the site is outside the settlement boundary is not a determinative factor upon which the application turns. As such, Policy CS2 is not mentioned in the decision notice. However, Policy CS2 is an important policy with regard to this proposal because of its relationship with Policy CS11. In particular, Policy CS2 sets the settlement pattern on which Policy CS11 is based and requires CS11 to be engaged for development proposals, which is the case here.

⁷ Paragraph 2.

⁸ Paragraph 11.

⁹ Paragraph 213.

26. The appellants draw attention to three recent appeal decisions in which Policies CS2 and CS11 were relevant¹⁰. In each case the Inspector found that the exceptional circumstances for development in the countryside beyond settlements, found in Policies CS2 and CS11, are not wholly consistent with the Framework, which only applies to isolated development. Given this consistency of findings and the lack of any change to the policy position, I agree and therefore find also that Policies CS2 and CS11 are not wholly consistent with the Framework and so, for the purposes of this appeal, should be considered to be out-of-date.
27. Consequently, despite the Council being able to demonstrate a five year housing land supply, the presumption in favour of sustainable development is engaged. This requires that permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole¹¹.
28. I have found that the proposal is in conflict with the development plan with regard to the requirement in Policy CS11 that development in Hinterland Villages will be approved where proposals are able to demonstrate a close functional relationship to the existing settlement. However, in this case this relates solely to the accessibility of the site to village facilities by non-car modes. In this regard the Framework says that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making¹². As such, it is to be expected that some journeys from the site to essential services and facilities will be made by vehicle and these would not involve significant distances; this greater flexibility of approach weighs in favour of the proposal.
29. While the Council can demonstrate a five year housing land supply, an objective in the Framework is to boost the supply of housing. The provision of a single dwelling must, therefore, be considered of some benefit. I give some weight also to the fact that this would employ sustainable construction techniques and materials, and that there would be some short-term economic benefits from its construction. Moreover, its occupants would support the local economy.
30. However, I have also found based on the appeal submissions and site inspection that there is no certainty that the proposal will not result in material harm to the character and appearance of the area through the effects of the proposed access on the established hedgerow and trees. The proposal could, therefore, result in conflict with the Framework, which requires development to be sympathetic to local character, including the surrounding landscape setting¹³, in which case the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Accordingly, on the basis of these findings and the uncertainty that exists, it is not possible to conclude that the presumption in favour of sustainable development should apply.

¹⁰ APP/D3505/W/19/3242769 dated 30 June 2020, APP/D3505/W/20/3246576 dated 2 July 2020 and APP/D3505/W/20/3249004 dated 7 September 2020.

¹¹ Paragraph 11(d)(ii).

¹² Paragraph 103.

¹³ Paragraph 127.

Conclusion

31. I have found in the appellants' favour with regard to the main issue concerning local housing need. I have also found that the conflict with the development plan with regard to the other main issue, concerning access to local services and facilities, is reduced due to a more flexible approach in the Framework, which is a material consideration in planning decisions. However, the presumption in favour of sustainable development does not apply because of the uncertainty concerning the possible effects of the proposed access; in particular whether or not this would result in material harm to local character and landscape, which would be in conflict with the Framework. Given this lack of certainty that there would not be conflict with the Framework as a result of the proposed development, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR