

Appeal Decision

Site visit made on 9 December 2021

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th January 2022

Appeal Ref: APP/D3505/W/21/3272507

Land south of The Street, Aldham IP7 6NH

- 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 R Groom against the decision of Babergh District Council.
 - The application Ref DC/20/04784, dated 13 October 2020, was refused by notice dated 6 January 2021.
 - The development proposed is demolition of buildings & erection of up to 4 no. dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is for outline planning permission with all matters reserved for subsequent consideration. Drawings marked as 'indicative proposed block plan' have been provided, which show the layout, access and landscaping related to three and four dwellings on the appeal site¹. As these are reserved matters I have treated the plans as indicative only, as intended.
3. I note that the Council does not wish to defend its third reason for refusal concerning the effect of the proposal on the Stour and Orwell Estuaries Special Protection Area. It indicates that the appellant has provided an appropriate contribution in accordance with the Suffolk Recreational Avoidance and Mitigation Strategy.
4. The Aldham Neighbourhood Plan 2018-2036 (2020) (the NP) has been made and forms part of the development plan.

Main Issues

5. The main issues are:
 - the suitability of the location for the proposed dwellings, including whether the dwellings would meet a local housing need, whether occupants would have adequate access to services and facilities without undue reliance on private vehicle use, and the effect on locally designated green space; and
 - whether adequate information has been provided with regard to possible land contamination.

¹ Drawing refs 0633 no. 3 and 0633 no. 4 rev. A.

Reasons

Suitability of the Location

6. The appeal site is part of an open field, which includes some derelict structures, situated between dwellings forming sporadic development along the southern side of The Street. Dwellings within the Built-Up Area Boundary (BUAB) defined in the development plan are in a linear layout on the northern side of the road opposite the appeal site.
7. 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. Aldham is identified as a Hinterland Village, which together with the other listed villages in this category, will accommodate some development to help meet the needs within them. Policy CS2 requires all proposals within Hinterland Villages to be assessed against Policy CS11 of the CSP. I note that Aldham is proposed for designation as a hamlet in the Council's emerging Joint Local Plan, which is now at examination. However, I am unaware of any other information relating to this proposed designation, including whether there are outstanding objections to it. Consequently, I give the emerging plan limited weight for the purposes of this appeal decision².
8. Policy CS11 provides criteria for assessing development proposals in Hinterland Villages. The Council indicates that the proposal meets all the relevant criteria, except for the third. This requires that the proposal should meet a proven local need, such as affordable housing or targeted market housing identified in an adopted community plan/neighbourhood plan.
9. Policy ALD1 of the NP says that proposals for development located outside the BUAB, as in this case, will only be permitted where it can be satisfactorily demonstrated that there is an identified local need for the proposal and that it cannot be satisfactorily located within the BUAB. Policy ALD2 sets out in more detail the approach to housing development, including that the provision of around 15 dwellings in the plan period will be met by allocated sites, small windfall sites of one or two dwellings within the BUAB, or conversions and new development opportunities outside the BUAB in accordance with paragraph 79 (now paragraph 80) of the National Planning Policy Framework (the Framework). The proposal is for up to four market houses outside the BUAB and, therefore, does not meet the requirements of Policy ALD2.
10. My attention is drawn by the appellant to a recent appeal decision³. While I acknowledge that there are some similarities to the current case, there are also substantive differences. In particular, in the earlier appeal there was not a made neighbourhood plan for the settlement in question, unlike in this case. I acknowledge the principle that it would not be proportionate for all small developments to require a local housing need. However, Policy CS11 places an onus for demonstrating local need on a neighbourhood plan, where one exists. The fact that there was no such plan in the earlier appeal resulted in a separate consideration of need, which is not necessary in the same manner in this case because of the existence of the NP. In particular, Policy ALD2 indicates the requisite level of new housing for Aldham and provides detailed and specific

² In accordance with paragraph 48 of the National Planning Policy Framework.

³ APP/D3505/W/19/3242769 dated 30 June 2020.

criteria for considering development proposals in the context of Aldham's role as a Hinterland Village within the wider settlement pattern and future development strategy.

11. The appellant contends that the number of homes in the village reduced from 2001, that only two new homes were built between 2001 and 2018, and that allocations in the NP are a minimum to meet local needs. However, Policy ALD2 provides flexibility to enable small windfall sites and other forms of rural housing to come forward in addition to allocations, to meet local needs. Given that the proposal fails to meet any of the relevant criteria, arguments about housing need for 2 and 3-bedroom dwellings both locally and in a broader district-wide context, cannot readily overcome this conflict. I note also in this regard that the Council can demonstrate a five year supply of housing land. The fact that four 4-bedroom dwellings were permitted in the earlier appeal does not have a direct bearing, given that the policy context was fundamentally different with no neighbourhood plan in place with detailed, relevant policies.
12. I agree with the appellant that Policy CS11 does not include a criterion relating to access to services and facilities. However, the Council refers to Policy CS15 of the CSP, which applies to all development proposals and which includes the requirement that development should seek to minimise the need to travel by car. As Aldham includes no services and facilities, residents are reliant on those in the neighbouring village of Elmsett, just over a mile away. There are some local bus services available but these are infrequent, as outlined by the Council. Moreover, based on the site inspection the lack of footpaths and lighting plus limited rural road widths make the journey between settlements not conducive for walking or cycling. Consequently, most journeys would take place by private vehicle.
13. The Framework indicates that opportunities to maximise sustainable transport solutions will vary between urban and rural areas⁴; and that where there are groups of smaller settlements, development in one village may support services in a village nearby⁵. However, this matter needs to be considered in the context of the development plan, which deems Aldham appropriate for only a limited amount of growth, controlled through the tightly defined settlement boundary and limited other development opportunities.
14. I note the appellant's contention that the site's location makes little difference with regard to accessibility given that it is close to the settlement boundary and to other dwellings. However, the provision of up to four dwellings is not insignificant given the size of the existing settlement and its limited planned growth. The proposal is contrary to the planned spatial strategy in the development plan and would undermine its objectives as a whole, including minimising the need to travel by car. In this context, the approved application for two dwellings referred to by the appellant⁶ cannot be considered as a direct precedent for the appeal proposal, particularly as there appears to have been no neighbourhood plan in place in that case.
15. The site frontage is identified in the NP as Local Green Space. Policy ALD6 says that development on it will only be permitted in very special circumstances.

⁴ Paragraph 103.

⁵ Paragraph 78.

⁶ Ref DC/20/02074.

The application is for outline permission and therefore layout and landscaping are reserved matters. Nonetheless, based on the development plan designation and appeal submissions, I accept that it would be possible to develop the site without impinging on the green space to the site frontage. Moreover, the protected space could be enhanced through careful landscaping. As such, I conclude that the proposal would not harmfully effect the locally designated green space and so there is no conflict with Policy ALD6 of the NP.

16. Accordingly, taking these findings as a whole and for the reasons given, I conclude that the appeal site is not a suitable location for the proposed dwellings, particularly as they would not meet a local housing need and because occupants would not have adequate access to services and facilities without undue reliance on private vehicle use. However, there would be no harmful effect on locally designated green space. Nonetheless, the proposal is contrary to Policies CS2, CS11 and CS15 of the CSP and to Policies ALD1 and ALD2 of the NP, all as described above.

17. I have had regard to the appellant's contention that there is a lack of conformity between CSP policies, particularly CS11 and those in the NP. However, as a strategic development plan policy, Policy CS11 reasonably places an emphasis for proven local need for development on non-strategic policies such as ALD1 and ALD2 in neighbourhood plans⁷. As such, I find nothing unusual in this relationship. Moreover, the appellant's references to the sequential approach to site selection in Policy CS11 applies to development in Core Villages rather than a Hinterland Village as is the case here. Finally, I can find no evidential basis from the information before me to suggest that Policy ALD2 or other NP policies are promoting less development than provided for through strategic development plan policies.

Land Contamination

18. The Council took the view in determining the application that there was insufficient information about potential land contamination, as a Phase 1 Desk Study was not submitted. The appellant has provided the appropriate Study as an appeal submission. This concludes that the site may contain potential sources of contamination and recommends a Phase 2 assessment at reserved matters stage secured by a condition.

19. I accept in the circumstances that this would be an appropriate approach to this matter. Moreover, as the Council has not had a chance to consider the report, it would be prudent to give it the opportunity to do so. However, given the findings and conclusion on the first main issue which would result in the appeal's failure, this matter is not determinative and does not have a direct bearing on the outcome. As such, there is no basis to take further action through this appeal decision.

Other Matters

20. I have had regard to all the representations made by interested parties both for and against the proposal. These do not, however, raise any additional matters in relation to the main issues that would lead me to reach a different overall

⁷ Paragraph 18 of the Framework confirms, contrary to the appellant's assertion that ALD1 and ALD2 are strategic policies, that neighbourhood plans contain just non-strategic policies.

conclusion; or they raise issues more appropriately addressed in relation to the reserved matters.

21. The Framework requires that plans and decisions should apply a presumption in favour of sustainable development⁸. The Council indicates that it can demonstrate the requisite five year supply of housing land. Consequently, the presumption is not engaged as a result of housing under-supply.
22. The most important policies are included in the CSP and NP, which pre-date 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 its publication. Due weight should be given to them according to their degree of consistency with the Framework⁹.
23. The exceptional circumstances for development in the countryside beyond settlements, found in Policies CS2 and CS11 of the CSP, are not wholly consistent with the Framework, which only applies limitations to isolated development. While I note the findings in the earlier appeal referred to by the appellant¹⁰, I consider that as Policies CS2 and CS11 are not wholly consistent with the Framework and are most important for determining the application given that they relate to the spatial strategy and provide a strategic context for the relevant NP policies, for the purposes of this appeal they should be considered to be out-of-date. I give some weight also to the conclusion reached in the earlier appeal concerning the status of Policy CS15 of the CSP, but I consider this to be of less importance than CS2 and CS11 in the context of this appeal.
24. Consequently, 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.
25. 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 up to four dwellings must, therefore, be considered of some benefit. I give some weight to the fact that the development could provide net gains in biodiversity, although the development proposed is not the only means of preventing fly-tipping on the site.
26. However, I have found with regard to the main issues that the proposal conflicts with the NP. The Framework says that in situations where the presumption applies to applications involving the provision of housing, as in this case, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided four criteria all apply¹². All of these are met in this case: the NP became part of the development plan in January 2020, two years before this decision; the NP contains policies and allocations to meet its identified housing requirement; the Council has at least a three year supply of deliverable housing sites; and the

⁸ Paragraph 11.

⁹ Paragraph 219.

¹⁰ APP/D3505/W/19/3242769 dated 30 June 2020.

¹¹ Paragraph 11(d)(ii).

¹² Paragraph 14.

Council's housing delivery was at least 45% of that required over the previous three years.

27. Given the clear conflict with policies in the NP and that all four criteria required by the Framework are met, I conclude that the adverse impacts of granting permission in this case significantly and demonstrably outweigh the benefits. Consequently, the presumption in favour of sustainable development does not apply.

Conclusion

28. Despite the lack of harm to a locally designated green space, it has been found that the appeal site is not a suitable location for the proposed dwellings. The presumption in favour of sustainable development does not apply and there are no other material considerations that outweigh the conflict with the development plan. Accordingly, it is concluded that the appeal should be dismissed.

J Bell-Williamson
INSPECTOR