
Appeal Decision

Site visit made on 8 February 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2022

Appeal Ref: APP/D3505/W/21/3275718

Land south of Daking Avenue, Boxford, Suffolk, CO10 5AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr and Mrs Keeley against Babergh District Council.
 - The application Ref DC/20/05283, is dated 12 November 2020.
 - The development proposed is Erection of 6 dwellings, ancillary outbuildings, vehicular access and associated works (including access to Primrose Wood).
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Decision

1. The appeal is dismissed and planning permission is refused.

Applications for costs

2. An application for costs was made by Mr and Mrs Keeley against Babergh District Council. This application is the subject of a separate decision.

Preliminary Matters

3. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). The main parties have been provided with an opportunity to comment on the revised Framework and I have had regard to it in considering this appeal.
4. The appeal was submitted on 25 May 2021 against the failure of the Council to give notice of a decision on an application for planning permission. The Council issued a decision notice on 28 May 2021 after the appeal was submitted. This does not alter the fact that the appeal is against the non-determination of the planning application by the Council. Nonetheless, the decision notice and Officer Report provided by the Council provide the basis upon which I have defined the main issues relevant to this appeal.
5. The appeal site has a relatively extensive planning history, including two appeal decisions. The first, which was subject of a Public Inquiry, was determined on 20 November 2018¹ and involved an outline proposal for 22 dwellings (the '2018 Appeal'). The second, dealt with through the written representations procedure, was determined on 10 March 2021² and involved an outline proposal for 2 dwellings (the '2021 Appeal'). The conclusions reached by the Inspectors in relation to these appeals are relevant to the consideration of this current appeal. However, each involved a different quantum of development

¹ PINS Reference: APP/D3505/W/18/3197391

² PINS Reference: APP/D3505/W/3262125

and differing main issues. I have had regard to these decisions insofar as they are relevant to the main issues of this appeal.

Main Issues

6. The main issues are:

- The principle of the proposed development with specific regard to its location.
- The effect of the proposed development upon the character and appearance of the appeal site and surrounding area.
- The effect of the proposed development on highway safety.

Reasons

Principle of Development

7. The appeal site is located outside of, but adjacent to, the Built Up Area Boundary (BUAB) of Boxford as defined within the development plan. Core Strategy³ Policy CS2 outlines that in the countryside, outside the towns/urban areas, Core and Hinterland Villages, development will only be permitted in exceptional circumstances subject to a 'proven justifiable need'. Policy CS2 does not define what is meant by 'proven justifiable need'. However, Policy CS11 sheds light on this. Policy CS11 allows for development outside of the BUAB of Core Villages, such as Boxford, subject to certain criteria. One such criterion is that the development meets a 'locally identified need - housing and employment, and specific local needs such as affordable housing'.
8. The appellants assert that the proposed development meets such a need based on responses to the Boxford Neighbourhood Plan Questionnaire in February 2019. However, it is not clear whether this questionnaire canvassed local opinion on the types of development which would be preferred within the village or in relation to the specific needs of people for different types and tenures of housing. Furthermore, there is no evidence to indicate the number of respondents, the geographical area within which the survey was undertaken, the demographic of respondents, nor the existing circumstances of the respondents with regard to housing (which may have changed since 2019). As such, I do not consider that this survey provides a basis upon which to conclude that there is a proven justifiable need for the type and tenure of residential units proposed.
9. Given that the proposed development would be located outside of the BUAB, and in the absence of any compelling evidence of a proven justifiable need, it would conflict with Core Strategy Policies CS2 and CS11.
10. Policy CS11 is also relevant to the effect of the development upon the character and appearance of the surrounding area, as discussed further in relation to 'character and appearance'.
11. The site is also located within an area of land allocated under saved Local Plan⁴ Policy HS21. This policy allocates the land to the east of the site for housing. Planning permission has been granted for this residential development, which

³ Babergh Local Plan 2011-2031 – Core Strategy & Policies (Part 1 of New Babergh Local Plan), February 2014

⁴ Babergh Local Plan – adopted June 2006

has recently been constructed. Policy HS21 indicates that 2.4 hectares of land to the south and west of the residential allocation is allocated for recreational use comprising open space and extensive tree landscaping. The policy indicates that this area of land is necessary to mitigate the impact of the allocated residential development. With reference to Local Plan Inset Map 9, the appeal site is within the area of land allocated for open space and landscaping. Notwithstanding this, the Council's Officer Report indicates that an area of landscaped open space was provided as part of the approved residential development in a different location, on the opposite side of the River Box. Nonetheless, the proposed development would conflict with Policy HS21, given that it would be located within an area of land allocated for open space and landscaping.

Character and Appearance

12. The appeal site comprises a large proportion of an area of grassland which abuts the built-up residential areas along Daking Avenue and Goodlands. The wider area of grassland makes up the northern side of a small valley which slopes down towards the River Box, providing attractive views towards the river and open countryside beyond. The appeal site sits on a plateau at the top of the valley slope. A public right of way runs around the perimeter of the site, linking the surrounding residential areas with an area of managed open space on the opposite side of the river, accessible via a footbridge.
13. The residential development to the north of the site typically comprises of relatively modern terraced and semi-detached two storey properties. To the east of the site, a recently constructed development typically comprises larger two storey detached, semi-detached and terraced properties.
14. The proposed development would include 6 relatively large dwellings with spacious residential curtilages. The dwellings would be located along the perimeter of the site with a single access road located centrally. The proposed proliferation of development in this location would have a harmful urbanising effect which would completely alter the visual characteristics of the valley as it descends towards the River Box. Indeed, the sweeping nature of the valley would be reduced such that the settlement would abruptly give way to a steep valley slope with shortened views towards the open countryside beyond. In this regard, the unique rural valley character of this edge of settlement location would be significantly eroded as a result of the proposed development.
15. I accept that the proposed development could lead to some softening of the existing hard urban edge of the settlement, through appropriately designed landscaping. However, this would not overcome the visual harm that the proposed development would cause to the character of the valley slope in this visually sensitive edge-of-settlement location. The site itself, as an unmanaged area of grassland, provides a transition towards the wider countryside beyond and this constitutes a more valuable contribution to the setting of the settlement than could be achieved through the limited landscaping proposals possible as part of the proposed development. For the same reason, a condition requiring landscaping on other land within the appellants' ownership would not sufficiently mitigate the harm caused.
16. In addition, the spacious layout of the proposed development would jar with the more compact residential layout of the existing properties to the north and east and this would lead to an appearance of detachment from these

surrounding residential areas. This would be further compounded by the single-storey scale of the properties proposed and would be completely at odds with the prevailing two-storey pattern of surrounding residential development. The overall effect would be that the development would have an awkward appearance which would not be well integrated with its surroundings.

17. The proposed development would have an unacceptable harmful impact upon the character and appearance of the appeal site and surrounding area and it would therefore conflict with Core Strategy Policies CS11 and CS15, which seek to ensure that new development is in keeping with local character and the landscape characteristics of settlements, respectively.
18. Core Strategy Policy CS2 does not refer specifically to character and appearance and is therefore not relevant to this main issue.

Highway Safety

19. The proposed development would include a vehicular access off Daking Avenue. This road links with Swan Street, which leads towards the centre of the village and would provide the most likely route for vehicles leaving the appeal site and travelling towards the centre of Boxford. Swan Street is relatively narrow and the evidence before me, combined with observations that I made during my site visit, indicates that there are often parked cars on one side of the road. This limits the width of the carriageway and it is understood that this leads to congestion during peak hours. Indeed, the 2018 Appeal was dismissed partly on the basis of an adverse impact on highway safety as a result of the increased conflicts between road users travelling along Swan Street.
20. In indicating their intention to refuse planning permission, the Council has relied in part on the conclusions reached by the Inspector in respect of the 2018 Appeal. However, the development proposed in that case involved 24 dwellings - a far higher quantum of residential development than the 6 dwellings currently proposed. Indeed, in relation to the 2018 appeal it was common ground that the development would have resulted in between 7 and 8 additional vehicle movements during morning and evening peak hours. In contrast, in relation to this appeal, the Highway Statement submitted by the appellants as part of the planning application indicates that the proposed development would generate just 2 additional vehicular movements in the peak hours. The Highway Authority (HA), who did not object to the proposed development, concurred with this assessment.
21. Whilst I acknowledge that the road characteristics of Swan Street are constrained, an additional 2 vehicular movements during peak hours would have a negligible and almost imperceptible impact on existing vehicular congestion and any associated conflicts between road users.
22. The Council has suggested that the impact of the proposed development should be considered with regard to recent planning permissions which have been granted for residential development. However, the precise case-specific circumstances of the cases highlighted are not before me. For example, insufficient details have been provided with regard to the precise locations of those schemes and their proximity in relation to Swan Street. Nor have sufficient details been provided to evidence the granting of those permissions and the likelihood of those schemes being implemented. As such, the

permissions cited by the Council cannot reasonably be considered to cumulatively tip the balance against the proposed development in terms of the impact of the scheme on highway safety.

23. For these reasons, the proposed development would not result in an adverse impact on highway safety and it would not conflict with Framework Paragraph 111, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
24. None of the development plan policies referred to in the Council's indicative reasons for refusal relate specifically to highway safety. Accordingly, I find no conflict with the development plan.
25. The evidence before me also indicates that the Council considers that the increased traffic generation will give rise to an adverse impact on the 'amenity of individuals using Swan Street'. However, there is no compelling evidence to indicate what harm would be caused in this respect. In any case, given my conclusion that the increase in vehicular movements would be negligible, I do not consider that there would be any unacceptable harm in this regard.

Planning Balance

26. I have been directed to appeal decisions in the district where Inspectors have found Core Strategy Policy CS2 to be inconsistent with the Framework. However, in considering the 2021 Appeal on this site, the Inspector concluded that 'the BUAB has also served a role in preventing the unplanned spread of development in a sporadic and piecemeal fashion, thus recognising the intrinsic character and beauty of the countryside and the landscape setting this provides the settlement'. In reaching this conclusion the Inspector outlined that Policy CS2 was consistent with the previous version of the Framework.
27. I acknowledge that the need to demonstrate a proven justifiable need for the development is a test which is not wholly consistent with the Framework. However, in this case the main issues are the impact of the development on the character and appearance of the area and the role that the development plan policies play in ensuring development meets that aim, through avoiding unplanned and sporadic development. These are both aims which are consistent with the Framework. Specifically, paragraph 130 of the Framework seeks to ensure that development is sympathetic to local character and Paragraph 15 outlines that planning should be genuinely plan-led. For these reasons I concur with the approach taken by the Inspector in the 2021 Appeal and I consider that the most important policies in the consideration of this appeal are broadly consistent with the Framework. As such, the policies which are most important for determining the appeal are not out-of-date and Framework Paragraph 11d ii is therefore not engaged.
28. With regard to Local Plan Policy HS21, it is evident that the open space envisaged under this allocation has been provided elsewhere. The Council indicate that the open space and landscaping aspect of this allocation is still necessary to mitigate the impact of the recently approved and implemented residential development to the east of the site. However, in granting permission for that site, the Council must have considered that the development was acceptable on its own merits, including in terms of its impact on the character and appearance of the surrounding area. As such, given these

considerations, the weight to be afforded to Policy HS21 is limited. However, that does not detract from the harm caused by the development in relation to the character and appearance of the area. In this essence it is not one of the most important policies in the consideration of this appeal and does not, therefore, result in Framework Paragraph 11d ii being engaged.

29. Turning to the benefits of the proposed development, 6 dwellings are proposed. There would be social and economic benefits associated with the increase in the housing stock. However, given the relatively small scale of the proposed development these benefits would be limited. Furthermore, there is no compelling evidence to indicate that there is a specific need for the type and tenure of residential units proposed (as outlined in my earlier conclusions on this matter) over and above other types and tenures. As such, no additional weight can be afforded to the social and economic benefits in this regard.
30. That the site has good access to the services and facilities in Boxford and further afield is not a benefit of the proposed development. This is because the Framework aims to guide significant residential development to locations with good access to services and facilities. This is therefore a factor which carries neutral weight.
31. The existing PROW could be improved as part of the proposed development which would be a further moderate benefit of the proposed development.
32. Taken together, the moderate benefits associated with the proposed development would not be sufficient to outweigh the substantial harm that it would cause to the character and appearance of the surrounding area and the conflict with the Council's strategy for the location of residential development.

Conclusion

33. The proposed development would not result in an adverse impact on highway safety. However, this would be a lack of harm and thus would have a neutral effect. The principle of the appeal scheme would be unacceptable and would give rise to harm to the character and appearance of the area. This would lead to conflict with the development plan. I ascribe substantial weight to these matters.
34. There are no other material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal should therefore be dismissed, and planning permission refused.

Luke Simpson

INSPECTOR