



Appeal Decision

Site visit made on 30 November 2021

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 14th March 2022

Appeal Ref: APP/D3505/W/21/3273812

Lynwold, Old Bury Road, Alpheton CO10 9BT

- 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 The Spartan Group against the decision of Babergh District Council.
 - The application Ref DC/20/05511, dated 26 November 2020, was refused by notice dated 31 March 2021.
 - The development proposed is the erection of a detached dwelling and the construction of vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the appeal form rather than the original application, as the main parties have provided written confirmation that a revised description of development has been agreed.
3. The appellant has referred to the emerging Local Plan (eLP). The eLP has not yet been formally adopted by the Council and its proposed principle of settlement hierarchy and settlement boundaries are under review. The elements of the eLP referred to are consequently not at an advanced stage. Therefore, in accordance with paragraph 48 of the National Planning Policy Framework 2021 (the Framework), whilst I have had regard to those policies I attach only minimal weight to them in my consideration of this appeal.
4. In determining another appeal in the same district my attention has been drawn to a number of other appeal decisions. In some of these decisions the policies which were most important for determining those applications were assessed to be out-of-date for the purposes of paragraph 11d) of the Framework, thus triggering the "tilted balance". Some of these policies are relied on by the Council in refusing permission in this case. As a result, I sought the comments of the main parties on any relevance of the approaches of the other decisions in order to take account of all potentially relevant considerations.

Main Issue

5. The main issue is whether the appeal site would be a suitable location for the scheme, having regard to the spatial strategy for the area.

Reasons

6. The appeal site lies outside the areas and settlements defined by Policy CS2 of the Babergh Core Strategy (2014) (the CS) and is consequently categorised as “countryside”. This policy sets out that development in such locations will only be permitted in exceptional circumstances, subject to a proven justifiable need.
7. Alpheton is a small settlement which has a village hall, a play area and a mobile library service. The settlements of Lavenham and Long Melford lie within approximately 4 miles and offer further services and facilities. Nevertheless, the route between Alpheton and these settlements requires use of the A134 road, which generally lacks separate provision for walkers or cyclists and which carries regular traffic at speeds which would render it unattractive for use by these means. The submission that a cycle route to Lavenham is available is unsupported by substantive evidence. Thus, given these elements and the distances involved, I do not consider that these would form realistic routes for occupants of the proposed development to regularly walk or cycle at all times of the year.
8. Details of a bus service between Bury St Edmunds and Sudbury which stops at Alpheton are provided with the appeal. However, the services to both settlements would not allow for the completion of a standard full working week according to the current schedule, and because an earlier service runs during school term-times only. Accordingly, I consider the available bus timetable from the site to offer a restricted level of provision.
9. Details of local businesses which may provide relatively specialised employment opportunities and of an opportunity to purchase local produce are also submitted. However, these are limited in each case and one of the businesses disputes the claim that they would offer employment. Thus, it is most likely that occupiers of the proposed development would need to travel elsewhere for such opportunities.
10. The suggestion that Alpheton’s depiction within the current local plan as a hinterland village associated with two Core Villages supports development in Alpheton is unsubstantiated by any further evidence. Thus, I attach only minimal weight to the submission.
11. A previous planning appeal¹ concerned the proposed erection of 4 dwellings at the same site. The appeal decision supports my own conclusions on the matter of accessibility.
12. As a result of the above issues, only a limited range of services and facilities, employment opportunities and public transport is available within accessible walking or cycling distance of the appeal site. The minimal number of these weigh against the proposal. I acknowledge that the submitted availability of broadband provision and supermarket deliveries may provide some opportunities to reduce car use. Nevertheless, I consider that the lack of services and facilities within Alpheton and the restricted availability of public transport would, in combination, be most likely to result in a reliance by occupants of the proposed development on travel by car.
13. Thus, the appeal site would not be a suitable location for the scheme, having regard to the spatial strategy for the area. It consequently conflicts with Policy

¹ APP/D3505/W/19/3227519

CS1 of the CS, which states that applications will be approved where they are supported by appropriate evidence and where they accord with policies in the local plan. Further conflict exists with Policy CS2 of the CS, the aims of which are set out above. Additional conflict exists with Policy CS15 of the CS, which states that development proposals should ensure that an appropriate level of services and facilities are available or provided to serve the development, and should seek to minimise the need to travel by car.

Other Matters

14. My attention has been drawn to another development scheme in the vicinity². However, that proposal was granted planning permission at a point when the Council could not demonstrate a five-year supply of deliverable housing sites. There is no evidence before me to suggest that this is currently the case in the district.
15. Minimal details of a further scheme in the vicinity are before me, however as it concerned holiday lets it proposed a different type of accommodation to that which is under consideration in this decision.
16. There are consequently material differences between the current circumstances and those of the other two schemes. Accordingly, I attach minimal weight to their relevance in determining the appeal.
17. Another appeal decision³ found an acceptable level of accessibility to services and facilities at a different location in the district. This conclusion was based partially on an assessment that these were available in reasonably close proximity and hence that car journeys would be quite short. The number of trips generated by a single dwelling would also be low. Whilst the current proposal also relates to a single dwelling, Alpheton lies a considerable distance further from the nearest services and facilities of any significance than those taken into account in the other appeal. Thus, I attach minimal weight to its relevance on locational issues in determining the current appeal.
18. I note the appellant's concerns regarding the approach of local authorities, however, these are not matters for this appeal, which I have determined on its planning merits.
19. I have had regard to other matters raised, including concerns about the proposal's effect on highway safety and the living conditions of nearby occupiers. However, as I am dismissing the appeal on the main issue for the reasons given above, I have not pursued these matters further.

Planning Balance and Conclusion

20. As the appeal site lies in the countryside for local policy purposes, locational matters are a primary consideration. I consequently consider that the development plan policies which are most important for determining the appeal are those set out within the Council's decision notice, namely Policies CS1, CS2 and CS15 of the CS.

² Local Planning Authority reference B/17/01103

³ APP/D3505/W/20/3248538

21. A limited number of previous appeal decisions in the district⁴ have found two of these policies to be out-of-date or not wholly consistent with the Framework. In all three decisions the following conclusions were drawn. Policy CS1 was found to be out-of-date because it was considered to unnecessarily duplicate part of the Framework. Policy CS15 was found to be out-of-date because it was considered to fail to acknowledge aspects of the Framework's approach to the historic environment.
22. Conflict with Policy CS2 was not given full weight in these and additional other decisions regarding proposals within the district. Furthermore, the Council's officer report sets out that less weight is afforded to conflict with Policy CS2 because its approach to development in the countryside is not considered to be consistent with the Framework.
23. Whilst I concur that Policy CS1 duplicates the approach of the Framework, Paragraph 219 of the Framework sets out that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
24. The aims of Policy CS1 are consistent with the Framework and I find that duplication of the Framework's contents alone does not render the policy out-of-date. As a result, I attach full weight to the identified conflict with this policy.
25. Policy CS2 only permits development in the countryside in exceptional circumstances subject to a proven justifiable need. The Framework requires no such test in respect of development at such locations and consequently Policy CS2 is not consistent with the Framework in this regard. This finding broadly accords with those of all previous appeal decisions of which I have taken account, and with the views of the Council. Thus, I consider that Policy CS2 is out-of-date for the purposes of consideration of this application and I consequently attach only minimal weight to the proposal's conflict with this policy as a result.
26. I concur with the finding of the previous inspector that Policy CS15 does not reflect the balancing exercise set out within paragraph 202 of the Framework with regard to harm to the historic environment. Nevertheless, whether a policy is out-of-date or not can be assessed against the way in which it operates in relation to the determination of a particular proposal rather than solely in a generic manner.
27. The Council's officer report indicates that the sections of Policy CS15 on which it relies in refusing permission for the appeal proposal are (iv) and (xviii). The aims of these sections are set out above. I find that these aims are broadly consistent with those of the Framework.
28. Turning to the question of whether the most important policies are to be regarded as out-of-date for the purpose of my decision, I find that Policy CS15 provides the most relevant criteria for consideration of the proposed development. Thus, it is more important than the other policies in determining

⁴ APP/D3505/W/20/3246576, APP/D3505/W/19/3242769 and APP/D3505/W/20/3249004

the appeal due to the bearing it has on my decision. As a result, I give more weight to the above identified conflict with that policy when considering the policies as a whole.

29. Thus, as the appeal proposal is in conflict with relevant policies in the development plan, and the policy which is most important for determining the application is not out-of-date, the proposal does not benefit from the presumption in favour of sustainable development.
30. The Government's objective is to significantly boost the supply of housing and the proposal would provide a modern home. Occupiers of the development would be likely to support local services, as set out within paragraph 79 of the Framework. It is submitted that the appeal site forms previously developed land in accordance with the Framework definition, and the Council does not dispute this. Given the small scale of the proposal, these benefits attract modest weight.
31. Conversely, the proposal would not provide a suitable location for the scheme and results in harm in achieving the planned distribution of development across the area. These matters attract significant weight and outweigh the benefits associated with the proposed development.
32. The proposal consequently conflicts with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.
33. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR