



Appeal Decision

Site visit made on 17 May 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th June 2022

Appeal Ref: APP/D3505/W/21/3280224

Chilton House, Nedging Road, Nedging With Naughton IP7 7HW

- 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 Malcolm Fawley against the decision of Babergh District Council.
 - The application Ref DC/21/01181, dated 26 February 2021, was refused by notice dated 7 May 2021.
 - The development proposed is Erection of new dwelling and detached garage utilising existing access and shared driveway.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). However, the revisions made do not significantly alter the effect of the paragraphs previously referred to by the main parties. I have had regard to the revised Framework in considering this appeal.
3. Both main parties refer to the emerging Local Plan¹. However, the policies in this plan can only be attributed limited weight given their early status in the plan-making process. Furthermore, I have not been provided with copies of any relevant policies.

Main Issues

4. The main issues are:
 - The principle of development with particular regard to the accessibility of the site to services and facilities.
 - The effect of the proposed development on the character and appearance of the area.
 - The effect of the proposed development on highway safety.
 - The effect on the setting of listed buildings.
 - The effect of the proposed development on protected species.

¹ Babergh and Mid Suffolk Joint Local Plan Pre-Submission (Reg 19) Document

Reasons

Principle of Development

5. Core Strategy² Policy CS2 sets out the spatial strategy for development in the District. This policy sets out a settlement hierarchy whereby development should be focused 'sequentially' within identified 'Towns/Urban Areas', 'Core Villages' and 'Hinterland Villages'. The appeal site is located outside of any settlement as defined within the development plan and is therefore within the countryside. Policy CS2 states that development in the countryside will only be permitted in exceptional circumstances subject to a proven justifiable need. The term 'exceptional circumstances' is not defined within the Core Strategy. This is discussed in more detail in relation to the planning balance.
6. The nearest settlement is Nedging with Naughton, which has two separate settlement boundaries as defined within the development plan. The nearest of these boundaries is approximately 280m to the east of the site and comprises of a small number of residential properties. Slightly further to the east is the remainder of the settlement which has very limited services and facilities. Indeed, Nedging with Naughton is defined under Core Strategy Policy CS2 as a 'Hinterland Village', which has the fewest services and facilities of any of the settlement types identified under the policy.
7. There is no footway for much of the route between the appeal site and Nedging with Naughton. As such, future occupiers of the proposed development are very unlikely to walk to this settlement. Furthermore, settlements which contain a greater number of services and facilities are located even further afield, including Bildeston and Hadleigh which are approximately 2.4 and 6 miles from the site respectively. The appellant has highlighted that there are bus services within 'cycling distance'. However, cycling is not a mode of transport which would be suitable for everyone, particularly those who are elderly or have mobility impairments.
8. Taking all of these considerations into account, future occupiers of the proposed development would be heavily reliant on the motor vehicle to access services and facilities to meet their everyday needs. As such, the proposed development would be contrary to Core Strategy Policies CS2 and CS15, the latter of which states in part that development should ensure that an appropriate level of services, facilities and infrastructure are available to new development.
9. The appellant has referred to various planning permissions granted for residential development to the west of the appeal site. However, I do not know the precise circumstances of these cases, including the housing land supply context, whether they related to replacement dwellings or what other material considerations were taken into account. As such, none of these decisions alter my findings. Furthermore, the fact that there are existing dwellings located with limited access to services and facilities does not justify the location of further development in similar locations.

Character and Appearance

10. The proposed dwelling and detached garage would be located to the rear of Chilton House which is a 1.5 storey dwelling with an additional detached single

² Babergh Local Plan 2011-2031 Core Strategy & Policies (Part 1 of the New Babergh Local Plan) February 2014

storey unit to the rear. The site comprises an area of grassland which is surrounded on most sides by trees and hedgerows. This part of Nedging Road is predominantly characterised by linear residential development which is located fairly sporadically or in small groups fronting the highway. There are some exceptions, including agricultural buildings and a small number of dwelling set further back from the highway, but the overriding residential character is one of a linear form.

11. The proposed development would introduce a two storey dwelling and detached garage to the rear of the existing buildings at Chilton House. At least part of the development would be visible over the existing access. Glimpsed views may also be possible from further afield above the trees and likely during winter months, including when travelling towards the site from the west. The proposed development would lead to a significant proliferation of built form which would completely disrupt the prevailing linear character on this part of Nedging Road. This would be exacerbated by the existing single storey building to the rear of Chilton House, such that there would be several buildings set back further than Chilton House if the proposal were to be allowed.
12. I accept that there are some variations in character (including at Little Meadow) but these typically comprise of agricultural buildings or they are located within the slightly more built-up area to the west of the appeal site, on the opposite side of Nedging Road. In contrast, development on the appeal site side of Nedging Road does not deviate significantly from the prevailing linear pattern of development. As such, this consideration does not outweigh my findings.
13. For these reasons the proposed development would have a harmful visual impact upon the character and appearance of the appeal site and surrounding area. As such, it would conflict with Core Strategy Policy CS15 and Saved Local Plan³ Policy CN01 which require, amongst other things, that development is well designed and in keeping with local character.

Highway Safety

14. The proposed development would utilise the existing access from Nedging Road, which currently serves Chilton House. Nedging Road has a 30mph speed limit. During my site visit I noted that visibility to the west was good. However, to the east visibility is particularly poor. This is due to the presence of trees and hedgerows which significantly obstruct visibility to this side. Furthermore, the road bends slightly, which further reduces visibility in this direction.
15. During my site visit I noted that the highway was relatively lightly trafficked for quite a long period of time. I also acknowledge there have not been any accidents recorded in recent years. However, even taking into account these prevailing conditions, the visibility to the west is so poor that future occupiers would struggle to see oncoming traffic approaching from this side which could give rise to accidents and conflict between road users.
16. I accept that the existing dwelling already utilises this access but that does not provide a justification for the intensification of the access. I also note that the County Council did not make reference to any technical information in reaching their conclusions. Nonetheless, I have based my assessment on my

³ Babergh Local Plan (2006)

observations during the site visit. Based on the submitted site plan it is unlikely that a condition could be imposed to ensure that sufficient visibility could be achieved through removal of trees and hedgerows (given that the land is not wholly shown as within the appellant's ownership).

17. For these reasons the proposed development would have an adverse impact on highway safety and would therefore be contrary to Framework Paragraph 111, which states that development should only be prevented on highways ground where it would have an unacceptable impact on highway safety.

Listed Buildings

18. There are two Grade II listed buildings within relatively close proximity to the appeal site. Under section 66 (1) and section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am obliged to have special regard to the desirability of preserving the buildings, their setting and any features of special architectural or historic interest. The Framework glossary advises that 'significance derives not only from the asset's physical presence but also from its setting'.
19. Vine Cottage is located on the opposite side of the road approximately 100 metres from the appeal site. This building is a timber framed and plastered building with a thatched roof. It derives its significance from its rural appearance and the retention of its 16-17th Century style. The Thatches is a Grade II listed building which is located opposite Vine Cottage. It too is timber-framed, thatched and plastered. It is slightly more recent but it similarly derives its significance from its rural character and historic architectural style.
20. Whilst the rural character of Nedging Road does make a positive contribution to the setting of these buildings, the appeal site itself does not. This is because the appeal site is not clearly legible in conjunction with these listed buildings. Indeed, the site is not located within the slightly more densely developed cluster of buildings within which the listed buildings are located. For this reason, the proposed development would sustain the experience of the listed buildings within their setting.
21. As such, the proposed development would not conflict with Core Strategy Policy CS15 and saved Local Plan Policy CN06, which seek to protect heritage assets. Saved Local Plan Policy CN01 is not relevant to this main issue.
22. The proposed development would also comply with the relevant provisions within Section 16 of the Framework in relation to heritage assets.

Protected Species

23. The appeal site comprises of grassland and there are various trees and hedgerows which border it. The Council's ecology consultee has suggested that barn owl surveys and a preliminary ecological appraisal should have been provided by the appellant.
24. Circular 06/2005 advises that, where there is a reasonable likelihood of protected species being present, it is essential that the presence of protected species, and the extent to which they would be affected by the development, is established prior to planning permission being granted. Whilst ecological surveys can be carried out under conditions attached to a planning permission, this should only be done in exceptional circumstances.

25. The evidence provided by the Council relates primarily to the presence of a barn owl nest box in a tree to the north-west of the site and the fact that the site comprises of grassland bounded by hedgerows. However, the presence of a nest box is not in itself sufficient to indicate the likely presence of barn owls (given that it is not clear when it was installed or for how long it has been present) and the Council has not provided evidence as to how any barn owls would interact with the appeal site itself. Furthermore, the site comprises managed grassland and the fact that there are hedgerows in close proximity to the location of the proposed dwelling is not sufficient to indicate the likely presence of protected species.
26. On this basis, there is insufficient evidence to indicate that protected species would likely be present and as such adversely affected by the proposed development. The proposed development would therefore comply with Core Strategy Policy CS15 insofar as it seeks in part to protect existing habitats and biodiversity.
27. The proposed development would also comply with the relevant provisions of the Framework in relation to conserving and enhancing the natural environment, insofar as it relates to this main issue.

Planning Balance

28. The underlying approach of Core Strategy Policy CS2 is to direct development to the most sustainable locations. However, the policy takes a restrictive approach to development in the countryside, only allowing development in exceptional circumstances. Whilst there is an exceptional circumstances test at Framework Paragraph 80, this relates to instances where development is 'isolated'. The appeal site is not isolated in these terms. Given the more flexible approach taken within the Framework, Policy CS2 is out-of-date.
29. Policy CS2 is the most important policy for the determination of this appeal and therefore, Framework Paragraph 11d applies. Given that there are no relevant Framework policies which direct refusal within the terms of Framework Paragraph 11d(i), Paragraph 11d(ii) is engaged. As such, 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 whole.
30. The proposed development would result in social and environmental harm with regard to the poor access to services and facilities. In this regard the development would conflict with Framework Paragraph 92, which states in part that decisions should ensure healthy and inclusive places, including through providing access to local shops.
31. The proposed development would also conflict with Framework Paragraph 105, which states that significant development should be focused on locations which are, or can be made, sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This paragraph also acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, I do not consider that this provides a justification for new development in locations which have poor access to services and facilities.

32. The appellant indicates that the development is not 'significant' within the meaning of Framework Paragraph 105. Whilst only one dwelling is proposed, the development is significant given that it comprises a dwelling as opposed to a form of development which might be less harmful when located in a location with poor access to services and facilities.
33. The appellant has referred to a judgement⁴ which considered the word 'isolated' in the phrase 'isolated homes in the countryside'. Indeed, Framework Paragraph 80 outlines that isolated homes in the countryside should be avoided except in certain circumstances. However, the appeal site is located in close proximity to a small number of existing dwellings on Nedging Road, notably those which are located to the west of the appeal site. As such, the site is not isolated in these terms and Framework Paragraph 80 does not apply.
34. The proposed development would also cause harm to the character and appearance of the area (contrary to Framework Paragraph 130) and would lead to an adverse impact on highway safety.
35. I consider that substantial weight should be afforded to the harm that the development would cause given the high degree of harm which would occur in relation to numerous issues.
36. The proposed development would lead to some minor benefits. These include the social, economic and environmental benefits associated with the provision of one energy efficient dwelling. The appellant has questioned the Council's ability to demonstrate a supply of more than five years of deliverable housing sites. However, the Council has indicated that it can demonstrate a housing land supply in excess of six years, albeit it has not provided any position statement to support this position. Even if I were to accept the appellant's contention (despite the lack of any substantive evidence), given the small scale of the proposed development, the benefits associated with the provision of one dwelling can only be afforded moderate weight.
37. The appellant has suggested that the dwelling would be a self-build property. However, I have not been provided with any indication of the existing demand for self-build plots within the district. Neither have I been provided with a means (such as a planning obligation) to ensure that the dwelling would not subsequently be sold on the open market. As such, this is a consideration of limited weight.
38. Overall, the adverse impacts of the proposed development, to which I afford substantial weight, would significantly and demonstrably outweigh the modest benefits of the development, when assessed against the policies in the Framework taken as a whole.

⁴ Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Development Limited [2017]

Conclusion

39. The proposed development would conflict with the development plan taken as a whole. There are no other material considerations (of sufficient weight), including the approach set out at Framework Paragraph 11, which indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

Luke Simpson

INSPECTOR