



Appeal Decision

Site visit made on 14 July 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 16TH August 2022

Appeal Ref: APP/D3505/W/22/3291250

The Field House, Barracks Road, Assington, CO10 5LP

- 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 M Blundell and Miss R Knight against the decision of Babergh District Council.
 - The application Ref. DC/21/05299 dated 21 September 2021, was refused by notice dated 19 November 2021.
 - The development proposed is the erection of 2 No. one and a half storey detached dwellings with detached garages and formation of new vehicular access from Barracks Road.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application was in outline with only access to be considered. I note that there is a layout plan that shows the position of the access which is to be considered in this decision. This plan also indicates the position of the 2 houses and garages, and curtilages of the proposed dwellings extending roughly half way down the redline site. Since the detail on this plan, apart from the access, is for illustrative purposes, indicating the form that the development might take, I place no reliance on the position of the southern boundary line shown for the rear gardens.

Main Issues

3. The main issues in this case are: i) whether the site is suitable as the location for residential development; ii) the effect of the development on a special landscape area, a protected view and on the character of the village and the streetscene; and iii) whether there would be a loss of high grade agricultural land.

Reasons

Whether the site is suitable as the location for residential development

4. The site is located on the southern side of Barrack Road, the southern boundary of the highway having an established hedgerow. On the northern side of the road, opposite the western half of the site there is a row of dwellings which are included in the settlement boundary (SB), but none of the land to the south of the road is within it. The site is open grassland currently used as

a paddock for grazing horses with a small stable block. To the east of the site is The Field House, set well back in its plot.

5. The starting point is the policies of the development plan. The policies referred to in the refusal reasons are policies CS2 and CS11 of Babergh's Core Strategy 2014 (CS), Policies CR04 and CR08 of the Babergh Local Plan 2008 (LP08), and policies ASSN12, ASSN13 and ASSN16 of Assington Neighbourhood Plan (ANP). The ANP has now been 'made' and is therefore part of the development plan. Once a neighbourhood plan has been brought into force, the policies it contains, where there is conflict, take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, [paragraph 30 of the National Planning Policy Framework (the Framework)].
6. Policy CS2 - Settlement Pattern sets out the different levels of settlement, and a policy for the countryside. The 'countryside' element of this policy restricts development to exceptional circumstances with proven need, and therefore does not conform with the more flexible approach set out in the Framework, and therefore must be regarded as out of date.
7. Policy CS11 is a policy for general development, rather than specifically dealing with housing development, and it is restricted to development in Core and Hinterland Villages as identified in the CS. Its reasoned justification makes reference to the flexibility that it is intended to bring to the consideration of development proposals of all types. In respect of Hinterland Villages, approval is indicated where proposals demonstrate a close functional relationship to the settlement, rather than requiring a location within a settlement. Its criteria, by and large, reflect matters that can be found within the Framework. I therefore conclude that it is not specifically a housing policy and that it has a degree of consistency with the Framework.
8. As for saved policies CR04 and CR08 of LP08, I have not been provided with the text of the latter, but it seems to me that these LP08 policies are of limited usefulness in view of its age and the extent to which later policies, particularly the ANP, and the Framework deal with these issues.
9. I therefore turn to and consider the relevant policies of ANP, which has now been 'made' following the examination that found that the 'Basic Conditions' were met. This involved having regard to national policies and advice contained in guidance issued by the Secretary of State, that the making of the neighbourhood plan contributes to the achievement of sustainable development, and the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area. It is therefore clear that these are the principal policies that I should judge the appeal proposal against. It is also clear that the 'tilted balance' of framework paragraph 11d is not involved since there is an adequate supply of housing land and the policies which are most important for determining the application (the ANP policies) are not out-of-date.
10. Taking the relevant ANP policies in turn, ASSN1 makes the SB the focus for new development. Development outside the SB will only be permitted in accordance with national and district policies. This is a policy governing development generally. Policy ASSN2 governs housing development specifically, and therefore is the most relevant policy to the appeal proposal. It provides for around 67 additional dwellings, including those allocated in the NP, and windfall sites within the SB. It includes criteria for permitting the

conversion of redundant or disused agricultural barns outside the SB (which is not relevant in this case) and adds that *"Proposals for new permanent dwellings outside the SB should also fulfil the requirements for essential workers. These requirements are those in National Practice Guidance NPG) or those detailed in paragraph 7.8 (of the NP)"*.

11. Paragraph 7.8 of the NP makes reference to the current NPG¹ that sets out the considerations to take into account when applying paragraph 80a (was 79a) of the Framework. Paragraph 80 is the 'isolated homes in the countryside' paragraph. Since the appeal site cannot be regarded as isolated, being close to the SB, it is not helpful in this case.
12. Policy ASSN5 governs affordable housing on Rural Exception Sites. This includes 'entry level homes' for purchase (as defined by Framework paragraph 72 (was 71) on a rural exception site. The proposal does not come within the scope of this policy.
13. The supporting statement accompanying the planning application described the 2 proposed dwellings as providing 4 bedrooms each, it being intended that they would be occupied by the appellant Mr M Blundell and Miss Knight and Mr Blundell's his brother. Their aim would be self-build dwellings since both are self-employed builders. It is also the case that Mr M Blundell lives with his parents to the east of the site. It is fully understandable that the 2 brothers wish to live in the village in their own homes, but this does not amount to special circumstances that would warrant making an exception to planning policy. Policy ASSN2 is clear that new permanent dwellings outside of the SB should be for workers, such as essential agricultural workers.
14. These considerations lead me to conclude that the appeal site is not a suitable location for the residential development proposed.

The effect of the development on an Area of Local Landscape Sensitivity, a protected view, and the character of the village and the streetscene

15. The refusal reasons refer to the Special Landscape Area, but this has been superseded by Policy ASSN7 - Area of Local Landscape Sensitivity (was ASSN12). This states:
"Development proposals in the Area of Local Landscape Sensitivity, as identified on the Policies Map, will be permitted only where they:
 - i) *protect or enhance the special landscape qualities of the area; and*
 - ii) *are designed and sited so as to harmonise with the landscape setting"*
16. Policy ASSN8 - 'Protected Views' is also relied on by the council. This states that development proposals must not have a detrimental impact on key features of the protected views identified on the Policies Map.
17. Taking the first of these, the proposed development would be a new and discordant element within the Area of Landscape Sensitivity which, in the part of the area that would be affected by the development, is an extensive area of mainly agricultural countryside, interspersed with woodland. The amount of built development is quite limited, and the details of the appearance, landscaping and layout of the proposed houses would be for later

¹ NPG – National Planning Guidance

consideration. I consider that it might well be possible to produce details of these matters that would largely limit any harm to the landscape. A more detailed proposal might have demonstrated this. As to the protected view, I consider that 2 dwellings come within the scope of this policy, and the landscape area and the view being very much part and parcel of what the policies seek to protect. However, the fact that there are limited public views reinforces my judgement that this is not a matter that is decisive in a decision to refuse planning permission.

18. The hedge that runs along the southern side of Barracks Road in this vicinity is very much a feature on the edge of the village, and acts as a strong element in defining the edge of the countryside. Whilst the opening up of the entrance would be relatively limited, it would be harmful the role that the hedge plays visually. In addition, whilst the site itself in its present use and state is unlikely to have much value for biodiversity, the hedge may well have considerable value, in part as a wildlife corridor, and no evidence demonstrates otherwise.

Whether there would be a loss of high grade agricultural land.

19. The present use of the site for equestrian purposes is not an agricultural use, but it does not preclude the land being turned back into some agricultural or horticultural use that would be a beneficial use of land that is graded as best and most versatile. Built development would effectively remove any possibility of reversion. Paragraph 174 of the Framework makes specific reference to such agricultural land, and is also relevant to the other issues above concerning the intrinsic character and beauty of the countryside, biodiversity and valued landscapes.

Conclusions

20. My conclusions, based on the reasoning set out above, are that the appeal proposal would be contrary to the policies ASSNP1 and ASSNP2. These policies are contained in a development plan document that has been 'Made' very recently, and is therefore up-to-date and has met the requirements of 'Basic Conditions' for a neighbourhood plan. It would also sterilise land which has been found to be best and most versatile agricultural land, which is contrary to national policy. There are therefore strong policy objections to the development. Therefore the site is not a suitable location for housing development.
21. In terms of more subjective matters, whilst the location in an Area of Local Landscape Sensitivity, and within a protected view are not decisive, the effect on the hedgerow, harm to the local village character and potential harm to biodiversity all count against the development.
22. For these reasons I will dismiss the appeal.

Terrence Kemmann-Lane

INSPECTOR