
Appeal Decision

Site visit made on 5 August 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022.

Appeal Ref: APP/W3520/W/22/3293989

Land adjacent to Fairfax House, Crossing Road, Palgrave, IP22 1AW

- 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 Richard Holland against the decision of Mid Suffolk District Council.
 - The application Ref. DC/21/05996 dated 2 November 2021, was refused by notice dated 12 January 2022.
 - The development proposed is the erection of 1no dwelling and new vehicular access.
-

Decision

1. The appeal dismissed.

Preliminary matters

2. The application was in outline with access to be considered. Appearance, landscaping, layout and scale are all matters for later determination.

Main Issues

3. The main issues in this case is whether the site is in a suitable location for residential development.

Reasons

4. The appeal site is vacant land, apparently previously part of the garden of Fairfax House which lies to the east. To the west of the site is a dwelling known as Netherfields.
5. Saved policy CS1 of Mid-Suffolk Core Strategy (2008) identifies a settlement hierarchy from 'Towns' down to 'Secondary Villages'. Palgrave is one such Secondary Village, but the site is outside its defined build-up area. Below the list of settlements, but within the text of the policy is the statement "*The rest of Mid Suffolk, including settlements not listed above, will be designated as countryside and countryside villages and development will be restricted to particular types of development to support the rural economy, meet affordable housing, community needs and provide renewable energy*".
6. Saved policy CS2 is titled 'Development in the Countryside and Countryside villages'. It sets out the restricted forms of development that will be permitted in the countryside, which I need not set out in full. This is quite a long list, and includes "*rural exception housing to include: - agricultural workers dwellings, possible conversion of rural buildings, replacement dwellings, affordable housing on exception site, sites for Gypsies and Travellers and travelling*

showpeople". The appeal dwelling does not come within these or any of the other defined categories.

7. Mention is also made in the council's refusal notice of policy H7 of the Mid Suffolk Local Plan adopted in 1998, but I do not consider that it adds anything of importance to the decision in this case as it contains a similar restrictive policy.
8. I am told that the Palgrave's settlement boundary lies just across the road to the south of the appeal site and beyond Netherfields to the west. In development plan policy terms, the site is therefore within the countryside.
9. There is an emerging plan – the Babergh and Mid Suffolk Joint Local Plan (JLP), which is still under examination, and therefore normally carries limited weight as a material consideration. Nevertheless I have been supplied with correspondence between the examining Inspectors of the JLP and the council. This reveals that there is much further work that the council might undertake, but it would extend the time of the examination to an unacceptable extent. In paragraph 7 the Inspectors reflect on the unusual situation that around 90% of the housing requirement figure is already provided (by completions, sites under construction, sites with planning permission, etc). *"This means that demonstrating a supply of developable housing land for the vast majority of the plan's overall housing requirement figure is, for some years to come, unlikely to be dependent on the allocation of the housing sites included in the submitted plan"*.
10. Within their letter the Inspectors suggest a way forward. *"Whilst we cannot reach final conclusions on the other aspects and policies of the plan at this stage (pending consultation on Main Modification and further SA/HRA work), we anticipate that, subject to the Main Modifications discussed at the hearing sessions, it is likely that we will be able to find them sound"* (paragraph 8). Paragraph 9 suggests how elements of the plan might be modified, leading to the suggestion (paragraph 10) that *"In essence the plan would be a "Part 1" local plan, to be followed by the preparation and adoption of a "Part 2" local plan as soon as possible"*. One of the paragraph 9 elements is *"retain the settlement boundaries in the current (as opposed to proposed) policies map;"* (bullet point 2). Therefore, since this would include the Palgrave settlement boundary, it appears that for the foreseeable future the status of the appeal site is very unlikely to alter.
11. In the light of this correspondence I consider that significant weight can be placed on this element of the emerging plan, and this appears to be accepted by the appellant (paragraph 2.8, statement of case). At least I can take it that the appeal site will remain outside a settlement boundary for the foreseeable future.
12. It is clear from the above that the council can demonstrate satisfactory housing land supply position, and therefore it is necessary to consider whether the policies that are most important for determining the application are out of date for other reasons. As set out in paragraphs 5 and 6, policies CS1 and CS2 state that development in the countryside will be only allowed for exceptional reasons. This is not entirely consistent with the Framework's more flexible approach; to that extent they are out-of-date and therefore they carry less weight.

13. Therefore, Framework paragraph 11 'The presumption in favour of sustainable development', in particular d) ii (the 'tilted balance') needs to be addressed on the basis that the policies that are most important for determining the application are out-of-date. This means "*granting permission unless ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*". This raises the question of the extent to which the proposal is for sustainable development in the light of the 3 overarching objectives set out in paragraph 8 - economic, social and environmental.
14. In this case, the economic objective would be met to the extent that there would be short term employment and purchase of materials during the construction of the dwelling, but I cannot see that an additional household would make any meaningful impact on the successful provision of services in Palgrave or elsewhere. The provision of 1 dwelling would be a social benefit, but of minimum significance in supporting health, social and cultural well-being. Nothing brought to my attention suggests any element of protecting and enhancing the natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
15. In terms of the last of these, Palgrave itself is not a particularly sustainable settlement. It is a Secondary Village, with its main facilities being a school and community centre. Therefore most facilities and services would have to be found some distance away, so that future occupiers would be primarily reliant on motor vehicles for everyday needs. I therefore do not see the appeal site location as being sustainable; the benefits are minimal and do not outweigh the adverse impact from reliance on motor vehicles. It is not a suitable location for residential development.

Other matters

16. In addition to the matters that I have dealt with above, the appellant challenges the refusal reasons on the basis that
- The site is an infill – within the built extent of Palgrave;
 - The lack of statutory objections to the proposal;
 - Previous decisions made by the LPA and the resulting lack of consistency – undermining confidence in the planning system.
17. Taking these in turn, the site may be an infill between 2 existing residential curtilages, and in the vicinity of the built extent of Palgrave, but it remains outside the settlement boundary, and the matters that I have dealt with above stand against it. The fact that there were no statutory objections simply means that there were not other detailed reasons for refusal, and does not go to the point of the primary policy objection. Compliance, or possible compliance with detailed policies such as ensuring residential amenity or avoiding pollution, does not address the issue. The decision in *Corbett v. Cornwall Council* [2020] EWCA Civ 508 is not to this point and is not helpful here.
18. In relation to previous decisions made by the council, I accept that there should be consistency in decision making, which is established in the decision

in the case *North Wiltshire v Secretary of State for the Environment* [1993] 65 P&CR 137, but nothing has been brought to my attention that suggests that there has been such lack of consistency. I have read the reports on applications reference DC/21/04065 and DC/18/04247, but they both deal with situations that are different from this present case, and are very different from each other. The conclusions in both reports are explained and justified by the particular circumstances in each case.

Conclusions

19. As I have found in my reasoning above, the proposed development is contrary to policies CS1 and CS2 of Mid-Suffolk Core Strategy (2008), although these are not entirely consistent with the Framework. Therefore, judging the proposal against the Framework policies for sustainable development, I have found that the site is not in a sustainable location in that most facilities and services would have to be found some distance away, with the result that occupiers would largely have to rely on motor vehicles for everyday needs. Thus it is not a suitable location for residential development. Therefore the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR