



Appeal Decision

Site visit made on 1 February 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th February 2023

Appeal Ref: APP/D3505/W/21/3283719

Little Barnes, Shotley Road, Chelmondiston IP9 1EE

- 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 and Mrs J Malster against the decision of Babergh District Council.
 - The application Ref DC/21/02633, dated 5 May 2021, was refused by notice dated 30 June 2021.
 - The development proposed is erection of 1no detached house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks outline permission, with all matters reserved except for access. I have considered the appeal on this basis and have treated any plans in relation to all other matters as illustrative.
3. During the course of the appeal the Chelmondiston Neighbourhood Development Plan 2020-2036, dated 2021 has been 'made' by the Council (referred to as the Chelpin Plan). As such it forms a part of the development plan and I have determined the appeal on this basis.
4. The emerging Babergh District Council and Mid Suffolk District Council Joint Local Plan (JLP) is currently undergoing examination and does not form part of the development plan at this time.

Main Issues

5. The main issues are:
 - The effects of the proposal on ecology and biodiversity,
 - Whether the site is suitably located for new housing, with regard to accessibility to services and facilities, and;
 - The effect of the proposal on employment uses.

Reasons

Ecology and Biodiversity

6. The site is in a reasonably sensitive location in terms of biodiversity, being on the edge of the village of Chelmondiston and adjoining open countryside to the north and east. While much of the site is open grassland, there are

nonetheless, a number of trees and shrubs within the site as well as disused structures and buildings. The wider site is bound by a series of mature trees and hedgerows and together these features could provide suitable habitat to support protected species.

7. An ecology survey or preliminary appraisal was not submitted with the planning application or the appeal. While I note the grassland on the site has been mown, given the above attributes relating to the location and nature of the appeal site, there is need for an ecological survey to be carried out. This is in order to determine whether or not there are protected species on the site, and to identify the likely impacts of the development on ecology, including the need for any remediation or mitigation strategies.
8. I have considered whether this matter could be addressed through the imposition of a planning condition. However, there is insufficient evidence to assess whether particular species are present on the site and what the effects of the proposed development might be. There is not substantive evidence that the proposal would not be harmful to any protected species or habitats, or that any such harm could be mitigated. As such it could not reasonably be controlled by way of a condition.
9. While the Council did not specifically request such information, this does not alter the above judgement that such information is necessary.
10. Insofar as this main issue is concerned, the appellant has failed to demonstrate that the proposal would not be harmful to the biodiversity of the site nor cause harm to protected species. The proposal would conflict with Policy CS15 of the Babergh Local Plan: Core Strategy and Policies 2014 (the LP) insofar as it requires development to protect and enhance biodiversity, and ensure adequate protection, enhancement, compensation and/ or mitigation as appropriate for features including habitats. It would also conflict with the objectives of the National Planning Policy Framework (the Framework) which seek to improve, and minimise impacts on, biodiversity.

Location for Housing

11. Policy CS2 of the LP relates to settlement patterns and sets out the spatial strategy for development in the District, directing development to the larger settlements of Towns and Urban Areas, Core and Hinterland Villages sequentially. Policy CS15 of the LP contains criteria relating to sustainable development and among other things seeks to minimise the need to travel by car using a hierarchy of walking, cycling, public transport, commercial vehicles and cars. The Council report that Policy CS2 is not entirely consistent with the Framework and I return to this matter below.
12. The recently made Chelplin Plan includes the appeal site within the settlement boundary of Chelmondiston. The LP defines this as a Hinterland Village, with limited facilities. It is a village where Policy CS2 states some development will be accommodated to meet local needs within them, subject to consideration against Policy CS11. In turn, Policy CS11 states that development in such villages will be approved where proposals demonstrate a close functional relationship to the existing settlement on sites which meet a number of criteria listed.

13. The appeal site is located on the eastern extremity of the village boundary and is separated from the denser development and services of Chelmondiston to the west by a number of buildings set within generous plots, and by open fields on the southern side of Shotley Road. I note there has been planning permission granted for other developments on this side of the village, which, if implemented, would increase the spread of residential development along Shotley Road, close to the appeal site.
14. The footpath on Shotley Road stops short of reaching the appeal site and, in order to walk to the village and access the bus route, future occupants would need to walk along a grass verge on the northern side of the road. As such it would not be suitable for those with mobility impairments or children, who may need to walk in the road. While the appellant suggests a Grampian condition to secure a footpath, there is no evidence of the prospect that such a footway could be delivered. Therefore, such a condition would not be reasonable and I attach little weight to the delivery of a new footway.
15. Despite this, the length of the road lacking a footpath is short and would not completely deter all future occupants from walking into the main part of the village. This is particularly the case as the speed limit on the road decreases to 30mph just to the west of the appeal site. By reason of its proximity to the main part of the village, cycling would also be an attractive alternative for future occupants.
16. Overall, for these reasons the site can be considered as having a close functional relationship to the settlement. In conclusion the site would be suitable for housing in terms of its accessibility to services and facilities, including onward public transport links.
17. The proposal would comply with Policies CS2, CS11 and CS15 of the LP, which are summarised above and with Policy CP1 of the Chelvin Plan insofar as it supports housing development within the defined settlement boundaries. It would also comply with emerging policy SPO3 of the JLP which states the principle of development is established within settlement boundaries, and which similarly proposes to include the appeal site within the settlement boundary.
18. In respect of this main issue, the proposal would comply with the objectives of the Framework insofar as it would serve to enhance and maintain the vitality of this rural community and promote healthy lifestyles.

Employment Uses

19. Policy EM24 of the LP seeks to resist non-employment uses on existing or vacant employment land unless it is demonstrated that retention of an employment use has been fully explored. The appeal site was formerly used as a nursery for growing and selling of plants and the proposal would result in the loss of some of the greenhouses and polytunnels which previously supported this use.
20. The appellant reports that the site has not been in commercial use since April 2019, when the rateable value of the business was deleted by the Valuation Office Agency. The findings of my site visit support this, as several of the greenhouses and polytunnels were in a state of disrepair and there was no evidence of any commercial activity being undertaken from the site. There is

not evidence before me to demonstrate the level of employment generated by the former use. However, given the size of the site and the structures on it, it is unlikely to have employed a significant number of people beyond those occupants who live on the site in the house which is to be retained. I do not have evidence that the site is one designated for employment uses and it is not acknowledged by the Chelvin Plan, which includes a list of commercial premises which it seeks to protect for business use.

21. In addition, the proposals relate to only part of the wider site, which could reasonably be reinstated for its former use. I do not have substantive evidence that this would be incompatible with a residential use, nor that the access would cause harm to highway safety.
22. For these reasons, given the particular circumstances of this site, the proposal would not conflict with Policy EM24 of the LP, nor the Chelvin Plan, insofar as they seek to retain employment sites. Neither would it conflict with the objectives of the Framework relating to growth and expansion of the rural economy.

Planning Balance

23. For the reasons given, the potential harm arising to the biodiversity of the site and protected species could be significant and long lasting, and would present conflict with the Framework. I ascribe this harm substantial weight.
24. In terms of benefits, notwithstanding the Council's housing land supply, the proposal would make a small contribution to the supply of homes in the District, and would contribute to the national objective to boost the supply of homes. Some economic benefit would arise from the construction process and from the expenditure of future occupants and future occupants would support the function of the village. Given the scale of the proposal, those benefits attract moderate weight. While the proposal could also include soft landscaping enhancements and high quality design, such details are not before me and I do not afford these weight as benefits.
25. There is dispute between the parties as to whether the most important policies for determining the appeal are out of date, with particular regard to parts of Policy CS2, Policies CS11 and CS15 of the LP. In the event that I were to agree that the most relevant policies are out of date, the Framework would require that planning permission 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.
26. For the reasons given above, the adverse impacts would significantly and demonstrably outweigh the benefits, and the proposal would not benefit from the presumption in favour of sustainable development.

Conclusion

27. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, the appeal is dismissed.

C Shearing

INSPECTOR