



Appeal Decision

Hearing held on 24 January 2023

Site visit made on 24 January 2023

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st February 2023

Appeal Ref: APP/V0510/W/22/3298559

Land north of The Rectory, Main Street, Little Downham, 552532, 284207

- 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 Green (Ely Diocesan Board of Finance) against the decision of East Cambridgeshire District Council.
 - The application Ref 20/00591/FUL, dated 28 April 2020, was refused by notice dated 11 November 2021.
 - The development proposed is conversion and extension of existing buildings to form one dwelling and construction of four new dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the appeal site is in an appropriate location for residential development, having regard to local and national policies.

Reasons

3. Policy GROWTH 2 of the East Cambridgeshire Local Plan 2015 (the LP) sets out the locational strategy for development in the district. It states that the majority of development will be focused on the market towns of Ely, Soham and Littleport, and that more limited development will take place in villages which have a defined development envelope, thereby helping to support local services, shops and community needs.
4. Little Downham is a village with a defined development envelope. Part of the appeal site falls within the envelope, including the buildings to be converted, but 3 of the proposed houses would fall outside of it. Policy GROWTH 2 does allow for some development outside the defined envelopes, but this is limited to a defined list that does not include market housing. The aim of the envelopes is to focus development within or on the edge of towns and villages, and to minimise unnecessary development of open fields and countryside areas of the district.
5. The appellants contend that the proposed development would accord with the general thrust of GROWTH 2, in that it would be sited immediately adjacent to the village. However, GROWTH 2 is specific in requiring development to be within the envelope, other than for the identified exceptions. It is not disputed that the site is in a sustainable location on the edge of the village. However, as 3 of the houses would fall outside of the envelope the appeal proposal would conflict with GROWTH 2 and the locational strategy of the LP.

6. The National Planning Policy Framework (the Framework) identifies a presumption in favour of sustainable development. For decision-taking this means, amongst other considerations, that where the policies which are most important for determining the application are out-of-date, granting permission 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.
7. The Council contends that it has a supply of deliverable housing land exceeding 7 years. The appellants have challenged this, noting underdelivery of housing against the target of delivering 11,500 homes from 2011 to 2031 set out in Policy GROWTH 1 of the LP. The Council's Five Year Land Supply Report from August 2022 notes that, as the Local Housing Need figure has been used to calculate the extent of supply, this applies an affordability adjustment to take account of past underdelivery in accordance with national guidance. This identifies a requirement for 3,109.5 new homes in the 5 years from 1 January. The Council calculates that it has sufficient identified sites to provide 4,467 homes in the 5 year period. Most of these are reported as deriving from sites with existing permissions.
8. The appellant has questioned the rate at which completions will come forward, based on a historic undersupply relative to the Council's estimates. While it is possible that the Council's anticipated figures for completions going forward are optimistic, as the appellants suggest, I note that in the most recent Housing Delivery Test the Council has achieved 95% of its required homes for the period 2018 to 2021. Furthermore, the Council reports that for the year to 2022 619 net dwellings were delivered in the district, its highest rate of completions within the plan period. In addition, the appellant's own figures indicate a little over 5 years supply. I am therefore satisfied, based on the evidence submitted, that the Council has a housing land supply of at least 5 years.
9. The Council is undertaking a single issue review (SIR) of the LP with regard to its housing target, and the examining Inspector has questioned whether a much higher target than the suggested 600 homes per year is required to address that undersupply. However, the SIR is some distance from being completed, and so I can only give very limited weight to the Inspector's suggestions given this, as the final figure is currently unclear.
10. With regard to the most important policies for the determination of this appeal, the main parties agree that Policy GROWTH 1 is out of date. This is because the housing figure of 11,500 dwellings to be delivered within the plan period is no longer valid. The Council suggest that this policy should not be considered a most important policy in the determination of the appeal as the proposal for 5 dwellings would not make a meaningful contribution to the Council meeting its housing targets. I disagree, as the housing target forms the basis for the Council's siting and allocation of housing sites. It is therefore one of the most important policies for this appeal.
11. Policy GROWTH 2 sets out the locational strategy for new development in the district, including housing. Both parties have referred to recent appeal decisions in which my colleague Inspectors have formed views on GROWTH 2 based on the information before them, including the Soham decision from February 2022 that found it to be out of date, and a decision in Haddenham in

December 2022 that did not find it to be out of date. I shall likewise take a view based on the information before me.

12. In the Soham appeal the Inspector was considering a development on a site allocated in the LP, rather than on an unallocated site outside of a defined development envelope. It was therefore a different matter than that before me in this appeal. In the Haddenham appeal the Inspector found that GROWTH 2 was not out of date. In that case there was a recently adopted Neighbourhood Plan that incorporated the development envelope for Haddenham, which is not the case for Little Downham. However, the Inspector was clear in their reasoning that this was not the only factor in their finding GROWTH 2 to not be out of date. Overall, therefore, I have given greater weight to the Haddenham case than the Soham case in this instance.
13. Policy GROWTH 2 directs the majority of development towards 3 market towns, with more limited development to take place in villages which have a defined development envelope, thereby helping to support local services, shops and community needs. The appellant suggests that the policy has been ineffectual in producing the necessary homes. In this regard, they have referred to the Soham Inspector's finding that the policy could not be considered up to date as it could not be said that sufficient housing can and will be accommodated within the defined settlement envelopes. There is evidence of historic underdelivery of new homes relative to the Council's housing target, but from the evidence before me this has arisen from the slower than projected delivery of approved developments rather than an absence of suitable sites. This does not indicate to me that the Council's locational strategy is resulting in a failure to meet housing needs, and as noted above there has been a recent increase in delivery rate. I note my colleague Inspector's findings, but as set out above the Soham case dealt with an allocated site on the edge of Soham in which development was supported in accordance with Policy GROWTH 4, where no such allocation exists in this case. I am only able to give that finding limited weight given the differences in the two sites. Policy GROWTH 2 is not therefore out of date. As conflict with this policy is the only harm that has been identified by the Council in their reason for refusal, it is one of the most important policies for the determination of this appeal.
14. The appellants suggest that GROWTH 4 is a most important policy and note that it was found to be so in the Soham appeal, which was determined through a public inquiry. However, that appeal site fell within an area on the edge of Soham allocated for housing development. No such allocation exists for the appeal site. Therefore, while Policy GROWTH 4 is relevant as it addresses the delivery of growth in the district, I do not find it to be one of the most important policies in this case.
15. The appellants also suggest that Policy GROWTH 5 should be considered as one of the most important policies. This recognises the importance, and presumption in favour, of sustainable development. While I consider that this is a policy of general relevance, I do not find it to be one of the most important policies as it is not specifically relevant to the matter at dispute in this appeal.
16. The most important policies also include Policies ENV 1 and ENV 2, as these address matters of character and design, and Policies ENV 11 and ENV 12 which address development affecting Conservation Areas and listed buildings. There is no dispute between the main parties that these policies are up to date,

and I see no reason to disagree. Taken together with GROWTH 1 and GROWTH 2 these form the basket of most important policies against which I have determined this appeal. While it is not disputed that GROWTH 1 is out of date, I find that the basket of policies as a whole is not out of date as from the evidence submitted they accord with the Framework, and are not unduly restricting the delivery of new housing in the district.

17. The appellants have drawn to my attention the *Corbett* judgment¹, in which it was found that conflict with a single policy did not mean that a proposal fails to accord with the development plan as a whole. I recognise that the aims of policies in a development plan can conflict with one another, as was the case in *Corbett*. However, in this instance there is a clear conflict with Policy GROWTH 2 and the Council's locational strategy for new housing, even allowing for the need for new housing recognised elsewhere in the plan, including in policies GROWTH 1 and GROWTH 4. Policy GROWTH 2 specifically anticipates proposals outside of development envelopes and does not include market housing in its list of acceptable exceptions that may be allowed in the countryside. If I were to find that the conflict arising from the location of the appeal site partly outside of the development envelope caused no harm this would undermine the development plan as the starting point for determination of this appeal. Rather, I attribute significant weight to the conflict with the development plan.
18. There are considerations that weigh in favour of the proposed development. The creation of 5 new houses of good quality design would contribute to the Government's objective of significantly boosting the supply of homes. Even though the Council has a supply of housing land of at least 5 years, this is a minimum requirement and considering the reported historic shortfall in housing delivery this benefit attracts additional weight. The appeal site is in a sustainable location on the edge of Little Downham. The development would deliver economic benefits in the short term from employment generated by the development and in the supply chain. There would be long-term economic benefits from the ongoing occupation of the houses, supporting local services and facilities. The addition of 5 larger houses would potentially free up smaller houses from those moving out of existing homes. However, given the small scale of development these benefits taken together only attract moderate weight in the overall planning balance. This does not outweigh the harm arising from the conflict with the development plan.
19. There are therefore no material considerations in this instance to indicate that this appeal should be determined other than in accordance with the development plan.

Other Matters

20. The site entrance falls within the Little Downham Conservation Area, and there are listed buildings close to the appeal site, including the Grade II listed Village Centre that shares a boundary with it. The main parties agree that there would be no harm to the significance of these heritage assets from the proposed development. I have had regard to the Planning (Listed Buildings and Conservation Areas) Act 1990 and, considering the lack of relationship between the site and the heritage assets and its relatively enclosed character, I see no reason to disagree with this conclusion.

¹ *Corbett v Cornwall Council* [2020] EWCA Civ 508

21. The appellants have invited me to consider a decision in which permission is granted only for the conversion of the existing structures within the site. I have considered this, but I do not find that the proposal is clearly severable from the wider development. It appears that Plot 1 would fall partly outside of the development envelope, and there are no submissions before me showing how this variation would be landscaped, including the laying out of the vehicle access. I am therefore not able to come to a decision separately just in relation to the conversion of the existing buildings.

Conclusion

22. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR

Appearances

For the appellant

Robert Wickham

Howard Sharp & Partners

Alex Dalton

Howard Sharp & Partners

For the Council

Richard Kay

Strategic Planning Manager

Dan Smith

Planning Team Leader and Case Officer

Interested parties

Councillor Anna Bailey

Ward Councillor

Marilyn Oldfield

Chair, The Feoffee Charity