



Appeal Decision

Site visit made on 22 February 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2023

Appeal Ref: APP/D3505/W/22/3303184

Windy Farm, Capel Road, Bentley, Suffolk IP9 2DL

- 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 and Mrs L Butcher against the decision of Babergh District Council.
 - The application Ref DC/22/01696, dated 30 March 2022, was refused by notice dated 20 May 2022.
 - The development proposed is erection of a detached dwelling following demolition of existing annexe and outbuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was submitted, I have been advised that the Bentley Neighbourhood Plan 2018-2037 (NP) has been formally adopted and now forms part of the development plan. Accordingly, it carries full weight and I have had regard to this in reaching my decision.
3. Reference has been made to the emerging Joint Local Plan, which I am advised is at the Proposed Modifications Consultation stage. Given the stage the plan is at, and the lack of information regarding unresolved objections, I afford it no weight.

Main Issues

4. The main issues are i) whether the proposal would be in a suitable location having regard to the accessibility of services and facilities, and ii) the effect of the development on the character and appearance of the area.

Reasons

Location of development

5. Policy CS2 of the Babergh Local Plan 2011-2031 Core Strategy and Policies (2014) (Core Strategy) seeks to sequentially direct new development to towns/urban areas, Core Villages and Hinterland Villages, and restricts development in the countryside to exceptional circumstances, subject to a proven justifiable need. Policy CS15 of the Core Strategy seeks amongst other things to ensure an appropriate level of services, facilities and infrastructure are available to serve proposed developments and to minimise the need to travel by car. Policy BEN 13 of the NP requires proposals to demonstrate that

safe walking and cycling links to local services and community facilities exist or are capable of being created as part of the development.

6. The appeal site is situated at the end of a row of dwellings on Capel Road, outside of the main built-up area of the village, which is where its services and facilities are located. Given its proximity to other dwellings, the proposal would not result in the development of an isolated new home in the countryside and paragraph 80 of the National Planning Policy Framework (the Framework) would not apply.
7. However, there is no footpath along this part of Capel Road, either into the village or between the site and the nearby public right of way (PROW). Despite having a 30mph speed limit, the geometry of the road, which is narrow and unlit with sharp bends and changes in levels, makes it unattractive for use by pedestrians and cyclists. The NP recognises that speed is an issue along this road and considers it unsafe to walk or cycle along. Having walked along Capel Road, I would concur with this view.
8. Although the nearby PROW offers a more attractive and safer route into the village than walking along the main road, it is a longer route, which is also unlit and would not always provide convenient or practical access to the village for all users, for example, in darkness, inclement weather, or for those with mobility issues and young children in pushchairs. Moreover, the PROW can only be accessed by first walking along the main road.
9. Whilst I acknowledge that paragraph 105 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, I have not been provided with any evidence of any regular or easily accessible bus services. Future occupiers of the proposed dwelling would not therefore have safe and convenient access to a suitable range of services and facilities, including to those within the village of Bentley, without a significant reliance upon private car use.
10. I therefore conclude that the proposal would not be in a suitable location having regard to the accessibility of services and facilities. Consequently, the proposal does not accord with Policies CS2 and CS15 of the Core Strategy, or Policy BEN 13 of the NP. The proposal would also conflict with the sustainability objectives set out at paragraph 8 of the Framework. However, I find no conflict with the other paragraphs of the Framework that are referred to in the decision notice.
11. The appellants consider the proposal would accord with Policy CS11 of the Core Strategy, which the council state does not apply to development outside of the built-up settlement boundaries of towns and villages. There is nothing in this policy that suggests to me that it should only be applied to development within built up settlement boundaries and I have therefore assessed the proposal against it. The proposal would not accord with Policy CS11 of the Core Strategy, which requires amongst other things that new developments in Hinterland Villages are able to demonstrate a close functional relationship to the settlement and that they relate well to the existing pattern of development in the settlement.

Character and appearance

12. The site is located within a designated Special Landscape Area (SLA). The appellants state that the SLA designation is not proposed to be carried forward in the emerging local plan. However, I must determine the appeal based upon the current situation and current policies. The landscape surrounding the appeal site is generally open and agricultural in character. The site itself, forms part of an open and undeveloped grass paddock bound by timber post and rail fencing, which reflects the character and appearance of the surrounding landscape.
13. Although the proposed new buildings would be attractive in terms of design and materials and would not constitute overdevelopment, given the amount of space surrounding them, the dwelling, together with the detached double garage/cycle store, the extended access drive and parking area, would all encroach significantly into the currently undeveloped countryside.
14. This in-depth form of tandem development, which does not form part of an existing group of buildings and is unconnected to the existing use of the site, would appear incongruous in this location. Other dwellings in this area are located much closer to the road, with only ancillary outbuildings and stabling to the rear.
15. Whilst it is proposed to demolish an existing annexe and brick outbuilding, these relatively small single storey buildings, which are outside of the appeal site, are closely related to the existing dwelling and appear clearly ancillary to it. The proposed development would not simply replace these with new buildings of similar scale and siting but would instead result in a greater spread of larger buildings across the site, harmfully detracting from this previously undeveloped area of the countryside.
16. Due to the undulating topography of the area, and the presence of existing buildings, trees and hedges along the Capel Road frontage, the proposed dwelling and associated works would not be visually prominent from the highway. However, there is limited landscape screening around the part of the site on which the new buildings would be located. I acknowledge that the new buildings, when viewed from the PROW which runs alongside the adjacent field, would be seen against the backdrop of an existing hedgerow, but there is nothing before me to confirm that the hedge is in the appellants ownership or that its long-term future can be guaranteed. Any new landscaping would take some time to mature and to become effective.
17. The change in character from an open undeveloped paddock to a new backland dwelling together with its associated outbuildings and hardstanding on this edge of village location, would not positively contribute to the largely open and undeveloped character of the site and its surrounding landscape.
18. I therefore conclude that the proposal would result in unacceptable harm to the character and appearance of the area. This would be contrary to Policy CR04 of the Babergh Local Plan Alteration No.2 (2006) (Local Plan), which requires that proposals in Special Landscape Areas maintain or enhance the special landscape qualities in the area and are designed and sited to harmonise with the landscape setting. The proposal would also conflict with Policy CS15 of the Core Strategy, which requires proposals to respect the landscape and make a positive contribution to the local character of the area, and with Policy BEN 7 of

the NP, which resists proposals that alter the predominantly linear pattern of the village.

19. The proposal also conflicts with paragraphs 130 and 174 of the Framework in so far as they relate to ensuring new development is sympathetic to local character and its landscape setting, protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.
20. The reason for refusal also refers to Policy HS28 of the Local Plan. However, as that policy relates to proposals for infilling or groups of dwellings, I do not consider it to be relevant in this case.
21. As it is the location of the development as opposed to its design that results in harm, I do not consider Policy BEN 3 of the NP to be relevant.

Other Matters

22. My attention has been drawn to various appeal decisions in the local area. I have not been provided with sufficient details of these cases to assess if they are comparable to the one currently before me. I note that in some of these decisions, other Inspectors have concluded that access to services and facilities via a PROW would be acceptable. However, from my reading of those decisions, there is nothing to indicate that access to the PROW in those cases would involve first walking alongside a main road, or to indicate how far the walk between the dwellings and services would be. I also note that the appeal decision¹ at appendix 2 of the appellants case was dismissed based upon similar concerns to those I have raised in this case.
23. In relation to other recently approved development along Capel Road, the council's delegated report advises that this was granted planning permission at a time when it was unable to demonstrate a five-year supply of housing land. Whilst the five-year supply is not a cap on development, the absence of such inevitably increases the weight to be given to housing proposals. At the time of my site visit I saw that new development underway elsewhere on Capel Road is frontage infill and is located on a stretch of road that is closer to the village and offers better visibility between pedestrians and drivers.
24. I have been referred to an appeal decision in Boxford, which related to four houses on previously developed land, on a quiet road that would provide safe access to a regular bus service, determined at a time when the council's housing land supply was marginal. That case was clearly materially different to the one currently before me and as such does not alter my findings.

Planning Balance

25. It is suggested that the most important policies for determining this appeal should be considered out-of-date for the purposes of paragraph 11d of the Framework. There is no dispute that the council can demonstrate a five-year supply of deliverable housing sites and therefore paragraph 11d is not automatically engaged. Paragraph 219 of the Framework confirms that policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework.

¹ APP/D3505/W/21/3280224

26. The most important policies for determining this appeal are policies CS2, CS11 and CS15 of the Core Strategy, policy CR04 of the Local Plan and Policy BEN 13 of the NP.
27. Policy CS2 of the Core Strategy sets out the settlement hierarchy for the district and seeks to direct most new development to the towns/urban areas, Core Villages and Hinterland villages. This is consistent with Paragraph 11 of the Framework, which requires plans to promote sustainable patterns of development. However, Policy CS2 also seeks to restrict development in the countryside to exceptional circumstances subject to a proven justifiable need. This part of the policy is inconsistent with the Framework, which at paragraph 80 only seeks to avoid the development of isolated homes in the countryside. As it is this part of the policy that is most relevant to the proposal and that the council's reason for refusal refers to, it is my view that Policy CS2 is out of date for the purposes of this appeal and therefore I afford the conflict of the proposal with this policy very limited weight.
28. Policy CS15 of the Core Strategy comprises 19 criteria. In other appeal decisions, this policy has been found to be inconsistent with the Framework in terms of heritage matters. As heritage matters are not relevant to this proposal, and the remainder of the policy is broadly consistent with the Framework, I do not consider it to be out of date for the purposes of this proposal and I afford it significant weight.
29. Policy CR04 of the Local Plan relates to an existing special landscape designation. It is consistent with the Framework, which seeks to conserve and enhance the natural environment, including valued landscapes and the intrinsic character of the countryside. As such I do not consider this policy to be out of date and I afford it full weight.
30. There is no dispute regarding the consistency of policy CS11 of the Core Strategy, or the consistency of the very recently adopted NP, with the Framework. I therefore afford these policies full weight.
31. I acknowledge that there is a legal requirement for all local plans to be reviewed to assess whether they need updating at least once every five years. However, there is nothing to suggest that the failure to do so would result in policies being automatically considered out of date. I also understand that work on a new local plan is underway and current policies will clearly be reviewed as part of that process.
32. Whilst I have found Policy CS2 to be out of date, due to its restriction relating to new development in the countryside, this is only one of a basket of relevant policies and it is not in my view the most important policy for the determination of this appeal. Accordingly, I do not consider paragraph 11d to be engaged and the proposal does not benefit from the presumption in favour of sustainable development. Moreover, paragraph 14 of the Framework is clear that even where the presumption in favour at paragraph 11d applies the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.
33. The proposal would generate some short-term economic benefits during its construction and future occupiers of it would generate some modest local expenditure. The proposed dwelling, which could be delivered relatively quickly, would be of high-quality sustainable design and would make a modest

contribution towards the supply of housing in the area. Bio-diversity enhancements are also proposed in the form of new native landscape planting and the incorporation of swift bricks, bat boxes and log piles. However, these are policy requirements for all new housing proposals and do not add weight in favour of the scheme. It is suggested that the removal of the annex would improve the amenity space at Windy Ridge, however, that dwelling already benefits from good sized front and rear gardens and there is no reason why the annex cannot be removed if the appellants no longer want or need it.

34. Set against this, for reasons I have already explained, it is my view that future occupiers of the development would be heavily reliant upon car use for accessing essential services and facilities, and that the proposal would result in unacceptable harm to the character of the area. Although the vehicular movements generated by a single dwelling may not be significant, nor would be the benefits of the proposal. Whilst I do not underestimate the contribution that multiple single dwelling applications have on the overall supply of housing, this does not make them all acceptable. Given the scale of the development the benefits would be very modest and would not outweigh the conflict I have found with the development plan.

Conclusion

35. For the reasons given above, and having considered all matters raised, I conclude that the proposal conflicts with the development plan taken as a whole and there are no material considerations of sufficient weight, including the Framework, which indicate a decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

R Bartlett

INSPECTOR