



Appeal Decision

Site visit made on 4 April 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 May 2023

Appeal Ref: APP/D3505/W/22/3299871

Former Telephone Exchange, Raydon Road, Wenham Magna CO7 6QE

- 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 & Mrs Coe against the decision of Babergh District Council.
 - The application Ref DC/21/05448, dated 28 September 2021, was refused by notice dated 29 November 2021.
 - The development proposed is the conversion of two former telephone exchange buildings into a one bedroom dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr & Mrs Coe against Babergh District Council. Also, an application for costs was made by Babergh District Council against Mr & Mrs Coe. These applications will be the subject of a separate decision.

Procedural Matters

3. The appellants advanced as part of their appeal an Ecological Impact Assessment and a planning obligation to pay a contribution towards the Recreational Disturbance Avoidance Mitigation Strategy. Subsequently, the Council has withdrawn the second and third reasons for refusal detailed within their decision notice. This decision therefore focuses solely on the unresolved issues detailed within the first reason for refusal.

Main Issues

4. The main issues are:
 - whether the appeal site is in a suitable location for residential development, with particular reference to local and national development strategy and the reliance on the private car; and
 - the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Suitable Location

5. The proposal comprises the conversion and extension of two former telephone exchange buildings into a single dwelling. The appeal site is located within the

countryside. Policy CS2 of the Babergh Local Plan 2011-2031 Core Strategy & Policies, adopted 2014¹ (CS) states that development in the countryside will only be permitted in exceptional circumstances subject to a proven justifiable need. The term 'exceptional circumstances' is not defined within the policy.

6. Paragraph 80 of the National Planning Policy Framework ('the Framework') relates to isolated homes in the countryside. 'Isolated' is not defined in the Framework but the Braintree judgement² set out that it simply connotes a dwelling that is physically separate or remote from a settlement. The appeal site is on the opposite side of the road from two dwellings and a further dwelling is located on the corner of Days Road and Wenham Road. The appeal site forms part of a small cluster with these dwellings and therefore the site would not be isolated for the purposes of paragraph 80 of the Framework. Therefore, paragraph 80(c) of the Framework relating to the re-use of redundant or disused buildings is not applicable to the proposal.
7. Wenham Magna is designated as countryside under Policy CS2 of the CS and has very few services and facilities but includes a public house. Capel St Mary is identified as a Core Village and is located approximately 1.8 miles to the east of the appeal site. It includes a greater range of services and facilities, including a primary school, convenience shops and bus stops. While the nearest town of Hadleigh is located approximately 5 miles from the appeal site.
8. The routes between the appeal site and Capel St Mary/Hadleigh comprise narrow roads with an absence of pavements and street lighting, and speed limits that vary between 30mph and 60mph. There is no clear evidence of public transport on these routes. The general condition of local infrastructure, together with the distances to the nearest town and village is such that travelling by walking or cycling by future occupants would be very unlikely, particularly for occupants with mobility issues, especially after dark or during inclement weather. As such, future occupiers are likely to make journeys to nearby local services and facilities by private car.
9. The provision of one additional dwelling would provide some support for the vitality of rural communities. This is in line with one aspect of Policy CS17 of the CS. However, given the size of the scheme any such benefits would be small and future occupants would be drawn to the more extensive range of facilities, services, employment opportunities and transport links in Hadleigh and other larger towns and cities close by. Furthermore, Policy CS17 also requires compliance with other CS policies, including Policy CS15.
10. The appellants assert that the conversion and extension of the buildings to a dwelling is the most appropriate use, and it would be the least likely to generate the number of vehicle movements without causing any adverse impact on highway safety or involving an inappropriate number of vehicle movements to and from the site. However, there is no compelling evidence regarding other potential uses or the level of traffic they would generate.
11. I acknowledge the planning history of the appeal site has resulted in decisions for the change of use of the buildings to light industrial, Use Class B1 and B2³ and holiday accommodation either being refused by the Council or withdrawn. I

¹ Babergh Local Plan 2011-2031 Core Strategy & Policies (Part 1 of New Babergh Local Plan) February 2014

² *Braintree District Council v Secretary of State for Communities and Local Government & Ors* [2018] EWCA Civ 61

³ The Town and Country Planning (Use Classes) Order 1987, as amended

have not been provided with full details of these planning applications and therefore the circumstances surrounding these decisions are unknown. Furthermore, these planning applications were determined more than 30 years ago against a different development plan and therefore they are not determinative that such proposals would be unacceptable against the Council's current development plan. Also, I note that planning permission was previously granted for the change of use of the buildings for the storage of two sailing dinghies and a small tender, which demonstrates that the buildings could be used for purposes other than a dwelling.

12. The appellants consider that the re-use of the site for commercial premises would be extremely limited due to the form and nature of existing modern commercial premises nearby. However, limited evidence has been provided to substantiate this matter.
13. In respect of the first main issue, the appeal site is not in a suitable location for residential development, with particular reference to the local and national development strategy and the reliance on the private car. The proposed development would therefore conflict with Policies CS2 and CS15 of the CS which, amongst other things, seek to only permit development in the countryside in exceptional circumstances subject to a proven justifiable need, and to minimise the need to travel by car using the following hierarchy: walking, cycling, public transport, commercial vehicles and cars, thus improving air quality.
14. The appellants have directed me to Policy CS17 of the CS that seeks to support the rural economy through the encouragement of proposals that include farm diversification, and the re-use of redundant rural buildings. Even if it was considered that the proposal would support the rural economy, as detailed above, the policy requires proposals to comply with other policies in the CS, particularly Policy CS15. As I have found that the proposal would conflict with CS Policy CS15, it would also conflict with CS Policy CS17.

Character and Appearance

15. Saved LP Policy CR19 outlines several criteria which proposals must comply with to be deemed acceptable, including "the building is of architectural or historic merit and is capable of conversion without significant rebuilding or extension". The proposed extension would be small in scale and therefore I do not find that it would be significant and, from the evidence before me, the buildings are structurally sound.
16. However, the buildings comprise simple, utilitarian structures constructed circa 1950s/1960s. The smaller of the two buildings is constructed of brick with a tiled roof and the larger building is constructed of concrete block and a plain tiled roof. From the evidence before me and from my observations during my site visit, the buildings are of no architectural or historic interest. This is also the view of the appellant. Therefore, the buildings do not need to be retained because of their intrinsic quality or the contribution they make to the landscape character of the area. Consequently, even if the scheme complied with the other elements of Saved LP Policy CR19, it is contrary to the requirement for the buildings to be of architectural or historic merit.
17. The existing buildings are not unduly prominent from the public realm due to the presence of roadside hedges and the overgrown condition of the appeal

site, which also does not significantly detract from the character or appearance of the surrounding area. However, the tidying up of the site and improvements to the existing access would expose the existing utilitarian character, appearance and materials of the buildings, which would adversely affect the character and appearance of the surrounding area. Furthermore, from the evidence before me, I am not persuaded that the appeal proposal is the only means of improving the site's appearance or that the buildings are worthy of re-use.

18. In reference to the second main issue, the proposal would have a harmful effect on the character and appearance of the surrounding area. It would be contrary to Policy CS15 of the CS and Saved Policy CR19 of the LP which, amongst other things, seek to ensure that proposals make a positive contribution to the local character, shape and scale of the area, and require the buildings to be converted to be of architectural or historic merit.

Other Matters

19. While I accept that the proposed dwelling would comprise a one-bedroom dwelling with compact living space, the information before me suggests that it would be an open market dwelling and no mechanism is before me to secure it as affordable housing, for first time buyers or as a rural worker's dwelling.
20. The Council considers in their Officer Report that the proposal also conflicts with Saved Policy CN01 of the LP, which is a general design policy, and that it would fall below the Nationally Described Space Standards⁴. However, these matters do not form part of the reason for refusal contained within the Council's decision notice and therefore I have not considered them further.
21. On the opposite side of Raydon Road is the Grade II listed building, 'Three Ways'. I therefore have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special regard to the desirability of preserving the setting of this listed building. The building is a timber framed and plastered dwelling with later brick additions sited in a prominent position at the end of Days Lane. Its significance comes from its aesthetic value. Due to the distance between the appeal site and the listed building and the intervening landscaping and road, I do not find that the proposed development would harm the setting of Three Ways.
22. The appeal site is located within the Zone of Influence of the Stour and Orwell Estuaries Special Protection Area and Ramsar site, which is afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended. The appeal proposal would result in the net increase of one dwelling. However, as I am dismissing the appeal, I do not need to consider this matter further, as it could not lead me to a different conclusion.
23. The Council can demonstrate a housing land supply of deliverable sites of 6.86 years and therefore the proposal is not required to help meet identified needs for housing where land supply is constrained, as detailed within paragraph 120 of the Framework.

⁴ Technical housing standards – nationally described space standard, published 27 March 2015

Planning Balance

24. Saved Policy CR19 of the Babergh Local Plan Alteration No.2, adopted 2006 (LP) deals with proposals for the conversion of barns or other redundant or under-utilised buildings in the countryside into dwellings or holiday accommodation. Although adopted prior to the Framework, paragraph 219 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
25. While the approach taken by Saved LP Policy CR19 to the conversion of buildings in the countryside to dwellings is not specifically referred to in the Framework, this does not mean that it is inconsistent with it. Paragraph 84 of the Framework supports the conversion of existing buildings in rural areas for all types of business use, and paragraph 80 supports the re-use of redundant or disused buildings to homes where the building is isolated and the proposal would enhance its immediate setting. Saved LP Policy CR19 applies the local criteria for the consideration of these types of development and therefore I consider that it is broadly consistent with the Framework and full weight should be afforded to it.
26. There is a dispute between the main parties as to whether CS Policy CS2 is inconsistent with the Framework and therefore out-of-date for the purposes of paragraph 11(d). However, the most important policies for determining the proposal include Saved LP Policy CR19 (which I have already found is consistent with the Framework) and CS Policy CS15, which is consistent with paragraphs 104 and 105 of the Framework that seek to promote opportunities to walk, cycle and use public transport and limit the need to travel. These policies are not deemed to be out-of-date and therefore, the presumption within paragraph 11(d)(ii) of the Framework, is not engaged.

Conclusion

27. For the reasons outlined above, having regard to the development plan as a whole and all other matters raised, the appeal should be dismissed.

A Berry

INSPECTOR