



Appeal Decision

Site visit made on 18 April 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2023

Appeal Ref: APP/W3520/W/22/3307078

Land North of Old Bury Road, Stuston, Diss IP21 4AB

- 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 Bartrum against the decision of Mid Suffolk District Council.
 - The application Ref DC/22/01546, dated 23 March 2022, was refused by notice dated 18 May 2022.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (a) whether the site is in a suitable location for housing development, with particular reference to a reliance on the private car; and (b) the effect of the proposed development on flood risk and whether the Sequential Test has been met.

Reasons

Suitable Location

3. The appeal site is located within the countryside, as defined by Policy CS1 of the Mid Suffolk District Core Strategy Development Plan Document, adopted 2008 (CS). Policy CS2 of the CS restricts development in the countryside to a closed list of categories, none of which are relevant to the appeal proposal. Policy H3 of the Mid Suffolk Local Plan, adopted 1998 (LP) permits the infill of small undeveloped sites within settlement boundaries, unless it is desirable to retain a site in undeveloped form as an important amenity or open space in the village scene, and Policy H7 of the LP restricts housing development outside settlement boundaries in the interests of protecting the existing character and appearance of the countryside. The appeal site is outside of the settlement boundary of the village of Stuston and therefore Policies H3 and H7 are not applicable to the proposal.
4. Criterion (e) of paragraph 80 of the National Planning Policy Framework ('the Framework') requires a dwelling to be of an exceptional quality in that it is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area. The appeal proposal suggests that the dwelling would be of a contemporary design and include some energy saving measures. However,

from the information before me, I have nothing to suggest that it would comply with paragraph 80(e) of the Framework. Furthermore, paragraph 80 relates to isolated homes in the countryside. 'Isolated' is not defined in the Framework but the Braintree judgement¹ set out that it simply connotes a dwelling that is physically separate or remote from a settlement. The appeal site is adjacent to the settlement boundary of Stuston and would form a small cluster with the surrounding dwellings. Therefore, the site would not be isolated for the purposes of paragraph 80 of the Framework.

5. Stuston has some services and facilities including a church, a children's day nursery and a farm shop. Future developments comprising a play centre, café, private hire space, offices and commercial uses have been granted planning permission at Place Farm. However, limited information has been provided regarding these future uses. Even if additional information was provided, the range of services within Stuston would not meet the day-to-day needs of future occupiers of the proposed dwelling. There is a BP fuel station and Marks & Spencer Simply Food adjacent to the A143/A140 roundabout. However, access to them on foot or by bicycle would require future occupiers to walk along either the B1077/A143 or Old Bury Road/A140 which do not have pavements, are predominantly unlit and, in respect of the A and B roads, were heavily trafficked with vehicles travelling at speed at the time of my site visit.
6. The village of Palgrave is defined as a Secondary Village by Policy CS1 of the CS. Palgrave has a slightly wider range of services and facilities than Stuston, including a primary school. Diss, although located within the neighbouring local authority area, is a market town with an extensive range of services and facilities, including a train station. However, both Diss and Palgrave are located a reasonable distance from the appeal site and the routes between the appeal site and Palgrave/Diss are predominantly unlit and exclude pavements, have varying speed limits of up to 60mph and would require future occupants to navigate across the heavily trafficked A143.
7. Bus stops are located a short distance from the appeal site at the junction of Old Bury Road/B1077 which provide access to Diss, amongst other places. The information before me indicates that between Stuston and Diss 7 buses operate Monday to Friday in each direction, 6 buses on a Saturday in each direction, with no services on a Sunday or Public/Bank Holidays. Services in an evening are limited. It is my view that the bus service is infrequent and irregular and therefore could not be wholly relied upon by future occupiers of the proposed dwelling. Furthermore, there is no pavement between the appeal site and the bus stops, and the route is unlit.
8. The general condition of local infrastructure, together with the distances to Diss and Palgrave is such that travelling by walking, cycling or public transport would be unlikely, particularly for occupants with mobility issues or with young children, and especially in the dark or during inclement weather. As such, future occupiers are likely to make journeys to nearby local services and facilities to meet their day-to-day needs by private car. The villages of Brome and Scole are located further from the appeal site than Diss and Palgrave and the information before me does not suggest that either place would meet the day-to-day needs of future occupants or be accessible by transport modes other than the private car.

¹ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2018] EWCA Civ 61

9. Paragraph 105 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in both plan-making and decision-making. However, in this case, the overall level of reliance on the private motor vehicle would be high and therefore I consider the appeal site's location to be unacceptable for new residential development.
10. The Council has exceeded its five-year housing land supply of deliverable sites, however, the target is not a maximum. Therefore, the provision of one additional dwelling weighs in favour of the proposal and would make a contribution, albeit limited, to the Government's objective of significantly boosting the supply of new homes. The proposal would provide employment opportunities during the construction phase of the development. However, these would be for a temporary period. The provision of one additional dwelling would provide some support for the vitality and viability of rural communities, including Stuston and other nearby villages. However, given the size of the scheme, any such benefits would be small and future occupants would likely be drawn to the more extensive range of facilities, services, employment opportunities and transport links in Diss.
11. The proposal would incorporate sustainable construction techniques, a green roof, a ground source heat pump and natural ventilation to provide an energy efficient building. However, limited information has been provided in this regard and therefore it is unclear whether the proposal would comply with, or exceed, current Building Regulations. It is proposed to incorporate electric vehicle charging points into the scheme, which would be an environmental benefit, however it is not possible to require the occupants of the dwelling to own an electric vehicle. The submitted Preliminary Ecological Appraisal suggests that the proposal could result in a net gain in biodiversity if several mitigation measures and enhancements are incorporated into the scheme. However, this is a requirement of the Framework and therefore is a neutral matter. Likewise, landscape enhancements are a requirement of the development plan and therefore would also be a neutral matter.
12. Accordingly, the economic, social and environmental dimensions of the proposed development are moderate/limited and would not amount to overriding benefits.
13. The appellant has stated that the Council has granted planning permission for other residential developments in Stuston. However, I have not been directed to any detailed information in respect of these developments and therefore I am unable to determine whether they are directly comparable to the appeal proposal. In any event, each case must be determined on its own merits.
14. In reference to the first main issue, the appeal site is not in a suitable location for residential development, with particular reference to a reliance on the private car. It would therefore conflict with Policies CS1 and CS2 of the CS, Policies FC1 and FC1.1 of the Mid Suffolk District Core Strategy Focused Review, adopted 2012 (CSFR), and Policy H7 of the LP which, amongst other things, seek to direct development to towns, key service centres, primary and secondary villages, to restrict development in the countryside, and to protect the existing character and appearance of the countryside. It would also be contrary to paragraph 8 of the Framework that sets out the objectives to achieving sustainable development.

Flood Risk

15. The Environment Agency's (EA) Flood Map indicates that the appeal site falls wholly within Flood Zone 1. However, the EA's Surface Water Flooding Map (SWFM) indicates that parts of the appeal site are at a high and medium risk of surface water flooding. The area of high/medium surface water flood risk to the northwest of the appeal site is not addressed within the appellant's Flood Risk Assessment (FRA)² or Surface Water Flood Modelling report³. The FRA documents therefore fail to adequately demonstrate the extent of flood risk affecting the site and it is not possible for me to determine whether the proposed development is appropriately flood resistant and resilient or that flood risk would not be increased elsewhere.
16. While I acknowledge that the proposed dwelling would not be sited within the areas shown at risk from surface water flooding on the SWFM, a Sequential Test (ST) must be applied when any part of the appeal site is at risk of flooding from all sources of flood risk, including surface water. Furthermore, siting the most vulnerable development in areas of lowest risk of flooding can be part of an Exception Test (ET), however, an ET must follow only after the ST has been complied with.
17. The Planning Practice Guidance (PPG) states at paragraph 23 that the Sequential Test *"means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding"* and that *"even where an FRA shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied."*
18. Neither the FRA nor the Appeal Statement⁴ includes a ST. The Council consider that the ST should consider all alternative sites with a lower probability of flooding within areas of equal or greater sustainability status to the appeal site, in accordance with the settlement hierarchy detailed at Policy CS1 of the CS. From the information before me, I agree with this approach. The Council currently has a housing land supply of 10.88 years. Therefore, it is realistic to assume that the existence of unbuilt dwellings and recent planning approvals indicates there are reasonably available alternative sites within the district that would be at a lower risk of flooding that could accommodate a single dwelling. This has not been disputed by the appellant.
19. In reference to the second main issue, insufficient information has been submitted to enable an assessment to be made as to whether the proposed development or the surrounding area would be at risk from flooding. Furthermore, the proposal would not comply with the ST. The proposed development would therefore be contrary to Policy CS4 of the CS which, amongst other things, seeks to support developments that avoid areas of current and future flood risk, and which do not increase flooding elsewhere. It would also be contrary to paragraphs 161, 162 and 167 of the Framework that, amongst other things, require developments to not be permitted if there are reasonably available sites appropriate for the proposed development in areas

² Flood Risk Assessment, November 2021 (Ref: 2828/RE/11-21/01) produced by Evans Rivers and Coastal

³ Surface Water Flood Modelling, March 2022 (Ref: 318/2021/SWFM REV P1) produced by GHBullard & Associates LLP

⁴ Appeal Statement, August 2022 (Ref: 318/2021/AS Rev P1) produced by GHBullard & Associates LLP

with a lower risk of flooding, and ensure that flood risk is not increased elsewhere.

Other Matters

20. To the east of the appeal site is the Grade II listed building, 'Cardews', while to the west are the Grade II listed buildings of Rosemary Farmhouse, Tyrells Farmhouse, The Old Brew House and Old Swan House that front onto an area of open space. 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 these listed buildings.
21. Cardews comprises a circa late 16th/early 17th century timber frame and thatched dwelling; Rosemary Farmhouse comprises an early 19th century dwelling constructed of red brick and pantile roof; Tyrells Farmhouse comprises a 17th Century timber frame and thatched dwelling; The Old Brewhouse comprises outbuildings to Tyrells Farmhouse and were likely to have formed a brewhouse to the Swan Public House; Old Swan House was formerly a public house, now a dwelling dating from the mid to late 17th century and has a timber frame with a thatched roof. The significance of these listed buildings comes from their aesthetic value and, in respect of The Old Brewhouse and Old Swan House, their past uses. Due to the distance between the appeal site and these listed buildings and the intervening vegetation, I do not find that the proposed development would harm their setting.
22. The appellant has stated that the proposal was subject to pre-application advice in which a favourable response was received in respect of the principle of the development and the design concept. However, pre-application advice is given without prejudice to the final decision of the Council.

Planning Balance

23. There is a dispute between the main parties as to whether Policies CS1 and CS2 of the CS, Policy H7 of the LP and Policies FC1 and FC1.1 of the CSFR are inconsistent with the Framework and therefore out-of-date for the purposes of paragraph 11(d). Both parties have also directed me to different appeal decisions to support their stance. However, whether these policies are out-of-date or not, as detailed above, the appeal site is in an area at risk of flooding (a protected area defined by Footnote 7 of paragraph 11(d)(i)). The proposal would be contrary to paragraphs 161, 162 and 167 of the Framework which provide a clear reason for refusing the proposed development. Therefore, the proposal would not benefit from the presumption in favour of sustainable development detailed in paragraph 11 of the Framework.

Conclusion

24. For the reasons set out above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR