



Appeal Decision

Site visit made on 17 February 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Appeal Ref: APP/D3505/W/22/3307090

Land to the rear of Brooke House, Old London Road, Copdock And Washbrook IP8 3JD

- 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 G Bridges against the decision of Babergh District Council.
 - The application Ref DC/22/01410, dated 14 March 2022, was refused by notice dated 15 June 2022.
 - The development proposed is described as 'Erection of 12 no. dwellings (5 no. affordable) (with access)'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Mr G Bridges against Babergh District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appeal is made in outline, with access to be considered. Appearance, landscaping, layout and scale are reserved for later consideration.
4. A planning obligation under s106 of the Town and Country Planning Act 1990 (as amended) has been submitted to secure affordable housing, make contributions towards the provision of early years and primary education, to the costs of diverting or realigning Public Footpath 23 and to make certain provisions with respect to any orders for this diversion. I will return to these matters in due course.
5. The Council's reason for refusal refers to paragraph numbers from the now replaced 2019 National Planning Policy Framework (the Framework). However it is otherwise clear from the reason for refusal the concerns the Council had in relation to the development. The appellant has addressed those concerns in their statement. I therefore consider there has been no prejudice to any party.
6. The appellant has engaged with Suffolk County Council to address the second reason for refusal. Amended plans have been submitted, relating to the position of a ramp on the access road, the introduction of a small extension to the footpath on one side of the access and confirmation of the details of the visibility splay. These do not substantially alter the development as proposed, nor materially alter its nature. Further comments have been received from interested parties which have continued to express their concerns with regard

to highway safety, which I will return to in due course. Having had regard to the Wheatcroft Principles¹, I therefore consider that no party would be prejudiced were I to consider these plans and I have determined the appeal with regard to them.

Main Issues

7. The main issues are:

- whether the site is a suitable location for development with regard to the Council's settlement strategy and access to services and facilities and means of transport; and
- the effect of the development on highway safety.

Reasons

8. The appeal site is a grassed area identified as a garden. It is sited to the rear of a cluster of properties which front onto Old London Road, a 50mph dual carriageway with a narrow verge in the centre of the carriageway. There is a footpath along this road which leads to Copdock and Washbrook.

Suitable Location

9. Babergh Local Plan 2011-2031 Core Strategy & Policies (Adopted February 2014) (CSP) Policy CS2 establishes the settlement strategy for the district whereby development is directed to defined areas and settlements. While Copdock and Washbrook is identified as a Hinterland Village, it is not in dispute that the site is outside the settlement limit. For the purposes of CSP Policy CS2, the site is within the Countryside, where development will only be permitted in exceptional circumstances subject to a proven justifiable need.
10. There is no evidence before me to demonstrate there is a proven justifiable need for either market or affordable dwellings in this location, or indeed in the wider district. It is not in dispute that the Council can demonstrate a five year supply of deliverable housing land as required by the Framework to meet the housing needs of the district. There is no evidence before me as to the delivery of affordable housing in the district or of any outstanding shortfall. The selective appeal quotes provided by the appellant do not provide any specific local evidence as to the need for affordable housing.
11. I do not have the full details of the applications referred to by the appellant where such evidence was not required. However, in both cases, it was acknowledged that there was a policy conflict because this need had not been demonstrated.
12. I observed bus stops along Old London Road during my site visit. However, there is no evidence before me as to the frequency of these services and their ability to provide a realistic option for future occupiers. There were also no pedestrian crossing facilities on Old London Road in proximity to the site. Crossing the dual carriageway and the central verge would be a considerable barrier to accessing the bus services.
13. There is a footpath which runs along Old London Road and leads to Copdock and Washbrook. Although narrow in places, parts of it also include a verge to

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

provide some separation from the dual carriageway. However this does not appear to be lit, which would restrict its attractiveness to pedestrians in the winter months. Opportunities for future occupiers of the site to use more sustainable modes of transport would therefore be limited, as would the ability to achieve the associated health benefits.

14. There is no evidence before me as to which services in Copdock and Washbrook would be strained were the development to be allowed. Furthermore, the completed planning obligation (the obligation) submitted during the appeal makes provision for contributions to address the demand for early years and primary education that would arise were the development to be permitted.
15. The site would not be isolated for the purposes of Paragraph 80 of the Framework. Paragraph 79 of the Framework identifies that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. Given the proximity of the site to Ipswich, it is likely that future occupiers would choose to access services there, and the benefits of the development may not automatically accrue to the rural community, particularly given the limited amount of services and facilities within Hinterland Villages such as Copdock and Washbrook.
16. I acknowledge that there are notable inconsistencies in how the Council has assessed this application and that on the immediately adjacent site, in particular with regard to the relationship to Copdock and Washbrook. However, for the reasons given above, I consider their assessment of the relationship of the site to the settlement to be accurate. I do not have full details of the other permissions in proximity to Copdock and Washbrook, however they are unlikely to be more persuasive than the recent, adjacent permission, which I do not find to be of sufficient weight to justify departing from the development plan.
17. Other permissions have been granted by the Council in the wider authority area, however I do not have full details of the nature of those settlements and the relationship of the sites to them. There is a material difference in the services and facilities that would be available to meet needs between settlements identified at different levels in the settlement hierarchy. In any event, each appeal must be determined on its own merits.
18. CSP Policy CS11 refers to development 'in' Hinterland villages, although the detailed criteria appear to suggest that sites adjacent or well-related to the existing pattern of development for the settlement can also be considered. It has not been demonstrated that the site is adjacent to any defined settlement boundary for Copdock and Washbrook. The pattern of development in the surrounding area is of a series of clusters of mostly linear development along Old London Road, which the appeal proposal would continue. This is not well-related to the built form of the settlement. While other permissions have been granted in the surrounding area, this would not alter the relationship of the site to Copdock and Washbrook.
19. CSP Policy CS15 contains many detailed criteria, not all of which are relevant to this appeal. However, insofar as it is relevant to this appeal, namely in relation to supporting services and facilities and seeking to minimise the use of the private car through a hierarchy of transport methods, it remains consistent

with the Framework. The appellant quoted from an appeal decision² where it was found that CSP Policy CS15 was out of date. However, this was in the context of how the policy performed against the requirements of heritage policies of the 2019 Framework. That distinguishes that assessment from the appeal before me which does not involve heritage assets.

20. I therefore conclude that the appeal site would not be a suitable location for development with regard to the Council's settlement strategy and access to services and facilities and means of transport. It would be contrary to CSP Policies CS2 and CS15 which seek to direct development to the most sustainable locations and promote the use of modes of travel other than the private car. While I have not found that the proposal would have an adverse effect on the services and facilities within the settlement, this would not outweigh the harm I have identified above.

Highway Safety

21. The amended plans submitted during the appeal show an access arrangement which was confirmed by the local highways authority to be suitable for an access onto and from a 50mph dual carriageway. The plans also show a visibility splay which the highway authority have confirmed is appropriate for the location. Accordingly, it would make appropriate provision for drivers seeking to join the flow of traffic. I saw nothing at my site visit which would lead me to a different conclusion. The use of these plans could be secured by condition were planning permission to be granted.
22. Concern has been raised by interested parties about the levels of traffic on Old London Road and the speed it travels at. It is a dual carriageway adjacent to the site and interested parties have highlighted it provides an alternative route if there are issues on the wider road network. There is no substantive evidence before me as to speed on the road, or of a history of accidents where speed was identified as a factor. The number of vehicle movements associated with 12 dwellings would be unlikely to have a severe effect on the operation of the highway network in such a location.
23. I therefore conclude that the development would not have a harmful effect on highway safety. It would therefore be in accordance with Babergh Local Plan (Local Plan) Policy HS28 which seeks to refuse development which would be detrimental to highway safety.
24. The Council has referred to Local Plan Policy TP15 in its reason for refusal. However as this relates to parking standards or the Council considering opportunities for improving the accessibility of development, it is not directly relevant to the reason for refusal.

Other Matters

25. An executed planning obligation has been submitted which makes provision for a number of matters. I have considered these with regard to the requirements of Regulation 122 of the Community Infrastructure Regulations 2010. There is a statement of common ground between the parties and further information which set out how the contributions towards early years and primary education have been calculated.

² APP/D3505/W/20/3246576

26. Although it was suggested similar would follow, the same information was not provided for the contribution towards the Council's costs in securing the diversion or realignment of Public Footpath 23 and provisions with respect to the actions of the landowner during the process to secure this. I cannot be certain that the precise amount would be fairly related in scale and kind to the development, nor has it been demonstrated why the provisions with relation to the diversion process would be necessary. However as I am dismissing the appeal for other reasons, I do not need to explore this matter further.
27. I am otherwise satisfied that these provisions would be necessary to make the development acceptable in planning terms and would be directly related to the development and that the education contributions would be fairly related in scale and kind. However, as both of these matters address the effects of the development, they are neutral in the determination of this appeal.
28. CSP Policy CS19, when read alongside paragraph 64 of the Framework, requires that 35% affordable housing should be provided. This would equate to 4.2 dwellings and 5 are proposed. The planning obligation would secure the proposed provision in accordance with an approved affordable housing scheme which would set details of the plots, location, bedroom numbers, size and tenure. It also makes provision for an affordable housing commuted sum which would be paid in the event that a Registered Provider could not be secured. I am therefore satisfied that this is necessary, directly related to the development and fairly related in scale and kind. I return to this matter in the planning balance below.
29. CSP Policy CS1 duplicates paragraph 14 of the 2012 Framework and is therefore not entirely consistent with the Framework as it is today. However, I will address whether the proposal would amount to sustainable development below.
30. The site is within the Zone of Influence for the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site. Increased recreational pressure arising from new residential development could have a likely significant effect on the integrity of the SPA. However, as I am dismissing the appeal, there is no need for me to address this matter further. At best, it would be a neutral factor in the appeal.
31. Reference has been made to Copdock and Washbrook becoming part of the Ipswich Fringe in the emerging local plan. However, I have not been referred to any specific policies, or advised as to its current status. I have therefore attached limited weight to this.
32. The Council has not alleged any harm to the character and appearance of the surrounding area, and I saw nothing at my site visit that would lead me to a different conclusion. Matters relating to the effect of the development on the living conditions of neighbouring occupiers would fall to be assessed at the reserved matters stage when layout, appearance and scale would be considered.

Planning Balance

33. It is not in dispute that CSP Policy CS2 is out-of-date as it is not consistent with the Framework in that it restricts residential development in the Countryside

except in very limited circumstances. Paragraph 11d(ii) of the Framework is therefore engaged.

34. The proposal conflicts with the settlement strategy which seeks to direct development to larger settlements with access to services and facilities. CSP Policy CS2 is broadly consistent with the Framework which sets out housing in rural areas should be sited where it will enhance or maintain the vitality of rural communities. I attach moderate weight to this conflict.
35. The development also conflicts with CSP Policy CS15 insofar as it seeks to minimise the need to travel by car and promotes a hierarchy of sustainable modes of transport. This policy is consistent with the Framework as it relates to this appeal, and I consider this harm would be significant. Taken together, the adverse impacts of the development are significant.
36. The proposal could deliver an additional twelve dwellings in the short term and contribute to the supply of affordable dwellings within the authority. As set out above, the proposal would deliver more affordable housing than would be required for a policy compliant scheme within a hinterland village. I therefore attach moderate weight to this benefit.
37. There would be economic benefits arising during both the construction and occupation of the dwellings. Ecological enhancements could be secured by condition which would also be a benefit of the scheme. I attach limited weight to these given the small scale of the scheme.
38. I find that the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. I therefore find that the proposal does not benefit from the presumption in favour of sustainable development.

Conclusion

39. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight, including the Framework, which indicate that a decision should be taken other than in accordance with the development plan. It is thus not necessary to assess the effects of the proposal on the habitats sites as the outcome of that assessment would not have any bearing on my decision.
40. Therefore for the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR