



Appeal Decision

Site visit made on 6 June 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2023

Appeal Ref: APP/W3520/W/22/3309930

Land Adjacent Magpie Lodge, Magpie Green, Wortham IP22 1RG

- 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 Gavin Darcy Erith against the decision of Mid Suffolk District Council.
 - The application Ref DC/22/04142, dated 18 August 2022, was refused by notice dated 12 October 2022.
 - The development proposed is the erection of a detached self-build dwelling and garage.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought, with all matters reserved except access. I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - a) whether the site is in a suitable location for housing development, with particular reference to whether future occupiers would be reliant on the private car; and
 - b) the effect of the proposed development on highway safety.

Reasons

Suitable Location

4. The appeal site comprises part of a field to the west of Magpie Lodge, and is located within Magpie Green, a small hamlet. Policy CS1 of the Core Strategy Development Plan Document, adopted 2008 ('CS') sets out the settlement hierarchy for the district. Consequently, Magpie Green is designated as countryside.
5. Policies CS1 and CS2 of the CS restrict development in the countryside to defined categories, none of which are applicable to the proposed development. Saved Policy H7 of the Mid Suffolk Local Plan, adopted 1998 ('LP') requires housing outside settlement boundaries to be strictly controlled, to protect the countryside's character and appearance. Therefore, the proposal would conflict with Policies CS1 and CS2 of the CS and Policy H7 of the LP.

6. Paragraph 80 of the National Planning Policy Framework ('the Framework') supports the provision of isolated homes in the countryside where they comply with a closed list of exceptions. '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 located within a cluster of dwellings that form the hamlet of Magpie Green and therefore would not be considered 'isolated' in respect of paragraph 80.
7. Magpie Green does not have any facilities. A bus service operates between the hamlet and Diss (a town within an adjacent Council administrative area). However, the service Monday to Saturday is limited and irregular, and there is no service on a Sunday. Therefore, I am not persuaded that there is a reliable bus service that would serve the appeal site.
8. The closest villages to the appeal site are Redgrave and Wortham, which are designated as 'Secondary Villages' by CS Policy CS1. These villages contain some services and facilities including small convenience shops, a primary school, a village hall, sports facilities and public houses. The routes between the appeal site and these villages involve travelling along single width roads with passing places and a 60mph speed limit, with no pavements or street lighting. A Public Right of Way between Magpie Green and Wortham traverses across fields.
9. Consequently, although Redgrave and Wortham are not an overly significant distance from the appeal site, the general condition of local infrastructure is such that travelling to these villages by means of walking or cycling would be unlikely, particular for occupants with young children or mobility issues, especially in the dark or during inclement weather. Furthermore, the facilities and services within these villages are unlikely to serve the day-to-day needs of future occupiers who would need to travel further afield to access such things as secondary schools, supermarkets, healthcare and employment opportunities.
10. As such, future occupiers are likely to rely on the private car to make journeys to meet their day-to-day needs.
11. Policy FC1.1 of the Mid Suffolk Core Strategy Focused Review 2012 ('CSFR') sets out the Council's approach to delivering sustainable development and requires proposals to demonstrate how they meet the objectives and policies of the CS which includes locating development to areas with good access to jobs and services. 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 decision-making. While the number of vehicular trips associated with one dwelling would likely be low, in this case, the overall level of reliance on the private car would be high and therefore the appeal site would not be in a suitable location for housing development.
12. Paragraph 79 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The provision of one additional dwelling would provide some support for the vitality and viability of the rural community in which it is located, as well as nearby villages. However, given the

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

proposal is for one dwelling, 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.

13. In respect of the first main issue, the proposed site would not be in a suitable location for housing development, with particular reference to future occupiers' reliance on the private car. The proposal would therefore conflict with Policies CS1 and CS2 of the CS, Policy H7 of the LP, and Policies FC1 and FC1.1 of the CSFR which, amongst other things, seek to direct the majority of development to towns, key service centres, primary and secondary villages; restrict development in the countryside; and protect the existing character and appearance of the countryside.

Highway Safety

14. The appeal site fronts onto Redgrave Road; a single width road which has a grass verge along either side that is raised above the height of the carriageway. Although 'access' is to be determined at this stage, the submitted Site Plan does not show an access layout, the point of access, details of the junction including radii or how the change in ground levels would be altered.
15. A separate drawing has been submitted that appears to indicate a visibility splay. The information before me suggests that visibility splays of 135m could be achieved in both directions, which is below the 160m in both directions required for a 60mph road, such as Redgrave Road. While the section of Redgrave Road in front of the appeal site is relatively straight and was lightly trafficked at the time of my site visit, no speed survey has been provided to establish whether substandard visibility splays would be acceptable in this location. Consequently, I am unable to determine whether a safe and suitable access could be achieved.
16. In reference to the second main issue, insufficient information has been provided to ascertain the effect of the proposed development on highway safety. The proposal would therefore conflict with Policy T10 of the LP which, amongst other things, requires the provision of a safe access to and egress from the site. It would also conflict with paragraphs 110 and 111 of the Framework that seek to ensure a safe and suitable access to the site can be achieved for all users and that the proposal would not have an unacceptable impact on highway safety.
17. The Council's reason for refusal also references Policies FC1 and FC1.1 of the CSFR, however, these are strategic policies and are not directly relevant to this main issue.

Other Matters

18. Further along from the appeal site to the east is the Grade II listed building, The Cottage. 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 Cottage comprises a circa 17th century timber frame and plastered small cottage with a thatched roof. The significance of this listed building is its aesthetic value. The distance between the appeal site together with the intervening dormer bungalow and vegetation, would ensure that the proposal would not harm the setting of this listed building.

19. The provision of one additional dwelling weighs in favour of the proposal and would make a contribution, albeit small, to the Government's objective of significantly boosting the supply of new homes. However, the Council can currently demonstrate a housing land supply of deliverable sites that exceeds 10 years. In addition, there would be some modest benefits associated with the creation of jobs during the construction period. Collectively, these benefits carry moderate weight in favour of the scheme.
20. The proposal is for one self-build dwelling. The appellant has highlighted the Council's responsibility under the Self-Build and Custom Housebuilding Act 2015 ('the Act') to provide enough suitable permissions to meet identified demand for the district and has directed me to the Government's 2020-21 Right to Build Register Monitoring that details that 286 individuals were on the Council's register but only 78 permissions have been granted. However, I have not been provided with a mechanism to ensure compliance with the provisions of the Act to provide certainty that the dwelling would be a self-build project. Even if the proposal was occupied as a self-build, the contribution to the overall demand for such housing would be modest, due to it comprising one unit. I therefore attach limited weight to this matter as a benefit of the proposal.
21. The Council is in the process of producing a new joint Local Plan² and I have been directed to Policy LP01 that allows for infill development within hamlets, of which Magpie Green has been identified as one. However, I have not been provided with full details of this policy. The appellant states that the Examination in Public has taken place, but further modifications will be required before the plan can be adopted. This has not been disputed by the Council. I have not been privy to any further modifications and therefore it is unclear whether these have been made. Consequently, the policy could be subject to modification and therefore, limited weight can be attached to this emerging policy.

Planning Balance

22. The appellant suggests that LP Policy H7 and CS Policies CS1 and CS2 are inconsistent with the Framework because their approach to development in the countryside is more restrictive, and Policy FC1 of the CSFR is inconsistent with the Framework as it repeats what was in paragraph 14 of the 2012 Framework which has since been superseded. Therefore, for the purposes of paragraph 11(d), the appellant considers these policies to be out-of-date.
23. I appreciate that both the LP and CS are both of some age and pre-date the original and current versions of the Framework, but this alone does not make these policies out-of-date. This is especially so in the present case, where it is not disputed that the area has far in excess of a 5-year land supply of deliverable sites.
24. LP Policy H7 and CS Policies CS1 and CS2 advocate that rural housing should be located to enhance the vitality of communities, and that new homes should not be permitted in locations that are isolated. The aims behind the CS and LP policies seem to me to clearly reflect the intentions of other relevant policies within the Framework, such as paragraph 174 relating to the countryside's intrinsic character and beauty, and also paragraph 105 with regard to managing patterns of growth to promote sustainable travel. In the absence of

² Joint Babergh and Mid Suffolk Local Plan

any clear inconsistency with the Framework as a whole, or any other evidence to the contrary, I see no reason to treat Policies CS1, CS2 or H7 as being out-of-date, which are the most important for determining the proposed development.

25. CSFR Policy FC1 is inconsistent with the Framework as it repeats a superseded paragraph of an older version of the Framework. However, this is a strategic policy that is not the most important for determining the proposed development. I have found that the most important policies for determining the proposal are consistent with it and consequently, paragraph 11(d) of the Framework is not engaged.
26. I have been directed to appeal decisions by the main parties and I note that varying views on the question of whether these policies are out-of-date have been expressed by inspectors. But I have formed my own view based on the evidence before me.
27. Even if I had concluded that the policies most relevant in the determination of the proposed development were out-of-date and paragraph 11(d) was engaged, the harm I have identified would significantly and demonstrably outweigh the benefits I have set out in my reasoning above when assessed against the policies in the Framework taken as a whole.

Conclusion

28. 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