



Appeal Decision

Hearing held on 14 November 2023

Site visit made on 14 November 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Appeal Ref: APP/W3520/W/23/3325321

Maple Lodge, Gislingham Road, Finningham, Suffolk IP14 4HZ

- 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 S Hardwick, Mr M Hardwick and Mrs W Leggett against the decision of Mid Suffolk District Council.
 - The application Ref DC/23/01687, dated 5 April 2023, was refused by notice dated 7 June 2023.
 - The development proposed is described as the 'demolition of existing buildings and erection of three new dwellings and garages'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was in outline, with details of access only. Therefore, the scale, layout, appearance, and landscaping of the proposed development are matters reserved for future consideration.
3. I have had regard to the detailed arrangements for the proposed vehicular access shown on drawing no. 0208 02. It was clarified at the hearing that these include the section of access road which would run immediately to the south of Maple Lodge, its garden and the existing cart shed, but not the proposed layout of access driveways or parking beyond that point. It was also confirmed at the hearing that the Location Plan on drawing 0208 02 is regarded by the parties as being detailed insofar as it confirms the application site boundary. However, I have otherwise treated the contents of drawing 0208 02 as being indicative.
4. The Babergh and Mid Suffolk Joint Local Plan (JLP) was adopted on 20 November 2023, after the hearing, but while the appeal was still under consideration. At the time of the hearing, both main parties were aware of the anticipated date of adoption and had the opportunity to comment on the implications of the relevant policies in the JLP, including modifications which had been proposed during its examination in public. After the hearing had closed, the Council confirmed in writing that the JLP had been adopted and the appellant was kept abreast of that update.
5. I have had regard to the JLP when considering the appeal. I have referred to superseded policies in the Mid Suffolk Local Plan 1998 (MSLP) and the Mid Suffolk Core Strategy 2008 only to the extent that they pertain to my understanding of specific matters raised by the parties.

Main Issue

6. The main issue is whether the appeal site is a suitable location for housing having regard to:
- the effect of the proposed development on the rural economy,
 - whether it would be consistent with the Council's spatial strategy, and
 - the accessibility of the site to services and facilities.

Reasons

Effect on Rural Economy

7. The appeal site is a long-standing vehicle repair workshop, comprising two main ranges of workshops and sheds around a parking area. At the hearing, the appellants explained that the commercial workshop use commenced around 20 years ago, and that the buildings had been used for similar purposes on a more domestic scale before that. A 1992 planning permission¹ for use of the site as an agricultural / motor repair workshop coincided with the grant of a lease formalising use of the site as a family business. The appellants confirmed that the business has continued to encompass repairs to both agricultural and domestic vehicles, but with a greater focus on the latter. Following expiration of the lease, the repair business has relocated to a nearby site and remains operational, however the premises on the appeal site are now vacant.
8. Paragraphs 84 and 85 in the Framework are supportive of the retention and development of sites for commercial and community-focussed business uses in rural areas. This includes employment sites in locations where there may be limited access to other services and transport options.
9. In the JLP, Policy LP10 sets out criteria applicable to proposals involving redevelopment of existing employment land. Such proposals will be required to demonstrate that the possibility of re-using or redeveloping the land for other employment or community uses have been explored through a marketing process detailed in the policy. The MSLP and Core Strategy did not include a similarly specific requirement to test the market. However, the JLP had reached an advanced stage at the time of the application. Modifications to Policy LP10 had been published and only limited changes were proposed to the wording of this aspect of the policy. On that basis, the requirements of the emerging policy were available for consideration when the application was made and would have carried at least moderate weight.
10. No evidence has been presented that the site has been marketed in its existing use and it was confirmed at the hearing that options for alternative employment or community uses of the site have not been actively explored. The appellants highlight the site's relationship with neighbouring dwellings and consider that residential use would be advantageous, by eliminating what was described as a non-conforming use which could prejudice the living conditions of nearby occupiers.
11. I have not been presented with any specific evidence that the existing use has been the cause of unacceptable noise, disturbance, or other adverse impacts. The appellants suggest that the use of the site by a family business has been a

¹ Mid Suffolk District Council planning application ref 449/92.

contributory factor, on the basis that close relatives living nearby would have helped ensure that it operated in a considerate manner. They further suggest that a future occupier may not exercise the same level of consideration and highlight that there are no planning conditions regulating noise, types of machinery or other disruptive activities.

12. I acknowledge that a future commercial operator could have an increased effect on the living conditions of neighbouring occupiers. However, other regulatory regimes exist to safeguard residents against excessive noise or other forms of nuisance related to commercial activities. Furthermore, the site is modest in scale, with a narrow access off a quiet lane, all of which is likely to act as a natural limitation on the scale of potential commercial activity and its consequent effects on the surroundings.
13. Set against this risk are the benefits of maintaining a small commercial site in a location which is capable of serving the needs of the surrounding rural area. Representations from interested parties indicate that the repair garage on the site was valued by its customers, as a readily accessible facility. The business remains operational nearby, so this facility has not been lost. Nevertheless, these comments are a clear indication that business use of the site has in the recent past made a positive contribution to the range of local services in Finningham, and could potentially continue to do so.
14. An alternative occupier in the same use would continue providing a local repair service, accessible by the surrounding rural community. Alternatively, the site may attract an alternative form of employment use, which could be similarly beneficial. In that scenario, the Council would have the opportunity to regulate commercial activities through planning conditions to avoid harming the living conditions for neighbouring occupiers.
15. The District's strategic requirement for employment land is being addressed in the JLP and there is evidence of several strategic-scale employment sites being developed in the area. These include the Gateway 14 site at Stowmarket, which is focussed on large scale logistics operations. On that basis, the loss of this small site would have negligible effect on strategic provision for employment land or the wider availability of employment opportunities. Since one previous employee has retired and the other has relocated with the business, no existing jobs would be lost. However, that does not mean that the site is without value to the rural economy.
16. For the above reasons, based on the evidence before me, I conclude that the proposal would be harmful to the rural economy. It would conflict with JLP Policy LP10 and relevant paragraphs of the Framework, as outlined above.

Spatial Strategy

17. Prior to adoption of the JLP, Mid Suffolk Core Strategy Policy CS1 designated Finningham as a countryside village and did not carry forward a settlement boundary which had been defined around the village in the earlier Mid Suffolk Local Plan (MSLP). In the JLP, Policy SP03 maintains the previously defined settlement boundaries without change.
18. Although the wording of Policy SP03 alludes to boundaries which were established in 'earlier Local Plans and Core Strategies', the Council confirmed at the hearing that this does not imply that the MSLP settlement boundary around

Finningham has been reinstated and that no settlement boundary is shown on the final version of the policies map associated with the JLP. The appellant accepted the Council's clarification on this point. Therefore, while there is an expectation that settlement boundaries will be reviewed in a Part 2 Local Plan, yet to be prepared, currently the appeal site lies outside any designated settlement boundary.

19. To promote sustainable development, the Framework states at paragraph 79 that housing in rural areas should be located where it would enhance or maintain the vitality of rural communities. The JLP accordingly makes provision for housing within rural areas, including by means of Policy SP03 which permits housing outside settlement boundaries in a range of defined circumstances. These include windfall development which accords with one of several policies listed in the supporting text. Among those are Policies LP01 and LP10, which both main parties agree are among those most important for consideration of this appeal.
20. Policy LP01 of the JLP allows for infill development outside settlement boundaries where there is a cluster of at least 10 well-related dwellings. There are well over 10 dwellings forming a coherent cluster in the northern part of Finningham, where the appeal site is located. However, as the site is not a small undeveloped plot in an otherwise built-up highway frontage, the proposal would not comply with the JLP's definition of infill for purposes of Policy LP01. In addition, Policy LP01 states that infill development would usually be for only one or two dwellings. Since the appeal proposal would be for three dwellings, it would also fail to comply with that requirement.
21. For the reasons given above, the proposal does not accord with JLP Policy LP10. It was furthermore confirmed at the hearing that there are no other specific policies in the JLP supporting redevelopment of previously developed land outside settlement boundaries.
22. The Court of Appeal has clarified² that the reference to isolated dwellings in paragraph 80 of the Framework connotes a dwelling that is physically separate or remote from a settlement. This is a matter of judgement and is not restricted to locations where a settlement boundary is defined in a development plan. In this case, the proposed dwellings would be closely related to existing housing in the northern part of Finningham, which forms a coherent and readily identifiable rural community. Therefore, notwithstanding the absence of a settlement boundary in the development plan, the proposed dwellings would not be isolated for purposes of paragraph 80 in the Framework.
23. Nevertheless, for the reasons given above, I conclude that the proposal would be inconsistent with the Council's spatial strategy as defined in JLP Policy SP03, which has itself been judged very recently to be consistent with the Framework's overall approach to rural housing.

Accessibility to Services and Facilities

24. Finningham is one of several villages and rural communities within an expansive rural area between the towns of Stowmarket and Diss. Within the settlement hierarchy carried forward into the JLP, the closest larger settlements

² Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

- are the town of Eye, near Diss and the villages of Bacton, around two miles from the appeal site, and Gislingham, around one mile in the opposite direction. The larger urban areas are all considerably further away.
25. Finningham itself has a limited range of services and facilities. There is a pub and a church, which the appellants explained are also used as venues for local events, within what they described as an active and supportive village community. However, the farm shop listed in the written evidence has closed. Approximately one mile south of the appeal site is a small trading estate known as Finbows Yard, in the parish of Finningham, on the road towards Cotton. This accommodates several businesses including car repairs, sale of household and gift items, a hairdresser, dog groomer and café with take-away. There is also a village hall on the edge of Cotton.
26. Primary and early years education are available in both Bacton and Gislingham. Bacton also provides a car repair garage with MOT testing centre and fuel sales, a GP surgery, and a public house. Both villages have a local convenience store, with the one in Bacton including post office facilities. It was mentioned at the hearing that there is also a weekly mobile Post Office service in Gislingham.
27. At the hearing, the parties confirmed that Eye, Stowmarket or Diss are the main destinations for larger-scale shopping, while secondary schooling is located in Stowmarket, Stowupland and Eye. Rail services are available at Stowmarket and Diss.
28. Based on the evidence provided, while Finningham lacks key services such as schools and health facilities, it is not bereft of local facilities if the pub, church, and businesses at Finbows Yard are taken into account. The evidence also indicates that Finningham has a functional relationship with both Bacton and Gislingham, since the nearest primary schools, convenience stores and GP surgery are located in these nearby villages. Therefore, while residents would need to travel to the towns to access larger scale services, they would also be able to take advantage of a range of much closer village facilities.
29. Public transport options in Finningham are very limited. There are scheduled bus services, but these currently operate on only three days per week, with one service per day. It was mentioned at the hearing that there is also a demand-responsive bus service and a neighbourhood app for arranging lifts. School transport services are available, although they do not cover one of the two primary schools. Therefore, there are some options for travel by means other than the private car. Nevertheless, the evidence does not indicate that public transport is an easy or reliable option or that it provides a comprehensive service to all likely destinations.
30. At the time of my site visit, I saw people walking around the area close to the appeal site, where the lanes are lined with houses and appeared lightly trafficked. Notwithstanding the lack of pavements or street lights, short journeys on foot would be feasible, for example to the church, pub, and bus stops, particularly in daylight hours. However, it would be less practical to walk to Finbows Yard or further afield, particularly for those with mobility problems, laden with shopping, or accompanying young children. While some people may choose to cycle to Bacton or Gislingham, it is unlikely to be a feasible option for all future occupiers or in all circumstances. Therefore, while future occupiers would have access to local services in Finningham, Bacton and Gislingham, they would be likely to access these mainly by car.

31. The existing use of the site is also associated with travel by car, given that vehicles would be driven to the site for servicing and repair. It was also explained at the hearing that additional vehicle movements took place between the garage and MOT testing centres. However, the Framework recognises that rural businesses may need to be in locations not well served by public transport. Therefore, while there would be some degree of trade-off between existing and future vehicle movements, this would not in itself be justification for the introduction of housing in the same location.
32. Nevertheless, future occupiers would have access to primary education, healthcare and a selection of local businesses and community services in the nearby villages. The degree of reliance on the private car would not be unusual within this predominantly rural district and trips to local services in Bacton and Gislegham would be relatively short. Future occupiers may provide some support for local services and the vitality of the rural community in Finningham, albeit to a limited degree, given that only three dwellings are proposed.
33. The Framework directs significant development towards locations which limit the need to travel and offer a genuine choice of transport modes. However, the proposed development is not of a significant scale, being for three dwellings, and the Framework also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. While the spatial strategy does direct most development towards larger settlements, the Council has not identified any conflict with specific policies of the JLP concerning travel by means other than the private car.
34. Taking all the above matters into account, based on the evidence before me and the circumstances of this particular case, I conclude that the site would provide future occupiers with an acceptable level of accessibility to services and facilities.

Conclusion: Suitability of Location

35. I have concluded that the proposed development would provide acceptable access to services and facilities for future occupiers. However, it would conflict with the spatial strategy set out in the JLP, since it would not accord with Policy SP03 or the associated policies allowing for windfall housing outside settlement boundaries. In particular, redevelopment of the site for housing would conflict with JLP Policy LP10, since options for continued employment use have not been tested. Loss of the existing commercial use would be harmful to the rural economy and contrary to relevant provisions of the Framework.
36. Therefore, in light of the conflict with the development plan and with the Framework read as a whole, based on the evidence before me, I conclude that the site is not a suitable location for housing.

Other Matters

37. I have noted the appeal decisions which were brought to my attention by both parties. However, these focus on the consistency of the relevant Core Strategy and MSLP policies with the Framework. As such, they are now of limited relevance, since following the recent adoption of the JLP, Policies SP03, LP01 and LP10 are the most important policies for determining the appeal. Given that these policies have been very recently examined and found to be sound, it

follows that they are not out of date. On that basis, the proposal is not subject to the test set out in Paragraph 11 d) ii) of the Framework.

38. It is common ground that the Council can demonstrate a housing land supply of 10.88 years, which is considerably higher than the minimum requirement set out in the Framework. While housing land supply requirements in the Framework are expressed as a minimum not a maximum, this evidence indicates that the Council is contributing positively to the Government's objective of significantly boosting the supply of homes. In that context, the proposal's modest contribution to the supply of housing does not outweigh the harm I have identified above.
39. Any benefit associated with the redevelopment of previously developed land would be at the expense of retaining a site which may remain capable of contributing positively to the rural economy. While the existing buildings are utilitarian in appearance, and there may be some scope for visual enhancement, this would be localised in nature and largely limited to the outlook from adjacent private land.
40. Consequently, no other matters outweigh the harm that would result from the proposal, as set out in the foregoing main issues.

Conclusion

41. For the reasons given above I conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Philip Cobbold PGDip MRTPI
Mr Stuart Hardwick
Mrs Wendy Leggett

Phil Cobbold Planning Ltd
Appellant
Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Jasmine Whyard BA(Hons) MSc
Mahsa Kavyani BA(Hons) MSc

Principal Planning Officer
Senior Planning Officer

DOCUMENTS

1. Email dated 21 November 2023 from Mid Suffolk District Council, confirming adoption of Babergh and Mid Suffolk Joint Local Plan and enclosing draft minutes of Council meeting dated 20 November 2023.