



Appeal Decision

Site visit made on 21 May 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2024

Appeal Ref: APP/D3505/W/23/3334125

Land to rear of Units 1 and 2, Former Hawthorns Business Park, Calais Street, Boxford CO10 5JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Andrew Macmillan against the decision of Babergh District Council.
 - The application Ref is DC/23/03267.
 - The development proposed is erection of 2 no. single storey, detached dwellings (net number of dwellings: min 1, max 2).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for permission in principle. Planning Practice Guidance advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage establishes whether a site is suitable in-principle and the second stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. Plans titled 'Topographical Survey and Proposed Site Plan' (Drawing No. 4214-90 Rev E) and 'Topographical Survey and Proposed Site Plan and Aerial' (Drawing No. 4214-91 Rev A) accompanies the planning application and I have taken them into account in reaching my decision.
4. The Council has confirmed that since the determination of the planning application, the Council has adopted the Babergh and Mid Suffolk Joint Local Plan – Part 1, 2023 (JLP) which now forms the adopted Development Plan and full material weight should be given to it. I have been provided with the relevant policies and determined the appeal accordingly.
5. An update to the National Planning Policy Framework (the Framework) has been published dated 19 December 2023 but there are no material changes relevant to the substance of the appeal.

Main Issues

6. The main issues are:

- Whether the site is suitable for residential development, having regard to its location, the proposed land use, and the amount of development; and
- The effect of the proposed development in relation to contamination.

Reasons

Suitability

7. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The appeal site is located outside of the built-up area boundary and for the purposes of the Local Plan is located within the open countryside. Policy SP03 of the JLP relates to the sustainable location of new development and explains that outside of the settlement boundaries, development will normally only be permitted where: a) the site is allocated for development, or b) it is in accordance with a made Neighbourhood Plan, or c) it is in accordance with one of the policies of this plan listed in Table 5; or d) it is in accordance with paragraph 80 of the NPPF (2021). Policy SP03 explains that settlement boundaries are defined on the Policies Map. These boundaries were established in earlier Local Plans and Core Strategies and have not been reviewed as part of the Plan but are carried forward without change at the present time. The appellants' claims in relation to the spatial strategy and settlement hierarchy would not alter the provisions of this policy.
8. Policy BOX 1 of the Boxford Neighbourhood Plan (2021-2037), 2022 (BNP) sets out the Housing Strategy for Boxford whereby it focuses new development within the defined settlement boundaries only supporting new development outside of the boundaries where it is in accordance with national and development plan policies. The development does not fall within any of the provisions set out above. It also does not meet any of the circumstances set out in paragraph 84 of the Framework – formally paragraph 80 although not strictly applicable as discussed further below. Consequently, the proposed development would therefore be contrary to Policy SP03 of the JLP and Policy BOX 1 of the BNP.
9. Paragraph 83 of the Framework explains that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
10. There are a number of residential properties surrounding the site including those previously approved and under construction. The proposed development would not therefore be isolated in terms of paragraph 84 of the Framework which seeks to avoid the development of isolated homes in the countryside unless certain circumstances apply. Calais Street is a small hamlet located approximately 1 mile to the southeast of the village of Boxford. Calais Street contains very limited services and facilities and based on the evidence before me and my own observations on site, it is likely that future residents would be highly reliant on the services and facilities in Boxford and would be likely to

access these mainly by car. This is due to the degree of separation distance combined with limited opportunities for alternative travel including lack of continuous footway for pedestrians and lighting. Given the appeal site's relationship to services and facilities, it would likely result in a high dependency on private car. There is a grass verge along the A1071 and public rights of way which cut across nearby fields providing connections to Boxford. However, future occupiers would still need to walk along the grass verge which is not a suitable means of access even if used at present and the distance involved and nature of the road which is a very busy road would likely dissuade occupiers from walking/cycling.

11. The Framework in paragraph 109, states amongst other things, that the planning system should actively manage patterns of growth in support of objectives set out in paragraph 108, including that opportunities to promote walking, cycling and public transport use are identified and pursued. Paragraph 109 explains that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. It goes on to state that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. Whilst the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, it nevertheless sets out that the planning system should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.
12. It is clear that both local and national policy take a responsible approach to spatial distribution. The management of new development to more rather than less sustainable locations is an important development plan purpose which is reflected in both local and national policy, and I am aware of case law in this respect. I therefore find that the policies that are the most important for the determination of this application are generally consistent with the Framework and not considered out of date.
13. I am aware of the specific wording of Policy SP03 of the JLP and note the appellants' claims regarding the need for a level of flexibility as well as those claims made in relation to windfall sites/housing delivery. This would not alter my findings as the site is in an unsustainable location/not well related to facilities and services and thus unacceptable for further residential development. The Council has confirmed that it is able to demonstrate in excess of 5 years housing land supply and whilst this does not preclude further development from being approved, it does not change the requirement to assess whether the proposal is a sustainable form of development, and again I am aware of case law in this respect. Additionally, paragraph 11d)ii of the Framework is not engaged in such instances which states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This is an overall different assessment to the one required in the particular circumstances of this appeal. This is because it is clear from the policies contained within the Councils' Local Plan that the site would not be a suitable location for the proposed residential development, and I have no compelling reason to conclude otherwise given the sites constraints in terms of sustainability matters. As such, I have no clear reason to consider the appeal proposals not in line with the Local Plan.

14. The proposed development relates to small scale development, and I appreciate the appellants' claims regarding associated vehicular movements/emissions to and from the site. This would not however alter my findings as despite its small-scale nature, future occupiers would still be heavily reliant on private motorised transport opposed to more sustainable walking, cycling or use of public transport for most trips to facilities and services to serve all of their everyday needs. On this basis, it cannot be considered to be sustainable development. I have had due regard to the evidence submitted by the appellant in relation to low and ultra-low emission vehicles as well as noting claims made regarding air quality matters. This would not be sufficient to weigh in favour of the appeal as the proposal still does not represent sustainable development and I am not sufficiently persuaded to conclude otherwise in relation to this matter. It also cannot be assumed that future occupiers would have low and ultra-low emission vehicles even considering provision of electric vehicle charging points.
15. Reference has been made to the Councils' objective to develop a network of walking and cycling routes connecting settlements together and more importantly a planned cycle route between Sudbury to Hadleigh which the appeal site is said to be able to take full advantage of. I must however determine the appeal based on its current context opposed to any future plans and this would not therefore weigh in favour of the appeal. My attention has also been drawn to a previously proposed housing allocation located to the northeast of the site whereby the appellant claims that the Council considered this site a suitable location for development. It is however understood that such allocations have been deleted as part of the JLP and any future application would be subject to an assessment in its own right. In determining this appeal on its own merits, I have found that future occupants would not have reasonable access to day-to-day services and facilities without that likely high dependency on the private car and thus contrary to local and national policy. Based on the evidence before me and my own observations onsite, I am not sufficiently persuaded that the opportunities to maximise sustainable transport solutions would make the development acceptable in the particular circumstances of this appeal given the sites constraints.
16. Visually, the site is well defined by existing vegetation and surrounding residential properties including those previously approved and under construction. As a result, the proposed dwellings would be likely to be viewed in association with the adjacent built development rather than being an intrusion into the countryside and would not be at odds/jar with the dwellings located nearby. This element is therefore of lesser concern to me although it would not overcome the sustainability issues associated with the site.
17. For the above reasons, I conclude that the site would not be a suitable location for the proposed residential development on the basis that future occupants would not have reasonable access to day-to-day services and facilities without a likely high dependency on the private car. It would therefore be contrary to Policy SP03 of the JLP and Policy BOX 1 of the BNP. For the same reasons, the proposed development would also be contrary to the guidance contained within the Framework.

Contamination

18. A land contamination report has not been submitted for the site. However, given the nature of the application applied for comprising permission in principle, then despite the dispute regarding the use of the land, I am satisfied that such detailed information would be covered as part of the second stage 'technical details consent application' were I minded to allow the appeal.
19. For the above reasons, I conclude that the proposed development would comply with paragraph 180 of the Framework relating to conserving and enhancing the natural environment.

Other Matters

20. The proposed development may not cause harm to heritage assets, residential amenity, landscape, highways, or protected species. Notwithstanding that certain matters would be subject to the technical detail's application stage; they would not alter my findings on the main issues and thus would not weigh in favour of the appeal nor would claims made regarding downsizing matters. The limited opportunities for brownfield sites to come forward in a rural district would also not lead me to a different conclusion.
21. There would be some minor economic benefit through the construction period and some minor economic and social contribution to the local community from new dwellings. The proposed development would also make a modest contribution to the overall supply of housing in the area. The extent to which these matters would be beneficial is however limited given the small-scale nature of the proposals and would not weigh in favour of the appeal.
22. I am aware of previous pre-application discussions which have taken place with the Council although this would not alter my findings on the above main issues.

Conclusion

23. Although I have found a lack of harm in relation to contamination given the nature of the application applied for comprising permission in principle, I have found that the site would not be a suitable location for the proposed residential development for the reasons as set out. It follows that the proposal conflicts with the development plan and there are no material considerations, including the advice of the Framework, which would outweigh this conflict.
24. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR