



Appeal Decision

Site visit made on 28 May 2024

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 19th July 2024

Appeal Ref: APP/D3505/W/23/3325271

Red House Farm, Duke Street, Hintlesham IP8 3PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Dan Davies, Landex Ltd, against the decision of Babergh District Council.
 - The application Ref is DC/23/00690.
 - The development proposed is erection of 5No. single storey dwellings (revised layout and extension of residential curtilage for dwellings approved under DC/21/05992).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Dan Davies, Landex Ltd. against Babergh District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appellant revised the description of the proposal in their appeal form from that stated in the application form by the addition of brackets. This revision was also used by the Council in their decision notice. As this provides clarity on the development sought, I have used this revised description in my banner heading above.
4. Since the planning application was determined, the Council has adopted the Babergh and Mid Suffolk Joint Local Plan Part 1 (JLP) in November 2023. The Council's appeal statement mentions that the policies from the Babergh Core Strategy (2014) cited in the Council's decision have been superseded and no longer form part of the development plan. The Council identifies the JLP Policies which they consider are relevant to this appeal and, as a result, has also raised several new matters which the Council had not previously raised in its planning decision. These include the absence of a financial contribution for habitats mitigation, details in respect of biodiversity, and mitigation for climate change. As I am required to make my decision based on the development plan and national policy which are in place at the time of my decision, the appellant has had the opportunity to comment on these changes and I will take the JLP into account in coming to my decision.
5. The Council points out in its appeal statement that, due to an error, the absence of a commuted sum towards affordable housing was omitted as a reason for refusal. However, they point out that the requirement for an affordable housing contribution was raised in the officer delegated report,

including the commuted sum calculations, and was considered as part of its planning balance. The Council also point out that the site area on the planning application form was incorrect and that they had notified the appellant when it was identified that the correct site area triggered the requirement for affordable housing. Accordingly, the appellant has been invited to comment on this matter and has latterly submitted a signed and dated Section 106 Agreement (June 2024) to secure the contribution sought towards affordable housing provision should I allow the appeal. Whilst it is regrettable that the Council omitted this reason for refusal, the intentions of the Council were clear in its dealings with the application, and I have added this as a main issue in this decision.

6. A revised version of the National Planning Policy Framework (the Framework) has been published since the Council issued its decision. In this instance, the relevant changes only relate to paragraph numbering and do not fundamentally affect the substance of the matters under appeal.

Main Issues

7. The main issues are:

- Whether the proposed development would be acceptable having regard to the settlement strategy and the character and appearance of the area;
- The effect of the proposal on the character and appearance of the buildings; and
- Whether the proposal would make adequate provision for affordable housing.

Reasons

Location

8. The site is located at the rear of dwellings on Duke Street in Hintlesham and is near to a former farmstead associated with Red House Farm. The site forms part of a larger agricultural field with an existing hedgerow along the north and western boundaries. There is agricultural land beyond the site and sweeping open views out into the wider countryside. In this part of Hintlesham, the settlement has a strongly linear character with development primarily along Duke Street and having a clear relationship with it. Although the dwellings and plot sizes along Duke Street show some variety, they are generally one plot deep and this is the overriding pattern of development in the area.
9. The appeal site abuts the settlement boundary of Hintlesham but the site itself lies outside it. The preamble to JLP Policy SP03 notes that settlement boundaries are long standing, based on previous plans, and that they will be reviewed as part of the Part 2 Local Plan. However, in the short to medium term, adherence to settlement boundaries identified in Policy SP03 is expected to enable the Council to meet its development needs whilst recognising the intrinsic value and character of the countryside.
10. Given that the plan is newly adopted it is reasonable to assume that the examining Inspectors were satisfied with that strategy and that the policy

conformed with the Framework. I see no reason to take a different view on the information before me.

11. The evidence suggests that the site has planning permission for five dwellings¹ approved in 2022. This permission was found to be acceptable as an alternative to an approved fall-back scheme of a Class Q conversion of relatively large, modern barns, now demolished. This recent approval comprises single storey dwellings, arranged in a courtyard layout using traditional materials. This scheme represents a material consideration in the assessment of this appeal proposal, and the evidence before me suggests that it is available and could be carried out.
12. In the appeal proposal, the size and overall design of the dwellings would remain unchanged, but they would be repositioned to incorporate a larger courtyard, together with larger gardens. As a result, the site area would extend towards the north-western field boundary and would occupy more of the field to the south. Whilst the appellant regards the proposal as a revised layout for the extant development, the details of the scheme before me, including the description of development and increased site area, indicate that this is a new development with the approved scheme representing a material consideration.
13. JLP Policy SP03 outlines how growth will be managed within the district, primarily focusing development within established settlement boundaries. The policy allows for some exceptions outside these boundaries including extant planning permissions, and windfall development in accordance with specified JLP policies. The appellant suggests that the site is part of an extant permission but with an increased site area extending further into the countryside, it does not satisfy this criterion. Consequently, no adequate case has been made to indicate that this proposal would meet any of the policy provisions of SP03 and therefore there would be conflict with it.
14. The approved scheme already represents a significant extension into the open countryside beyond the settlement boundary compared to the former Class Q site boundary. The Council comments that, although there would be some harm to settlement form, this extension was justified as the development was considered to be an enhancement of the site and wider landscape compared to the Class Q conversion of large, modern buildings. It also provided on-plot parking and private garden areas.
15. This appeal proposal would represent a further, significant extension into the countryside occupying more of the agricultural field to the rear of Duke Street. Consequently, the further spread of development at the back of the buildings and gardens on Duke Street would further erode the strong linear character of the settlement form. Also, in addition to this spread of built form, the building group would be more generously sited within the field with extensive rear gardens on all sides. Therefore, the rears of the buildings and their gardens, especially on the more open southern side would allow all the trappings of domestic life to be much more visible in this open countryside setting on the edge of the settlement.
16. JLP Policy LP24 advises that development should make a positive contribution to its context and should respond to and safeguard the existing character of that area. It has not been made clear to me how the further, incremental

¹ DC/21/05992

spread of residential development into the open countryside would achieve this or how it would be justified. In this regard, there is little evidence that the gardens of the approved scheme are of an unacceptable size or design. The land may no longer have a Special Landscape Area designation but nevertheless the Framework states that decisions should recognise the intrinsic character and beauty of the countryside.

17. I have carefully reviewed the appellant's Landscape Appraisal (2023) which concludes that the appeal proposal is a slightly better fit with the character of the landscape than the approved scheme. The closest views of the proposed development in this document are identified as Views 2a and 2b from the public footpath to the south of the appeal site where users will experience both close and more distant views. This notes that the enlargement of the gardens to plots 2 and 3 will be noticeable at close range and relies on the maturing of boundary vegetation. However, it does not appear to adequately illustrate the differences between the approved scheme and the appeal proposal. Also, it does not take full account of future domestic activity and paraphernalia in those gardens, especially those gardens nearest to the footpath. Therefore, it does not adequately convince me that the proposed impact on the surrounding landscape would be acceptable.
18. The Landscape Appraisal suggests that there would be benefits associated with new native boundary hedges and trees to all sides of the proposed development and that it would be more positive than the consented scheme, with more scope to plant larger native boundary trees. A similar view has been expressed by the Council's Landscape Officer, considering that any harm generated by the built form spreading into the countryside could be mitigated by enhanced landscaping along boundaries which would help screen the site from wider landscape views and physically contain the development. However, whilst additional landscaping could be secured by condition were I to allow the appeal, it would not justify the spread of development out into the open countryside harming the settlement form. It also largely appears to replicate the approved scheme and I note that this latter scheme illustrated more tree planting beyond the residential gardens.
19. I therefore conclude that the proposed development would not be acceptable having regard to the settlement strategy and the character and appearance of the area. It would conflict with JLP Policies SP03 and LP24 and the Framework as set out above.

Design

20. Although I have not been provided with comprehensive details of the approved scheme, it is evident to me that the buildings would be arranged as a group reflecting a typical farmyard. The Council also references their aspirations to create a farmyard aesthetic. However, the Council do not clearly indicate any suggestion that the design or detailing of the approved buildings was intended to replicate the appearance of farm buildings which might have justified more authentic, traditional design and detailing. Therefore, the Council's requirement that the garage doors should be side-hung and in timber is not clearly made or adequately justified. Nor is it adequately explained why roller-shutters or up-and-over doors would not be an acceptable alternative, especially as they appear to be mainly located in the courtyard facing elevations which are not directly in public view.

21. The Council is also concerned that the proposed increase in the size of the courtyard and loss of planting, including small trees within it, would be detrimental to the design of the scheme and dilute the farmyard aesthetic. However, in comparing the two schemes, it is evident to me that notwithstanding the increased courtyard size of the proposed scheme, both have a similar level of green areas, and it has not been clearly explained what the harmful elements are. In any event, conditions could be attached to any approval, were I to allow the appeal, which could secure additional planting to break-up the built form, provide shade and encourage biodiversity were this found to be appropriate.
22. Therefore, I find that the proposal would have no harmful effect on the character and appearance of the buildings. In relation to this element of the proposal, I find no conflict with JLP Policy LP24 described above. It would also comply with the high-quality design expectations of the Framework.

Affordable Housing

23. JLP Policy SP02 relates to the provision of affordable housing and states that on sites of more than 0.5ha a contribution towards affordable housing will be normally required on greenfield sites. The officer report outlines the calculations undertaken and states that a commuted sum would be appropriate given the nature of the development, secured via a Section 106 Agreement.
24. The appellant points out that the development arose from a Class Q permission for which no affordable housing can be sought and that the approved scheme for five dwellings also had no requirement for affordable housing. They consider that it would be unreasonable to request this now based on a slightly bigger courtyard and for some of the approved dwellings to have larger gardens. The appellant also considers that this new requirement does not meet the tests for a planning obligation to secure affordable housing.
25. Whilst the appeal scheme is not proposing an increase in the number of dwellings beyond those already approved, I have already noted above that this is a proposed new development with the approved scheme representing a material consideration. This is a site beyond the settlement boundary, has a notably greater site area than the approved scheme, triggering the requirement for affordable housing provision, and must be considered under the new JLP. It is therefore not unreasonable to consider this scheme as a whole under the JLP, including JLP Policy SP02, and there is a requirement for me to do so.
26. The appellant suggests that the district has a good supply of affordable housing and I have no clear evidence that there is an immediate unmet need in Hintlesham or the wider area. However, the policy requirement is clear, and it does not make allowance for altering those requirements unless a convincing viability assessment has been submitted to demonstrate exceptional circumstances. No viability report has been submitted with this appeal. Therefore, I am satisfied that the appeal scheme by virtue of the increased site area and its position beyond the settlement boundary meets the requirement for affordable housing provision as set out in Policy SP02 and that it meets the tests for a planning obligation. In this regard, I have reviewed the appellant's completed and signed Section 106 Agreement. Although no formal comments have been received from the Council in relation to this, I note that the required sum would be paid were I to allow this appeal. The submitted wording of the

Agreement would appear to satisfy the requirements and I have no evidence to suggest otherwise.

27. I am, therefore, satisfied that the proposal would make adequate provision for affordable housing. This would comply with JLP Policy SP02 and the Framework.

Other Matters

28. Red House Farm lies to the east of the appeal site, fronting Duke Street, and was the historic farmhouse associated with the appeal site. Although the Council has provided little information for me to understand the factors that warrant the building being identified as a non-designated heritage asset, the appellant has not objected to this. In any event, neither party consider that the proposal would have any detrimental impact on its significance, and I have no clear reason to disagree.
29. The appellant's heritage report (2021) references two nearby listed buildings: Hintlesham Hall (Grade I Listed) and the Service Ranges, Former Coach House and Bewhouse attached to Hintlesham Hall (Grade II* Listed). As a statutory consideration, I have a duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Having reviewed the heritage report and considered the relationship of these buildings on site, I am satisfied that there is no compelling evidence to suggest any positive or functional relationship between the appeal site and the listed buildings. Therefore, in the absence of any evidence to the contrary, I find that in relation to this appeal there would be no harm to their significance.
30. The parties agree that the development would likely generate additional recreational impact on the Stour and Orwell Estuaries Special Protection Area and Ramsar site and is therefore subject to a one-off tariff as described in the Suffolk Coast RAMS. Evidence has been submitted which indicates that the applicable contribution has been paid. As I have already identified harm in respect of the settlement strategy and the character and appearance of the area, it is not necessary for me to undertake an appropriate assessment, as even if no harm to the RAMS was identified or any harm successfully mitigated, these would be neutral considerations at best and therefore would not alter the outcome of the appeal. In these circumstances, it is not necessary to consider these matters further for the purposes of my decision.
31. JLP Policy SP10 requires all developments to mitigate and adapt to climate change. In addition, Policy LP23 requires all new residential development to achieve a reduction of carbon emissions to help the Council to achieve its target of net zero. As these are both new policies of the JLP, the Council suggests that these matters could be dealt with by condition should I be minded to allow the appeal. As I am dismissing this appeal it is not necessary for me to consider this further.
32. Policy LP16 requires that all new development provides a 10% increase in biodiversity net gain (BNG). Again, a new policy introduced in the JLP. In this regard the appellant has submitted a BNG report along with associated BNG calculations as part of their final comments. This states that the proposal can deliver 12.38% net gain in its biodiversity score. Although comments have not

been received from the Council in relation to this, the gain in BNG on the site would not be of such a scale as to tip the balance in favour of the scheme and it has not been necessary for me to consider this further.

Planning balance

33. The approved scheme already provides five dwellings and there is no clear evidence to suggest that this together with any of the economic and social benefits arising from that scheme would be any different. These factors are therefore neutral in the planning balance. So too would be the habitat mitigation payment which also was a requirement of the approved scheme. There would be benefits through BNG and carbon reduction measures. However, whilst these are to be welcomed, I have not been provided with any details of how they would be in excess of that provided by the approved development and therefore overall carry little weight as benefits. The approved scheme therefore delivers many of these benefits without the harm identified.
34. The contribution to affordable housing would be an important and worthwhile benefit which did not form part of the approved scheme and would attract moderate weight in favour. However, I am mindful that the appellant in their supplementary statement comments that the provision of affordable housing may not be viable and submitted the Section 106 agreement to avoid further delays.
35. Although I have found no harm in relation to the design of the development, there is clear conflict with the settlement strategy and the harm I have found to the character and appearance of the area would be significant and permanent. Therefore, even if the affordable housing contribution could be delivered in full on this scheme it would not outweigh the significant weight given to the harm.

Conclusion

36. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. I therefore conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR