



Appeal Decision

Site visit made on 18 September 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2024

Appeal Ref: APP/D3505/W/23/3334415

Mill Farm, Hadleigh Road, Elmsett, Suffolk IP7 6ND

- 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 and Mrs Wilson and Mr and Mrs Gillies against the decision of Babergh District Council.
 - The application Ref is DC/23/01271.
 - The development proposed is construction of 4no. bungalows with integral garaging, surface parking & vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the application was determined, the Council has adopted the Babergh and Mid Suffolk Joint Local Plan - Part 1 (November 2023) (JLP) and this replaces the Babergh Local Plan 2011-2031 Core Strategy & Policies (2014) (BCS). Therefore, the policies within the BCS cited in the Council's reasons for refusal have been superseded by policies within the JLP. Both the main parties have had the opportunity to comment on the implications of this for the appeal and I have taken the JLP into account in coming to my decision.
3. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Both parties, within their respective submissions, had an opportunity to comment on the revised Framework. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the 20 December 2023 version.
4. On 30 July 2024 the Government published a consultation on proposed reforms to the Framework and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration of very significant weight, the weight I give to the changes in the draft Framework is limited given that no final document has been published and it is subject to potential change in the future.
5. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework published in December 2023.

Main Issues

6. The main issues are:

- whether the appeal site would be a suitable location for the proposed development, having regard to local policy;
- whether the proposed development meets a locally identified housing need;
- the effect of the proposed access on flood risk; and
- whether or not the proposal is required to provide affordable housing.

Reasons

Location and local housing need

7. The appeal relates to a parcel of green land, predominantly enclosed by mature vegetation, situated to the south of Hadleigh Road. JLP Policy SP03 sets out how growth within the district is expected to come forward and confirms that the existing settlement boundaries are carried forward without change at the present time. The subtext to this policy explains that whilst the settlement boundaries will be reviewed as part of the Part 2 Plan, for the short-medium term the existing settlement boundaries will likely enable the district's development needs to be met.
8. There is no dispute between the parties that the appeal site sits outside the defined settlement boundary of Elmsett. As such the appeal site is within the open countryside for the purposes of the development plan. However, the northern and eastern boundaries of the appeal site adjoin the settlement boundary, and a small cluster of dwellings are situated on land to the northeast of the appeal site. As such the proposed dwellings would not be isolated.
9. Policy SP03 of the JLP states that outside 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 listed in Table 5; or d) it complies with paragraph 80 (now paragraph 84) of the Framework.
10. The appellant states that the appeal site is shown as a potential site for residential development within the adopted Elmsett Neighbourhood Plan 2017 – 2036 (2019) (NP). Nonetheless, I note that the appeal site was discounted in the NP due to concerns over a lack of safe pedestrian routes from the centre of Elmsett. It is also stated that the site appeared in the 2017 Strategic Housing & Employment Land Availability Assessment (SHELAA). However, I have not been provided with a copy of this SHELAA.
11. In any case, no evidence has been provided that the appeal site is allocated for development as required by criterion (a).
12. In respect of criterion (b), Policy EMST1 of the NP sets out the spatial strategy for development within the plan area, with the focus for new development within the defined Built-Up Area Boundary (BUAB). The appeal site sits outside the defined BUAB of Elmsett as shown within the NP.

13. Policy EMST1 states that development proposals outside the BUAB will only be permitted where it can be satisfactorily demonstrated that there is an identified local need for the proposal and that it cannot be satisfactorily located within the BUAB / Settlement Boundary.
14. The submission does not include a housing need survey to demonstrate a need for the appeal proposal. However, the appellant asserts that due to the small scale nature of the development, Council Officers advised and agreed that a housing need survey would not be necessary in this case. I am however not privy to the discussions that took place between the appellant and Council Officers at pre-application and planning application stage.
15. Nevertheless, the appellant states that public consultation events took place and a large amount of positive feedback was received in support of the appeal proposal. The appellant also makes reference to the outcome of the public consultation vindicating the findings of the NP that there is a high demand for small single-storey dwellings.
16. I have however been provided with very limited information in respect of the outcome of these public consultation events and this limits the weight I can attribute to them as a matter which demonstrates there is an identified local need for the appeal proposal.
17. Additionally, whilst I acknowledge the NP makes reference to an overall need for smaller homes, Policy EMST6 seeks to address this by requiring a minimum of 47% of new dwellings to be one or two bedrooms on developments of 10 or more homes. Furthermore, I have limited evidence before me that the need for smaller homes referred to in the NP cannot be met within the allocated site(s), or sites within the BUAB / Settlement Boundary.
18. As such, I find the reference to an overall need for smaller homes within the NP is not sufficient justification or evidence that satisfactorily demonstrates that there is an identified local need for the appeal scheme outside the BUAB / Settlement Boundary. Furthermore, whilst I note that some interested parties have expressed support for the appeal proposal, these comments do not also satisfactorily demonstrate that there is an identified local need for the proposed development.
19. In view of the above, the appeal site is not allocated for development within the NP and is outside the BUAB / Settlement Boundary. Furthermore, the submissions do not satisfactorily demonstrate that there is an identified local need for the appeal proposal and that it cannot be satisfactorily located within the BUAB / Settlement Boundary.
20. The appeal proposal does not therefore comply with NP Policy EMST1 and consequently does not accord with a made Neighbourhood Plan. Accordingly, the appeal proposal would not comply with criterion (b) of JLP Policy SP03.
21. Criterion (c) of Policy SP03 refers to a list of policies that if one or more are complied with, development outside the settlement boundary can be permitted, provided the development accords with other relevant policies of the Plan.
22. My attention has been drawn to JLP Policy LP01 within this list, which states that proposals for windfall infill development outside settlement boundaries, where there is a cluster of at least 10 well related dwellings, will be acceptable subject

to three criteria (a – c). Infill is defined at footnote 18 of the JLP as “*The filling of a small undeveloped plot in an otherwise built-up highway frontage*”.

23. There is a cluster of at least 10 well related dwellings fronting onto Hadleigh Road in a ribbon formation to the southwest of the site, and these dwellings are all located within the defined BUAB / Settlement Boundary.
24. To the northeast is a separate smaller cluster of dwellings that form the Mill Farm complex. These properties are all accessed via an access road that leads off Hadleigh Road and a number of the properties within this cluster are set back significantly from Hadleigh Road. The Mill Farm complex does not therefore appear as a frontage development on Hadleigh Road.
25. As such, I find that the existing dwellings to the southwest, and the properties to the northeast, do not together create a “*built-up highway frontage*” along the appeal site’s side of Hadleigh Road.
26. Moreover, whilst the appeal site is undeveloped, it is significant in width and I find the existing distance / gap between Wayside, which is the end property within the cluster to the southwest, and the dwellings within the Mill Farm complex to the northeast, to be substantial in size. As such, the appeal site does not represent a “*small undeveloped plot*”.
27. I therefore conclude that the appeal proposal would not represent “*The filling of a small undeveloped plot in an otherwise built-up highway frontage*” and therefore does not meet the definition of infill development as set out within JLP Policy LP01.
28. There appears to be no dispute that the appeal proposal would meet criteria (a) and (b) within Policy LP01. However, I note there is a disagreement between the parties in respect of criterion (c). Given that I have ultimately found that the appeal proposal does not meet the definition of infill development within Policy LP01 it consequently does not represent a windfall infill development as set out in Policy LP01. The dispute over criterion (c) is therefore not determinative in my consideration of the appeal proposal against this policy.
29. In view of the above, the appeal proposal would not represent an infill development within an otherwise built-up frontage and would not therefore comply with the requirements of JLP Policy LP01. My attention has not been drawn to any of the other policies listed within criterion (c) of Policy SP03 that would permit this proposed development outside the settlement boundary. Consequently, the appeal proposal does not comply with criterion (c) of Policy SP03.
30. In respect of criteria (d) of Policy SP03, as detailed earlier the northern and eastern boundaries of the appeal site adjoin the settlement boundary, and a small cluster of dwellings is situated on land directly to the northeast. As such the proposed dwellings would not be isolated and therefore the provisions of paragraph 84 of the Framework are not applicable in this case. In any case, my attention has not been drawn to any criteria within paragraph 84 that the appeal proposal would meet.
31. In addition, Policy SP03 of the JLP also sets out the overarching approach to the location of new development across the district. The supporting text to this policy identifies that development needs to be accommodated in settlements where the need to travel can be reduced, through good access to facilities and services.

32. The submitted evidence details that the settlement of Elmsett contains a primary school, village shop / post office, public house, village hall, churches and sports facilities. I observed during my site visit that these facilities are generally located towards the centre of the village, within the settlement boundary, and are within walking distance of the appeal site.
33. There is however no continuous footway or pavement from the appeal site to these facilities. As such, the appeal site is not currently well connected to these facilities in terms of walking via Hadleigh Road, as future occupiers of the proposed dwellings would need to walk within the highway, which does not benefit from street lighting. This would be particularly difficult and hazardous at night, and for pedestrians with buggies and/or a disability.
34. In coming to this view, I acknowledge that there are grass verges along sections of the road leading to these facilities, however these are narrow in places and would not be an attractive option for use all year round and in dark or adverse weather conditions. Furthermore, these verges would again not be suitable for pedestrians with buggies and/or a disability. I therefore find that the appeal site is not well connected to existing facilities and services within the village of Elmsett by foot.
35. I acknowledge that cycling to these facilities may be an option for some residents but not necessarily an attractive alternative given the lack of separate cycle lanes / routes and street lighting. Additionally, not everyone has access to a bike or the ability to ride a bike.
36. Thus, whilst I acknowledge that the appeal site is within walking and cycling distance of services within Elmsett, I find that due to the lack of separate footways, cycle lanes and street lighting, these are not realistic alternatives to the car for regular journeys.
37. The appellant has also stated that the appeal site is well connected to the nearby towns of Ipswich and Hadleigh via existing bus services. I have however been provided with limited information in respect of the locations of the nearest bus stops to the appeal site; the quality of the waiting facilities at these bus stops; bus routes / timetables / frequency; bus fares; or the time it takes to get to these towns via bus.
38. As such, I have limited evidence before me that the appeal site is well-connected to the nearest towns by public transport. Furthermore, and in the absence of any detail to the contrary, given my previous observations in respect of the lack of a continuous footway between the appeal site and the centre of Elmsett, it would appear likely that to access bus stops future occupiers would again have to walk within the road.
39. Overall, I find that the appeal site is not well connected to the facilities within the settlements of Elmsett by sustainable modes of transport, including walking, which provide a realistic alternative to the car. Consequently, I find that future residents of the appeal site would be reliant upon the use of a private car to access services and facilities, and the appeal site does not therefore represent a sustainable location for the proposed development.
40. The appellant has drawn my attention to JLP Policy SP01, a policy to which the Council has not identified any conflict with. This policy outlines the volume of dwellings required to be delivered in the district over the plan period.

41. The supporting text to this policy references the important role small to medium sites can play in meeting housing requirements, as well as the requirement in the Framework for local planning authorities to identify land to accommodate at least 10% of the housing requirements on sites no larger than one hectare. The policy however states that this requirement is met by existing commitments and the Council has confirmed that they currently have in excess of five-years housing land supply, which has not been contested.
42. Nevertheless, housing requirements are not a maximum and the appeal proposal would provide residential development on a small site, thus it could contribute towards achieving this 10% housing requirement on windfall sites. This however does not overcome the aforementioned harm I have identified which arises from the proposed development outside of the settlement boundary and on a site that does not represent a sustainable location.
43. In view of all the above, the appeal site is located outside the BUAB / Settlement Boundary of Elmsett and does not represent a sustainable location due to future residents' reliance upon the use of a private car to access services and facilities. I therefore conclude that the appeal site would not be a suitable location for the appeal scheme and it has not been satisfactorily demonstrated that the proposed development meets a locally identified housing need.
44. The appeal scheme would therefore not comply with Policies SP03 and LP01 of the JLP, and Policy EMST1 of the NP. These policies together seek to control development within the district by, identifying where growth and development should be focused; and permitting development outside the settlement boundaries where it can be satisfactorily demonstrated that there is an identified local need for the proposal, that it cannot be satisfactorily located within the BUAB / Settlement Boundary, and where it represents windfall infill development.

Flood risk

45. The Council's reason for refusal in relation to matters of flooding states that insufficient information has been provided to show that the access to the site will satisfy the Council's Flood and Water Engineers. I note the Council's reasons for refusal on this matter does not make reference to any relevant Development Plan Policies and I shall therefore consider this matter in accordance with the requirements of the Framework.
46. There is an existing ditch between the highway of Hadleigh Road and the appeal site. At the time of my site visit this ditch appeared to be dry, however I acknowledge that this may not be the case at other times.
47. The proposal seeks to access the appeal site directly from Hadleigh Road and the Lead Local Flood Authority¹ have raised an objection on the grounds that additional information is required to demonstrate that the site will be accessed via a single span bridge over this ditch.
48. The appellant's submission states that the access design would be that of a clear span or bridge with abutments that would not affect the cross-sectional area or flow of the ditch. Whilst specific drawings and details have not been provided, should I be minded to allow the appeal the precise details of how the access(es) will cross this ditch could be secured by a suitably worded planning condition.

¹ Suffolk County Council

49. In view of the above, I find that subject to the imposition of a planning condition, the appeal proposal could provide access to the site without increasing the risk of flooding at the appeal site and elsewhere. Consequently, I find no conflict with the relevant sections of the Framework relating to flood risk in respect of the proposed access into the site.

Affordable housing

50. Policy SP02 of the JPL states that on greenfield sites for ten or more dwellings, or 0.5 hectares (ha) or more in area, a contribution of 35% affordable housing will be required. In this case the proposed development for 4no. dwellings falls below the first policy threshold in terms of housing numbers.
51. In respect of the site area, whilst both the planning application form and the appeal form detail that the site area measures 0.3ha, there appears to be agreement between both the main parties within subsequent submissions that the site area measures circa 0.4ha.
52. The Council, along with a number of interested parties, contend that the red line boundary does not follow the natural boundaries of the site and is therefore contrived with an area of land to the southeast omitted from the appeal site. It has been stated that should this omitted area be included within the appeal site, it would measure more than 0.5ha and therefore affordable housing would be required.
53. Whilst I acknowledge the comments on this matter, the submissions from both the main parties state that the site area as defined by the submitted site edged red measures circa 0.4ha. Consequently, and on the evidence before me, it would appear to be a matter of fact that the site area for the appeal proposal is below the 0.5ha threshold.
54. For that reason, I conclude that the proposed development is not required to provide affordable housing, and consequently it would not conflict with the requirements of Policy SP02.

Other Matters

55. The proposed development is identified within the appeal documentation as being located within the Zone of Influence of the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar, which is covered by the Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS).
56. Had I been minded to allow the appeal I would have carried out an appropriate assessment (AA) of the effect of the proposal on the integrity of the SPA and Ramsar. However, as the proposed development is unacceptable for other reasons, an AA is unnecessary as undertaking one would not change the outcome of the appeal.
57. My attention has been drawn to the closure of the village shop, which included a post office, within Elmsett which I acknowledge currently reduces the facilities available within the village. I have limited evidence before me in respect of the reasons for the closure of this shop or details of the likelihood of it being re-opened in the future. Nevertheless, the appellant argues that the appeal proposal would likely result in increased demand for local shops and services and thus is supported by paragraph 83 of the Framework.

58. Consequently, whilst I am aware that the shop is currently closed, this may only be a temporary situation. Accordingly, I find that this matter neither weighs for or against the appeal proposal and it has therefore not been determinative in my consideration of the appeal scheme.
59. The appellant has stated that local school numbers have declined and the proposed dwellings will increase demand. I have limited evidence before in respect of any decline in school numbers in the area and therefore this matter has not been determinative in my consideration of this appeal.
60. I note that the Council's Statement of Case makes reference to the site being predicted to be at risk of surface water flooding. However, this is not included within the reasons for refusal and the Council's submissions include very limited information in respect of this matter. Had I been otherwise minded to allow this appeal I would have gone back to both the main parties and sought further comments in respect of this matter. However, as I am dismissing the appeal on the main issue, I have not pursued this matter further.

Planning Balance

61. The proposal would support the Government's objective of significantly boosting the supply of housing. There would also be economic benefits arising from the construction of the development and ongoing economic benefits from future occupiers spend in the area. However, the extent of these benefits would be limited by the scale of the development for 4no. dwellings.
62. I acknowledge that the provision of bungalows would provide accommodation that is suitable for an aging population and would therefore accord with the provision of the Framework where it seeks to provide an appropriate mix of housing types for the local community. This is therefore a benefit that carries moderate weight in favour of the proposal.
63. It has been commented that the proposed properties would allow existing residents of the village to downsize and stay within the village. Whilst I acknowledge this point, there is no mechanism before me to secure that the proposed dwellings would be for residents that have a local connection to the village of Elmsett. As such this matter carries limited positive weight in favour of the appeal proposal.
64. Whilst I find that the design and appearance of the proposed dwellings would be in keeping with the character of the area, and the existing trees / landscaping to the front of the site would be retained, these are neutral matters that neither weigh in favour, nor against, the appeal scheme.
65. I note that the appeal scheme would allow for energy efficient dwellings to be provided. However, no energy statement has been provided to demonstrate the energy efficiency level that the proposed dwellings would achieve and this therefore limits the weight I can attribute to this matter in favour of the appeal proposal at this stage.
66. Furthermore, the proposal would provide an opportunity to increase the overall biodiversity of the site, through measures including new hedge and tree planting, along with the provision of an orchard and a wildlife area. Whilst these features would be beneficial additions to the appeal site, I have limited evidence before me in respect of the overall level of biodiversity enhancement that would arise

from the appeal proposal in comparison to the existing site. I therefore attribute this matter limited weight in favour of the appeal scheme.

67. I also note that the submitted plans make reference to the creation of new wildlife areas and wildflower meadows on land that is located outside the submitted site edged red. There is however no mechanism before me to ensure that such features, outside the appeal site, are provided as part of the appeal scheme. Consequently, the biodiversity measures which are to be located outside the appeal site do not carry any weight in favour of the appeal scheme.
68. In view of the above, whilst I have found that there would be benefits arising from the appeal scheme, these benefits do not outweigh the clear conflict with the development plan in terms of its policies relating to the appropriate location of housing development within the district.

Conclusion

69. I have found that subject to the imposition of a planning condition, should I have been minded to allow the appeal, access could be provided into the site without increasing the risk of flooding to the appeal site and elsewhere. Furthermore, I found that the proposed development, as a result of the number of dwellings proposed and the appeal site area, is not required to provide affordable housing.
70. However, for the reasons given earlier, I have concluded that the appeal site does not represent a sustainable location, it has not been satisfactorily demonstrated that the proposal meets a locally identified housing need and the appeal site is not a suitable location for the proposed development.
71. The proposed development would therefore conflict with the development plan as a whole and the material considerations, including the provisions of the Framework, do not indicate that the appeal should be decided other than in accordance with the development plan. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

R Major

INSPECTOR