
Appeal Decision

Site visit made on 28 January 2025

by **M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 February 2025

Appeal Ref: APP/D3505/W/24/3347507

The Mount, Bridge Street, Long Melford, Suffolk CO10 9BQ

- 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 Paul & Lorraine Cooper against the decision of Babergh District Council.
 - The application Ref is DC/24/00114.
 - The development proposed is the erection of new off grid passive dwelling as replacement for permitted barn conversion dwelling. (1980's barn). Access as previously approved and implemented.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr and Mrs Paul & Lorraine Cooper against Babergh District Council. This application is the subject of a separate decision.

Procedural Matters

3. In December 2024, the Government published a revised National Planning Policy Framework (the Framework). Although some sections and paragraph numbers have changed, the revisions do not relate to anything that is fundamental to the main issue in this appeal. The parties would not therefore be prejudiced by reference to the revised Framework.

Main Issue

4. The main issue is whether the appeal site is in a suitable location for new residential development, having regard to local planning policies.

Reasons

5. Policy SP03 of the Babergh and Mid Suffolk Joint Local Plan – Part 1 (JLP) 2023, seeks to focus new development including housing, to sites within settlements. The parties agree that the appeal site lies within the countryside, outside of the defined settlement for Long Melford. In such locations, Policy SP03 will normally only permit development where it meets 1 of 4 specified criteria.
6. The appeal site is not allocated for development in the JLP or by Policy LM1 of the Long Melford Neighbourhood Plan (LMNP) 2022. No evidence has been presented that the development would be in accordance with paragraph 84 (previously paragraph 80) of the Framework, which provides exceptions for isolated new homes in the countryside. The only remaining criteria of Policy SP03

is the provision of development in accordance with one of the policies listed in Table 5. The appellants accept that the proposal conflicts with Policy LP01 of the JLP for windfall infill housing development outside settlement boundaries¹.

7. Instead, it is contended that the proposal is a replacement dwelling which is a form of development supported by Policy LP04 of the JLP. I observed that the appeal site comprises a spacious plot including a detached barn, which although not historic is nonetheless constructed of traditional materials and of an appearance that is befitting of its rural location. The Council advises that the existing barn is in use for the storage of garden machinery. I have no evidence to the contrary, nor is there any suggestion that the barn is being occupied as a dwelling.
8. Moreover, the description of development references the proposed dwelling as a replacement for a permitted barn conversion, not the replacement of an existing dwelling. Whether or not there is an extant planning permission for the conversion and extension of the existing barn to form a dwelling,² that is not the same as the established lawful use of a building or site. It seems clear and unequivocal that there is no current dwelling present at the appeal site and for this reason, the proposal cannot reasonably be considered as a replacement dwelling. This is irrespective of whether the proposed dwelling would be in the same or a different position than the existing barn. For these reasons, Policy LP04 does not apply in these circumstances.
9. Accordingly, as the proposal would not be in accordance with any of the stated instances within Table 5, where development is considered appropriate outside settlement boundaries, it would fail to comply with Policy SP03. Neither would it comply with Policy LM1 of the LMNP which seeks to focus development within the settlement boundary of Long Melford.
10. The appellants contend that Policy SP03 recognises that new housing development will come forward through extant planning permissions. It seems to me that this is nothing more than a statement of fact. I acknowledge that there is an extant permission at the appeal site. However, it does not change the policy position which requires 1 of the 4 specified criteria to be met to justify new development outside of the settlement boundaries.
11. For the above reasons, I find that the appeal site is not a suitable location for new housing development. The proposal would fail to comply with Policies LP03 of the JLP and LM1 of the LMNP which seek to achieve a sustainable pattern of development, aims which are shared by the Framework.

Other Matters

12. Reference is made to the presumption in favour of sustainable development. The Framework is clear that this presumption does not change the statutory status of the development plan as the starting point for decision-making. Where a proposal conflicts with an up-to-date development plan, permission should not usually be granted unless material considerations indicate that the plan should not be followed. I have found that the proposal conflicts with the development plan and the appellants have not disputed the Council's position with regard to its 5-year housing land supply.

¹ As set out at paragraph 5.8 of the appellant's statement.

² Planning application reference DC/22/05880.

Fallback

13. An extant planning permission exists for the conversion and extension of the existing barn to form a dwelling³. It is located in a different position and would be a different type of scheme to the proposed new-build dwelling. Given the separation between the two and with no evidence to the contrary, it would be possible to realise both schemes if I were to allow this appeal. The description of development would not prevent the two different developments from being implemented.
14. To overcome this issue the appellants have suggested that a planning condition could be attached to require the removal of the existing barn before the proposed dwelling is occupied. However, a planning condition would not formally revoke the extant planning permission. It would not meet the tests of reasonableness or enforceability, nor would it be relevant to the development permitted⁴. In addition, the imposition of such a condition would not mitigate the harm to the Council's spatial strategy which seeks to restrict new housing development outside of the settlement boundaries. The previous approval cannot therefore be considered as a fallback position. In this regard my findings are consistent with those of the Inspector in appeal decision APP/D3505/W/23/3314742,⁵ which has not been contested by the appellants.
15. Even if I could accept that there was a fallback position, other than the proposed site plan provided by the Council, I do not have the full details of the approved conversion scheme to consider. Thus, it has not been demonstrated that the proposal would be less harmful than the current proposal to suggest it should carry significant weight.
16. I am aware that permission was also granted on appeal in 2015 for the conversion and extension of the existing barn to form a holiday let⁶. The appellants suggest that this permission has been implemented through the creation of the access from the highway. However, the Council advises that a separate permission was granted in 2008 and the subsequent new vehicular access that was permitted was created between April and November 2010, prior to the appeal decision for the holiday let⁷. The appellants have not disputed the Council's position on this matter. There is no clear evidence before me such as a certificate of existing lawful development to demonstrate that the holiday let development has been implemented. Given the doubt around the implementation of this permission, it would not meet the realistic prospect test to be considered as a fallback position⁸.

Benefits

17. I understand the desire to provide an adaptable home to cater for any possible future accessibility needs the appellants may have. However, no evidence has been presented to demonstrate that the approved conversion scheme would not be capable of providing similar benefits, or that achieving such aims are inherently reliant on the proposal before me.

³ Planning application reference DC/22/05880.

⁴ The 6 tests of conditions as set out within paragraph 57 of the Framework and paragraph: 003 Reference ID: 21a-003-20190723 of the Planning Practice Guidance.

⁵ As referred to in section 3 of the Council's statement of case.

⁶ Appeal decision APP/D3505/W/15/3028174 provided as an appendix to the Council's statement of case.

⁷ As set out in section 2 of the Council's statement of case referring to planning application reference B/08/01632.

⁸ *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314.

18. The proposed dwelling would have high energy efficiency credentials and be built from sustainable construction methods. Energy would be generated from air source heating and PV roof panels and rainwater would be harvested⁹. Whilst paragraph 139(b) of the Framework suggests significant weight should be given to outstanding or innovative design which promote high levels of sustainability, there is no evidence that the design in this case is particularly unique or pioneering. The appellants simultaneously suggest that the proposal would lead to an 'off-grid' and 'virtually off-grid dwelling,' which creates some doubt around the extent of its environmental credentials. That said, I accept that carbon emissions are likely to be limited once the dwelling would be occupied and that this is commendable. However, the information presented does not evidence how the proposal would be environmentally enhanced compared to the conversion scheme, particularly when factoring in the embodied energy used in the construction of the barn. Moreover, there is no substantive evidence that the approved conversion scheme could not achieve similarly high energy efficiency credentials.
19. The appeal scheme is said to provide biodiversity measures including a wildlife pond, hedging and wildflower meadows. However, the biodiversity gain plan does not include a biodiversity metric calculation such that I can be certain of the scheme's quantifiable benefits in this regard. Neither is it clear that such biodiversity measures could not or would not, be implemented as part of the conversion scheme.
20. The suggested benefits of the proposed scheme, given the lack of precise, calculable information, would when taken individually or cumulatively, attract no more than limited weight.

Other Approvals

21. I am referred to planning approvals granted under the reference numbers DC/22/04532 and 23/04812. The former related to a policy compliant replacement dwelling and the latter appears to be in a different district where different policies would apply. Although I am advised that the policy wording is similar, it has not been presented to me. It is also suggested that the dwelling arose from the replacement of a barn which benefitted from a Class Q conversion to a dwelling.¹⁰ Be that as it may, I have not been provided with the full details of this permission or that permitted under reference 20/04750 (amended by 23/05566). Only a basic site plan and description of the circumstances has been supplied.
22. Whilst consistency in decision-making is important, without the complete officer reports, I cannot be certain of the weight that was attributed to the fallback positions and any other considerations that may have been relevant at that time. I have already advised that in this case, there is no fallback position(s) to consider. I have therefore assessed the appeal on the basis of its particular circumstances, and I attach little weight to these submitted cases.
23. The lack of objections from statutory consultees and interested parties do not indicate a lack of harm. They would therefore weigh neither for, nor against, the proposal but I nonetheless note that the Parish Council has objected to the scheme.

⁹ As set out in the appellants design, access and planning statement.

¹⁰ Planning application reference 21/03981 arising from permitted development afforded under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Planning Balance and Conclusion

24. I have found that the proposal would not be in a suitable location for new housing development. This harm would not be outweighed by the limited benefits of the scheme, or the limited weight that can be given to other approvals for replacement or new housing elsewhere. The proposal conflicts with the development plan and there are no considerations that outweigh this conflict. Accordingly, the appeal is dismissed.

M Clowes

INSPECTOR