



Appeal Decision

Site visit made on 17 December 2024

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th May 2025

Appeal Ref: APP/D3505/W/24/3340859

High Bank Cottage, Melford Road, Sudbury, Suffolk CO10 1XU

- 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 D. Hardwicke and Mrs M. Witt against the decision of Babergh District Council.
 - The application Ref is DC/23/03594.
 - The development proposed is described as the erection of 9No dwellings, associated ancillary outbuildings and new vehicular access (following demolition of existing dwelling, stables and structures).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. On the basis that the latest revisions have no material implications for the outcome of this appeal, it has not been considered necessary to request any related observations from the main parties.

Main Issues

3. The main issues are:
 - whether the proposal would be contrary to the Council's strategic approach to the location of housing in the borough;
 - whether the proposal would make adequate provision for affordable housing and meet identified housing needs; and
 - the effect of the proposal on highway safety having particular regard to the provision of surface water drainage.

Reasons

Location of proposal

4. The appeal site is located on the north-western edge of Sudbury and comprises a residential dwelling, stables and paddocks associated with a riding school. It lies at an elevated position on the eastern side of Melford Road.
5. The site lies approximately 100m outside of the settlement boundary of Sudbury. The Babergh and Mid Suffolk Joint Local Plan - Part 1 2023 (JLP) restricts new development outside settlement boundaries. In particular, Policy SP03 states that

development outside settlement boundaries will only be permitted in exceptional circumstances. The proposed development does not meet any of the exceptions set out in this policy.

6. The appellant suggests that the settlement boundary is outdated and is currently under review as part of the preparation of Part 2 of the JLP. My attention has also been drawn to the amount of development that has been carried out outside of the limits of the settlement boundary and in the vicinity of the site. It is a possibility that the appeal site may be included within the updated settlement boundary being prepared by the Council and it could also be allocated for future development. However, I have no certainty of this, and the reconfiguration of the boundary is an ongoing process. In their submissions, the Council emphasise that any indicative boundary changes are not confirmed.
7. I have limited information concerning the development on land to the south of the site¹. However, the Council highlight that the planning permissions at this site were granted under the previous development plan (Babergh Local Plan 2006 and Babergh Core Strategy 2014). The site on land south of High Bank was also more enclosed by built form, with suburban development to the south, east and north-east. Whilst the edge of a housing estate abuts the south-eastern corner of the appeal site, it is rural in appearance and visually unconnected to the surrounding built form. It is adjacent to agricultural fields and wooded areas to the east and west and is separated from the cited development by a wooded embankment along Melford Road and the large garden associated with the property known as 'High Bank'. In light of this, the development referred to is not directly comparable to the appeal scheme.
8. The proposal would lead to an increase in built form on a site which is rural in appearance, and which contributes to the intrinsic character of the countryside. While existing and additional landscaping would soften the impact of the development, the redevelopment of the site, with the introduction of 9 houses in lieu of stable buildings and paddocks as well as the insertion of a new access through a verdant embankment would nonetheless erode the rural character of the area, including the Stour Valley Project Area (SVPA).
9. For the above reasons, the proposal would cause harm by being contrary to the Council's strategic approach to the provision of housing in the borough. It would conflict with the relevant provisions of Policy SP03 of the JLP – Part 1 which seeks to limit new development outside settlement boundaries. The explanatory text accompanying Policy SP03 states that the existing settlement boundaries will be likely to enable the districts' development needs to be met whilst also recognising the intrinsic character of the countryside. The proposal would also conflict with Policy LP17 insofar as it seeks to ensure that development conserves and enhances landscape character.
10. This conflict with the development plan carries some harm and the planning system should be genuinely plan-led. However, before determining the appeal, I will consider what, if any other harm, would be caused by the proposed development and whether there are any material considerations that may outweigh the conflict with the development plan.

¹ Planning application ref DC/23/00932.

Affordable housing provision and housing mix

11. The appellant states that the site has not been artificially subdivided as the area encompasses the developable area and relates to the siting of existing development. However, the 'red line' demarcating the site area on the Site Location Plan is somewhat contrived. It excludes a wedge of land between the main site and the access road although there is a proposed pedestrian stair link cutting through it. The red line also appears to cut through existing buildings due to be demolished. These areas of land should logically be located within the red line area.
12. The section of land between the proposed access road and Melford Road has also not been included within the site area. It includes the sloped embankment adjacent to the highway as well as a portion of garden and paddock land. As the appellant states that this area of land would be retained for landscaping, biodiversity purposes and potential drainage works, it would make sense to include it within the site area.
13. The appellant contends that the layout is dictated by the constraints of the site and is necessary to accommodate access, support biodiversity and maintain the viability of the scheme. However, the proposed layout is not the crux of the issue. Rather, it is whether the extent of area included within the red line area, which is used to determine the affordable housing provision, is appropriate. Accordingly, the red line as shown on the Site Location Plan is illogical and should include more land for the reasons I set out above. The site area would likely surpass 0.5ha and would thus trigger the requirement to provide affordable housing.
14. Furthermore, planning permission was granted under reference DC/23/03611 for the erection of a replacement dwelling on land to the north, outside the appeal site but within the appellant's control and ownership. Given the relationship between the sites, the appeal site is part of a larger site and thus could be considered a single site for planning purposes. Therefore, the proposal would result in the contrived subdivision of a landholding in related ownership to circumvent requirements for the provision of affordable housing.
15. The development would provide four two-bedroom dwellings, four three-bedroom dwellings, and one four-bedroom dwelling. The appellant contends that the proposed housing mix would focus on the main areas of need within the Babergh district. However, the identified need within the district would require the provision of one two-bed dwelling and one four-bed dwelling. I have not been provided with satisfactory justification for the deviation from the requirements set out in the Council's Strategic Housing Market Assessment 2019 (SHMA).
16. Whilst the total number of bedrooms proposed would be equal to the number of bedrooms provided as part of the housing mix suggested by the Council, identified need is expressed in dwelling sizes rather than the overall number of bedrooms.
17. Given this, the proposal would cause harm by not making adequate provision of affordable housing and by not meeting identified housing needs. It would therefore be contrary to the relevant provisions of Policies SP01 and SP02 of the JLP – Part 1 insofar as they seek to ensure that proposals for new housing are informed by the relevant District needs assessment and provide affordable housing when a site area is over 0.5 ha.

Highway safety and drainage

18. The Local Highways Authority expressed concern about the lack of certainty regarding the viability of the proposed method of surface water management. The proposed access road slope gradient of 1:33 and the use of permeable paving has not been shown to acceptably manage the risk of water runoff onto the public highway and any impacts on highway safety.
19. The appellant asserts that suitable drainage can be provided. They state the wider site and the land between Melford Road and the access road is available to design and provide a scheme of surface water attenuation. However, this land has not been included within the appeal site and cannot therefore be relied upon to deliver surface water attenuation.
20. Whilst detailed designs can be provided and agreed with the imposition of a pre-commencement condition, there is uncertainty over whether the required engineering solutions would be technically achievable or available as a matter of principle within the constraints of the site.
21. A condition relating to surface water drainage was imposed on the permission for adjacent development. The Council state it was appropriate in that case because the access road was not permeable and finished with tarmac. Therefore, there was certainty that an engineered solution would be available to prevent the discharge of surface water from the development onto the highway. Whilst the appellant contends that no details were provided prior to permission, I have not been provided with compelling evidence to show that this other scheme is identical in site constraints and proposed surface water management to give me the confidence to rely on a pre-commencement condition with this current appeal.
22. The appellant refers to the provision of hardsurfacing within the curtilage of a dwelling as part of Class F, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). It is unclear how this justifies the appeal scheme and its effects on surface water and highway safety. A hard surface could also only be provided within the curtilage of a dwellinghouse. Furthermore, the presence of existing buildings and hardstanding and the absence of drainage issues does not substantiate the view that the proposed access road would not require appropriate mitigation with regards to surface water run-off.
23. For these reasons, it has not been satisfactorily demonstrated that the proposal would provide adequate surface water drainage. Consequently, it would harm highway safety and conflict with the relevant provisions of Policy LP29 of the JLP – Part 1 which, amongst other things, seeks to ensure proposals mitigate significant impacts on highway safety.

Other Matters

24. Highfield Mill and Highfield Millhouse, both Grade II listed buildings, are located to the south-east of the appeal site. Mindful of the statutory duty set out in s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving their setting. The verdant surroundings of Highfield Mill and Highfield Millhouse positively contribute to their significance. Nevertheless, given the degree of separation between the proposed

development and the listed buildings, I consider that it would preserve their setting and the contribution it makes to their significance.

25. The scheme is supported by a Preliminary Ecological Appraisal and bat survey report by Skilled Ecology Consultancy Ltd which found that the proposed development could proceed with a minimal risk of impact to protected, priority or rare species or habitats. Furthermore, the geoenvironmental desk study carried out by Goldfinch Environmental Ltd found there was a low risk associated with the site with regards to land contamination. I have no cogent reason to doubt the evidence in both reports. In addition, the absence of harm in these regards is a neutral consideration which neither weighs for nor against the proposed development.
26. The Council previously considered, at pre-application stage, that the site could be regarded as being potentially able to deliver sustainable development. However, I have no reason before me to suggest that pre-application advice is binding on any subsequent formal decision the Council makes. The Council have since refused the application and provided logical and coherent reasons for doing so. The pre-application advice therefore has limited bearing on my overall findings.
27. The appellant states that there were no objections to the scheme from neighbouring residents. However, there was an objection and submitted comments raising issues related to the local ecology, highway safety, and boundary walls. Even in the event there was no objection from interested parties, I am still required to consider this appeal on its own merits.

Planning Balance

28. The appellant emphasises that the Framework supports housing in rural areas and opportunities for villages to grow. However, the relevance of this policy thrust is tempered by the fact that the appeal site doesn't sit within a village but on the edge of a larger settlement.
29. Nevertheless, the proposal would be an efficient use of land and would provide nine residential units which could be carried out in a short timescale. This would be valuable in boosting the housing stock. Furthermore, the proposed development would sit in a relatively accessible location with bus links to nearby services and amenities as well as Sudbury town centre. The scheme would also provide modest economic benefits from construction jobs including the supply chain. Additionally, it would result in a modest increase in the use of local services and facilities by future occupants.
30. The proposed dwellings would be well-designed and bespoke, with traditional features and materials. They would incorporate energy and water efficiency measures, as well as low carbon materials. Furthermore, the appellant states that a benefit of the appeal scheme would be the positive contribution it would make to biodiversity as well as delivering social benefits. The benefits of the scheme cumulatively attract considerable weight.
31. However, the harm generated by the impacts upon landscape character of the countryside, affordable housing provision and housing needs, and highway safety would be significant and long lasting. Therefore, given the limited quantum of development, the benefits would, in the circumstances of this case, be outweighed by the identified harm of the development proposal. This would not, therefore tip

the planning balance in the appeal scheme's favour when set against its conflict with the development plan.

Conclusion

32. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
33. For the reasons given above the appeal should be dismissed.

Thomas Courtney

INSPECTOR