



Appeal Decision

Site visit made on 20 January 2020

by **Paul Thompson DipTRP MAUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 February 2020

Appeal Ref: APP/W3520/W/19/3239824

Land adjacent to Nutwood and Copper Field, accessed via The Street, Bacton. Grid Reference Easting 604851, Grid Reference Northing 266748

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs MacAusland against the decision of Mid Suffolk District Council.
 - The application Ref DC/19/02745, dated 7 June 2019, was refused by notice dated 11 September 2019.
 - The development proposed is a new 5-bedroom family dwelling. Change of use from agricultural land to residential use.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the site represents an appropriate location for housing, having regard to the development plan and access to shops, services and facilities.

Reasons

Location of the development

3. The access to the land comprising the appeal site is adjacent to 'Nutwood', the last property to the southern side of The Street. The site wraps around the rear gardens of several properties to the east and adjoins paddocks to the northeast and agricultural land to the southeast and southwest.
4. For the purposes of planning policy, the appeal site is situated outside the defined boundary for the Key Service Centre of Bacton. It is therefore defined as countryside by Policy CS1 of the Mid Suffolk Local Development Framework Core Strategy Development Plan Document 2008 (CS). This policy suggests that development is directed to Towns and Key Service Centres, in the immediate context this means Bacton. In the countryside, development is restricted to particular types of development to support the rural economy, meet affordable housing, community needs and provide renewable energy. Policy CS2 of the CS also restricts development to defined categories in accordance with other CS policies. The appeal scheme is not for any of the types of development listed under these policies. Policy H7 of the Mid Suffolk Local Plan (adopted September 1998) (LP) repeats the strict control over new housing in the countryside and directs development to existing settlements.

5. In light of the above, I conclude that the proposed development would be contrary to the spatial strategy in Policies CS1 and CS2 of the CS, as it would encompass housing outside a defined settlement boundary. Being in conflict with these policies would also bring conflict with Policy H7 of the LP.

Access to shops, services and facilities

6. Whilst the appeal site is situated within an area of countryside, in terms of whether the dwellings would be 'isolated' in the language of the National Planning Policy Framework (the Framework) and the recent Court of Appeal judgement¹, it is important to have regard to the site's relationship to existing built development as well as accessibility to services and facilities. Paragraph 78 of the Framework seeks to restrict housing in rural areas to locations where housing will enhance or maintain the vitality of rural communities.
7. Taking the physical dimension of isolation first, whilst the site would be near to other dwellings, the proposal would do little more than lead to development encircled by open countryside on all sides, physically removed from the built form of the village to the north. In terms of accessibility, paragraphs 102 and 103 of the Framework refer to transport issues. The latter suggests that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. The village of Bacton benefits from a wide range of local services and facilities² and there is a bus stop at Wyverstone Road offering journeys to Bury St Edmunds and Stowmarket.
8. Nonetheless, the occupants of the proposed dwelling would be obliged to walk or cycle some distance up the proposed private access before they reach the street frontage. Given that The Street lacks lighting and pedestrian footways, the opportunities to walk or cycle to the services and facilities available nearby would not be convenient or realistic ones, particularly after dark or in bad weather. Given the location of the proposal, it would be highly likely that the village would be accessed regularly by private motorised transport. Although existing occupants of nearby dwellings may already choose to make such journeys, the large family home proposed could lead to a considerable increase in the use of such travel to and from the site.
9. I have been referred to examples of consented schemes nearby but given the distance of the appeal proposal from the street frontage it would not be for comparable development. In particular, the development of up to five dwellings to the west of the site entrance³, two schemes for single dwellings at Wyverstone⁴ and a scheme of two dwellings at Wickham Skeith⁵.
10. I appreciate that the proposed dwelling could be constructed to high environmental standards but for the reasons outlined above, I conclude that the site would not represent a suitable location for housing, having regard to access to shops, services and facilities. The proposed development would therefore conflict with paragraphs 78, 102 and 103 of the Framework.

¹ *Braintree DC v SSCLG* [2018] EWCA Civ. 610

² Facilities and services include, amongst other things: doctor's surgery, garage and petrol station, post office, primary school, public house and village store.

³ Planning Reference: DC/17/04991 (Land to the South of Nutwood, The Street, Bacton, for up to five dwellings).

⁴ Planning References: DC/19/03846 (Land south of Foxhollow, Wyverstone Street, Wyverstone for one dwelling) and DC/19/00440 (Land at, Mill Road, Wyverstone for one dwelling).

⁵ Planning Reference: DC/19/02223 (Land east of, Grange Road, Wickham Skeith OPP for two dwellings).

Other Matters

11. The application was supported by an *Updated Ecological Walkover Survey*, dated October 2017, but undertaken in June 2017. This recommended that further survey work be carried out in order to determine if great crested newts and reptiles are using habitats adjacent to the site. It is usual to have surveys of this nature upfront, as the findings can affect the principle of development within a site. However, no further survey work has been provided as part of the appeal. Therefore, I am not able to determine whether the proposal would have an effect on the ecology and biodiversity of the site and its surroundings. However, given that I have found harm in relation to the main issues of the location and accessibility of the proposal, it is not necessary for me to consider this matter in any further detail.
12. The statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. The Officer Report and consultation response from the Council's Heritage Team refer to the presence of numerous listed buildings within Bacton but there is no evidence before me of where these heritage assets are situated. I am not therefore able to determine whether the proposal would affect the setting of these listed buildings. However, given that I have found harm in relation to the main issues of the location and accessibility of the proposal, it is not necessary for me to consider this matter in any further detail.
13. The Council did not object to the proposal on the grounds of highway safety and this did not form a reason for refusal. However, the Highway Authority, Parish Council and other third parties raised concerns in this respect. I have had regard to paragraph 109 of the Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. From my observations of the existing visibility across highway land, there is no substantive evidence before me to determine that the proposal would be of such detriment to warrant refusal on these grounds.
14. The appellant has referred to the Council's pre-application advice provided for the site, particularly the nature of the advice, the decision taken having regard to that advice and the approach to and consistency of its decision-making. These are not primarily matters for me to consider as part of this appeal. In any event I have had regard to the individual merits of the appeal scheme in relation to the relevant planning policies and evidence before me, including other decisions to which I have been referred.
15. I am aware of the previous appeal decision for the development of the site but have not been provided with a copy of the decision. I have also been referred to several other appeal decisions⁶ in the District. Given that these decisions predate the more recent planning permissions, appeal decisions and High Court decision, to which I have been referred, I have afforded these decisions minimal weight in my determination of this appeal.

⁶ Appeal Refs: APP/W3520/16/3144431 (Plot 5 and 6, Moat Farm Barns, Barking Tye, for two dwellings), APP/W3520/16/3151662 (Land at Little Haugh Hall, Staunton Street, Norton, for two dwellings), APP/W3520/16/3151859 (The Barn, Grove Lane, Elmswell, for one dwelling) and APP/W3520/16/3152003 (Land adjacent to Home Farm, Hascot Hill, Barking, for one dwelling)

16. There have been applications for larger developments⁷ that have received planning permission around Bacton that would provide other benefits, such as affordable housing. I have also been referred to an appeal for one dwelling at Earls Green Road, Bacton⁸, where the Inspector found in relation to the setting of nearby listed buildings and the highway safety of the proposed access. Similarly, I have been referred to two other appeal decisions in the District⁹ that concern developments of more than one dwelling, where the Inspector found in relation to other issues. For these reasons, these decisions are not comparable with the appeal scheme before me.
17. I have also been referred to several appeal decisions in Breckland, Babergh and Suffolk Coastal District Council administrative areas¹⁰. As different development plan policies apply and the circumstances behind these decisions are not before me, I am unable to give those decisions much weight. Nonetheless, I have determined this appeal on its own individual merits and the decisions do not lead me to a different conclusion.

Planning Balance

18. Paragraph 47 of the Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration.
19. The development plan for the area comprises the LP, CS and the Mid-Suffolk Core Strategy Focused Review 2012 (the CSFR), all of which predate the current Framework. However, paragraph 213 of the Framework makes it clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them according to their consistency with the Framework.
20. I have been referred to two recent appeal decisions¹¹ in the District which address the consistency of the development plan policies relevant to the determination of this appeal. Moreover, Policies CS1 and CS2 of the CS, Policy H7 of the LP and Policy FC1 of the CSFR are out of date and carry reduced weight. In particular, Policy FC1 of the CSFR only unnecessarily duplicates what was in paragraph 14 of the NPPF 2012. I have little reason to disagree with this view and I note that from other decisions in the District, the Council also does not dispute this position. I therefore attach only moderate weight to any conflict of the proposal with these policies, which lessens the significance of that conflict.
21. I note that the available supply of housing in the District now meets the five years required by paragraph 73 of the Framework. Other than pointing to the fragility of the situation, the appellant accepts this position. However, the policies most important for determining the appeal are out-of-date. In such

⁷ Planning References: 16/3270 (Land at Wyverstone Road for 64 dwellings), DC/17/03799 (Land to the East of Wyverstone Road for 50 dwellings), and DC/18/00723 (Land to the east of Turkey Hall Lane for 51 dwellings); and Appeal Ref: APP/W3520/W/18/3209219 (Land north of Church Road, Bacton, for up to 81 dwellings).

⁸ Appeal Ref: APP/W3520/W/19/3227419 (The Croft, Earls Green Road, Bacton, for one dwelling).

⁹ Appeal Refs: APP/W3520/W/19/3226743 (Land to the North of Langton Green, Langton Green, Eye, for nine dwellings) and APP/W3520/W/18/3197538 (Land off Cherry Tree Close, Yaxley, for ten houses, 2 flats and a retail unit).

¹⁰ Appeal Refs: APP/F2605/W/16/3148954, APP/D3505/W/18/3201905 and APP/J3530/W/15/3051126.

¹¹ Appeal Refs: APP/W3520/W/18/3194926 (Land on East Side of Green Road, Woolpit) and APP/W3520/W/19/3227419 (The Croft, Earls Green Road, Bacton).

circumstances the normal planning balance does not apply, and the 'tilted balance' is engaged. This requires 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 (paragraph 11(d)(ii) of the Framework). This is the point that Policy FC1 of the CSFR would have applied but it is out-of-date.

22. In the context of paragraphs 59 and 68 of the Framework, I note the contribution that would be made to the supply of housing by this small site, particularly as it could be built-out relatively quickly. Whilst there is no threshold for the assignment of weight to the quantity of proposed dwellings within the planning balance, the appeal before me would deliver one large family home, which would contribute to the overall housing mix in the District. However, as the contribution to the supply of housing would be minor in its extent it would only be afforded limited weight.
23. Some economic benefits would arise from, for example, employment and procurement of materials during the construction period. Future occupiers would also contribute to the local economy through expenditure but they would be likely to do so by utilising private motorised transport. Furthermore, the proposals would provide only one additional dwelling, such that these benefits would be limited in scale and kind, and consequently only carry moderate weight.
24. In terms of harm, the proposed development would not comply with development plan policy in respect of its location. Whilst the development plan policies most important for determining this appeal are out-of-date, the proposal would not amount to sustainable development under the terms of the Framework. Overall, the adverse impacts of the proposal are matters of significant weight against the grant of planning permission. The absence of harm in respect of other planning issues relevant to the consideration of the development would neither weigh for nor against the proposals.
25. The adverse impacts identified would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. This does not indicate the proposal should be determined other than in accordance with the development plan.

Conclusion

26. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR