



Appeal Decision

Site visit made on 24 May 2023

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2023

Appeal Ref: APP/F3545/W/22/3296134

land to the north of Thelnetham Road, Hopton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Land Allocation Ltd against West Suffolk Council.
 - The application Ref 21/1369, is dated 10 June 2021.
 - The development proposed is up to 47 dwellings with all matters reserved except for means of access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks outline planning permission for up to 47 dwellings with all matters, other than access, reserved for future consideration. Nevertheless, in reaching my decision I have had regard to the indicative layout which shows one way in which the proposed dwellings, a network of streets, pedestrian links, landscaping and SUDS infrastructure could be provided on the site.
3. The Council failed to determine the application within the statutory time period. However, its appeal statement indicated that had it done so its principal objections to the scheme related to its location, its effect on Habitats sites, and the absence of an obligation to secure provision of affordable housing and contributions to local services and infrastructure, including works to the highway.
4. During the appeal the appellant submitted an executed Unilateral Undertaking (UU) in accordance with a Statement of Common Ground which confirmed that there were no outstanding areas of dispute between the parties in respect of contributions towards early years provision, education, libraries, secondary school transport and highway matters. The UU would also secure the provision of affordable housing and contributions to public open space. I have taken it into account in my decision.

Main Issue

5. The main issue is whether the appeal site is a suitable location for residential development having regard to local and national planning policy for the location of housing.

Reasons

Suitability of site for housing

6. It is common ground that following the merger of St Edmundsbury Borough and Forest Heath District Councils to form West Suffolk Council, the development plan comprises the St Edmundsbury Core Strategy 2010 (CS), the Rural Vision Document 2014 (RV), and the Joint Development Management Policies Document 2015(JDMPD).
7. Policies CS1 and CS4 of the CS set out the Council's overall spatial strategy, the aim of which is to focus development in and around the towns of Bury St Edmunds and Haverhill. Smaller proportions of growth will be permitted within other defined settlements having regard to a hierarchy of Key Service Centres, Local Service Centres and Infill Villages. Hopton is one of 13 Local Service Centres.
8. Policy CS13 requires the scale of development in the rural settlements to reflect the need to sustain local service provision, diversify the economy and provide for local housing needs. Outside the defined settlements development will be strictly controlled. This approach is confirmed by Policy RV3 of the RV, which supports new residential development within defined settlement boundaries. Policies DM5 and DM27 of the JDMPD only permit development in the countryside in certain exceptional cases, such as proposals for dwellings in small undeveloped plots which could accommodate one detached or a pair of semi-detached dwellings. Given the scale of the appeal proposal, Policy DM27 is of limited relevance to an assessment of its acceptability.
9. The appeal site occupies 2.31 hectares of a much larger, otherwise open, flat, undeveloped field on the edge of Hopton. It is the mirror image of an L-shape with its short western boundary opposite detached bungalows in Holme Close. However, these are separated from the appeal site by a wide grass verge lined with trees. This prominent visual feature reinforces the defined settlement boundary distinguishing the village from the open countryside beyond. Even though the site is not isolated, it is in the countryside for the purposes of planning policy.
10. The scheme is beyond the defined boundary of any of the settlements where residential development would be permitted. Consequently, it would conflict with the spatial strategy set out in Policies CS1, CS4 and CS13 of the CS, and Policy RV3 of the RV. Neither does the proposal meet any of the exceptions set out in Policy DM5 of the JDMPD which would permit new homes in the countryside. It would therefore fail to comply with all these relevant development plan policies which relate to the location of housing.

Other Considerations

Policies

11. The Council is able to demonstrate a 5.4-year supply of deliverable housing sites. However, the appellants contend that Policies CS13 and DM5 are out-of-date because their adoption preceded the publication of the National Planning Policy Framework in 2012 and its most recent update in 2021. They believe these are the most important policies in relation to the proposal and consequently paragraph 11 d) of the Framework should be engaged. However, policies should not be considered out-of-date simply because of their age or

their adoption prior to the current Framework. The weight to be accorded to any conflict with them depends on their consistency with the Framework's approach considered as whole.

12. The Framework advocates strategic policies which maximise the use of previously developed land and manage growth by locating development where there is access to a wide range of facilities, thus limiting the need to travel and providing genuine travel choice. In rural areas it states that housing should be located where it will enhance or maintain the vitality of rural communities whilst recognising the intrinsic character and beauty of the countryside.
13. The Council's spatial strategy is broadly consistent with this approach. It recognises that it will be necessary to allocate some greenfield land on the edge of rural settlements in the absence of previously developed land within them. However, it aims to do so having regard to the settlement hierarchy and the need to safeguard the identity, character, and historical context of those villages.
14. The Framework states that isolated homes in the countryside should be avoided unless one of five specific circumstances applies. It is therefore put to me that Policy DM5 is more restrictive than the Framework. However, paragraph 80 does not imply that a dwelling must be 'isolated' for restrictive policies to apply. Furthermore, there is nothing in the Framework to indicate that the definition of settlement boundaries is no longer a suitable policy to direct development towards the most appropriate locations, having regard to other objectives in the development plan.
15. The proposal would introduce up to 47 new homes beyond the settlement boundary. In doing so it would fail to accord with the way Policy CS1 suggests that rural housing should be distributed between Key and Local Service Centres. It would appear to be a disproportionate share of the residential development planned across all 13 Local Service Centres and consequently would be out of scale with the village and its role in the settlement hierarchy.
16. Furthermore, there was no definitive evidence to suggest that the scheme is needed to sustain local services in the village or support the diversification of the rural economy. Whilst the provision of 40% of the dwellings as affordable homes would be a considerable benefit, the weight that can be given to this is limited by the lack of any definitive evidence that it would meet a specific local housing need. In these circumstances Policy CS13 offers no support for a proposal beyond the boundary, where the priority is protection and enhancement of the character, appearance, historic qualities and biodiversity of the countryside.
17. For all these reasons, I consider that neither Policy CS13 nor DM5 can be considered out-of-date and there is no justification setting aside their requirements or applying the test set out in paragraph 11 d). The proposal would be contrary to local and national planning policy for the location of housing.

Planning obligation

18. The UU would secure provision of 40% of the dwellings as affordable homes with a mix of rent and low-cost ownership. It would also secure provision of public open space and contributions to other services. These have been

justified and are reasonably related to the development. I am satisfied that they meet the requirements of regulation 122(2) of the Community Infrastructure Levy Regulations.

Highway matters

19. Interested parties raised objections related to the additional traffic that would be generated by the development, the safety (or otherwise) of the access arrangements and potential for congestion at the junction with the High Street near the village shop. These issues were addressed through the submitted transport assessment. The highway authority raised no objection to the scheme, subject to conditions to provide appropriate improvements to Thelnetham Road in combination with a new access. Contributions to undertake necessary amendments to the Traffic Regulation Orders would be secured by the UU. I am satisfied that these requirements are reasonably related to the proposal and would ensure that there were no unacceptable highway safety or severe operational impacts on the network.

Planning Balance

20. The Government is seeking to significantly boost the supply of housing. Although the Council can demonstrate a 5.4-year housing land supply, that figure is not a ceiling on development. Other proposals can be brought forward, if they comply with the development plan or there are other considerations which provide over-riding reasons why they should be permitted.
21. There would be significant social and economic benefits associated with the construction of up to 47 new dwellings. The provision of 40% affordable homes would exceed the CS's requirement for 30% set out in Policy CS5. This would be a benefit to the wider district. These benefits would take place in a village which has a reasonable range of local services. Future residents would be able to meet some of their day-to-day needs within walking distance. Collectively, these benefits carry significant weight in the planning balance.
22. The provision of recreational open space and appropriate highway works to serve the development are requirements of the development plan. I therefore consider these factors are neutral in the balance. Similarly, the lack of harm associated flood risk is a neutral factor, rather than a positive contribution towards adaptation or mitigation of climate change. The effect of the loss of the field on the open countryside cannot be fully assessed based on an outline application. However, the shape of the appeal site is awkward and careful landscaping and biodiversity enhancements would be required to offset the loss of countryside and provide satisfactory integration with the edge of the village. At best, I consider such effects would be neutral.
23. On the other hand, locating a development of the scale proposed on a site outside the settlement boundary of Hopton would be contrary to the Council's spatial strategy and harmful to the pattern of development the settlement hierarchy is seeking to achieve. This is a factor that carries substantial weight. In addition, while some day-to-day needs of future residents could be met locally, others, such as seeking employment, attending hospitals, dentists, secondary schools, further education establishments and leisure facilities, would require longer journeys, most which would be more conveniently undertaken by car. These additional considerations carry moderate weight against the scheme.

24. This leads me to conclude that the significant benefits associated with the scheme would be outweighed by these collective harms. The scheme is therefore unacceptable.

Other Matter

25. There is an outstanding dispute between the parties in respect of the effect of the proposal on the Waveney and Little Ouse Special Area of Conservation, due to increased water abstraction. As I have found the scheme to be unacceptable for other reasons, there is no need for me to address this matter further. However, in the absence of certainty that the integrity of the SAC would not be adversely affected, this alone would provide a reason to dismiss the appeal having regard to footnote 7 of paragraph 11 d) i) of the Framework. The presumption in favour of sustainable development could not apply to this case.

Conclusion

26. The proposal conflicts with the development plan and there are no other considerations that indicate that a decision should be taken other than in accordance with the development plan.
27. For this reason, the appeal is dismissed.

Sheila Holden

INSPECTOR