



Appeal Decision

Site visit made on 1 August 2022

by C Harding BA(Hons) PGDipTRP PGCert MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2022

Appeal Ref: APP/D3505/W/21/3288045

The Forge, Church Street, Groton CO10 5HD

- 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 G Becker against the decision of Babergh District Council.
 - The application Ref DC/21/04249, dated 28 July 2021, was refused by notice dated 24 September 2021.
 - The development proposed is erection of a new detached residential dwelling (following demolition of existing garage).
-

Decision

1. The appeal is allowed and planning permission is granted for Erection of a new detached residential dwelling (following demolition of existing garage) at The Forge, Church Street, Groton CO10 5HD in accordance with the terms of the application, Ref DC/21/04249, dated 28 July 2021, and the plans submitted with it, subject to the conditions listed in the schedule below.

Main Issues

2. The main issues are;
 - Whether the proposed development would be consistent with local and national policies relating to the location of new housing development;
 - The effect on the living conditions of future occupiers of the proposed development in terms of land contamination; and
 - The effect of the proposed development upon the character and appearance of the area.

Reasons

Location

3. Policy CS2 of the Babergh District Local Plan Core Strategy and Policies 2014 (Core Strategy) sets out the approach to new development in the district. Settlements considered suitable for accommodating new development are categorised hierarchically as Towns and Urban areas, Core Villages and Hinterland Villages. The policy states that development in the countryside, outside of the categorised settlements will only be permitted in exceptional circumstances subject to a proven justified need.
4. The appeal site comprises part of a residential garden at an existing property at the north-end of a collection of residential properties on Church Street, at the edge of Groton. Groton is not identified as a categorised settlement within Core

- Strategy Policy CS2, and therefore the site lies within the countryside, and with no exceptional circumstances subject to a proven justifiable need having been demonstrated, the proposed development would be contrary to this policy.
5. Groton itself contains only limited local services which include a church, a public house and community open space. Boxford, the nearest Core Village contains a wider range of services, including a primary school and shops.
 6. The road between Groton and Boxford is rural in nature and, although it does not incorporate a footway, at the time of my visit was not heavily trafficked. I also observed that there is a signposted footpath between Groton and Boxford. However, it did not appear possible to access this path from the appeal site without at least some use of the carriageway, and the footpath itself, once reached, crosses arable fields and is not wholly lit. Furthermore, the distance involved, and the nature of the route means that it would likely not be an attractive and practical route between the appeal site and services in Boxford for all users, or in all circumstances.
 7. I have not been made aware of any local public transport provision and did not observe any related infrastructure in Groton during my site visit. Given the distance involved and the rural nature of the road between the settlement, travel between Groton and Boxford by bicycle would be a realistic and safe option for some, but not necessarily all potential future occupiers of the proposed development.
 8. As a result of the lack of public transport provision, and the fact that alternative means of transport to local services other than the private car, would not be attractive or appropriate for all potential future occupiers of the proposed development, it is probable that most journeys to access day-to-day services and facilities would be made by private vehicle. However, the Framework does recognise that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
 9. Only a limited level of car use is likely to be generated by a single dwelling. Furthermore, although the existing walking and cycling routes between the site and the closest settlement would not be suitable for all, they would be attractive to some potential occupiers, particularly as the distances involved would not be significant. I am also mindful of advice within the Framework which acknowledges the support to nearby settlements that can result from rural development.
 10. While the above indicates support for the development in the Framework, the proposed development would be contrary to Core Strategy Policy CS15, which sets out a range of criteria including ensuring that new development ensures an appropriate level of services, facilities and infrastructure are available, and that the need to travel by car is minimised.

Contaminated Land

11. The submitted Homebuyers report¹ indicates that there was historical industrial activity within the vicinity of the site in the form of a forge circa.1977, and that the site may be at risk from contamination. The Homebuyers report provides no specific insight into the nature, extent or location of any potential contamination. The appellant has indicated that the forge use took place

¹ Groundsure Homebuyers Report – The Old Forge, Church Street, Groton

primarily on land to the north of the appeal site, but no precise evidence has been provided to me in order to confirm this, and in any event this would not rule out more widespread contamination as a result of this previous use. I saw on my visit that the appeal site now forms part of a residential garden, however it is not clear whether any remediation of the land was previously required or carried out.

12. The Council consider that a Phase 1 Desk Study should be provided in order to fully assess the potential risk that may exist, solely in relation to the proposed garden associated with the proposed development, and I agree that the submitted Homebuyers report does not examine potential risk to the same extent that a Phase 1 Desk Study would do. However, no issue is raised with the principle of the development of the site with regards to potential contamination.
13. Instead, the Council's concern specifically relates to the use of the site as garden. As the site currently already forms residential garden, there would be no change the use of this land following the proposed development. It has not been shown that the current use is harmful to existing occupiers, and it is unsubstantiated that harm would arise for future occupiers using the land for the same purpose. Accordingly, I consider that likelihood of harm resulting to be low, and can be adequately be addressed by means of condition.
14. The proposals would therefore result in harm to the living conditions of future occupiers of the development, in accordance with Core Strategy Policy CS15 which requires risk of contamination to be adequately managed, and Paragraphs 183 and 184 of the Framework which seek to ensure that sites are suitable for proposed uses in terms of ground conditions.

Character and Appearance

15. The appeal site is located within a linear cluster of buildings of generally large size and varying ages. The proposed dwelling would be located on the site of an existing detached single storey garage associated with The Forge, and would sit adjacent to another single storey detached double garage associated with a neighbouring property.
16. Being single storey in nature, the proposed dwelling would be of a different form and design to other residential properties in the area. However, its scale would be broadly commensurate to the structure that it would replace when viewed from the road, and would reflect the scale of the neighbouring single storey double garage. In terms of materials, the use of black boarded facades on a brick plinth and tiled roof, would reflect the character and appearance of the existing structure which would be replaced. The proposed development would also incorporate a garden area sufficient for a dwelling of the size proposed.
17. As a result, the proposed development would not appear incongruous or unbalance the existing streetscape to an unacceptable degree, or amount to overdevelopment.
18. Accordingly, it would not result in harm to the character and appearance of the area. It would therefore accord with Core Strategy Policies CS1, HS28 or CS15 which seek to ensure that new development is of an appropriate form, scale and detailed design, makes a positive contribution to the local character of the

area and respects the streetscape, and resists infilling where the proposed development represents overdevelopment, provides unreasonable standards of privacy or garden size.

Other Matters

19. The Council have found that no harm would occur to the living conditions of the occupiers of neighbouring properties. Given the position of the proposed development, intervening built development and separation between the proposed dwelling and neighbouring dwellings, I have no reason to disagree.
20. The Council are satisfied that a safe access could be achieved and that the adequate off-road parking would be provided to serve a single dwelling. Whilst no mechanism has been presented to link the removal of the existing garage with the erection of a replacement, in order to maintain off-road parking provision for occupants of The Forge, there is existing parking that would be retained for future use, and it has not been demonstrated that harm would occur in the event that a replacement garage was not constructed.
21. There are no wildlife surveys included within the evidence before me. However, I am aware that the Council have identified that the existing garage is unlikely to be a potential roost for bats due to its age and level of maintenance, and that no specific bat survey is necessary, and that the development would not result in harm to protected species. I saw no evidence on my site visit to indicate that I should reach a contrary view on this matter.
22. Concern has also been raised with regards to the potential relocation of an existing telegraph and power pole as a result of the proposed development. It is unclear from the evidence before me whether this would be required, however this would be separate matter between any developer and the relevant statutory undertaker, and there is no substantive evidence that it should affect my consideration of this appeal.

Planning Balance

23. I have identified conflict with Core Strategy Policies CS2 and CS15. My findings of no harm in respect of the other main issues are neutral, so this results in a conflict with the development plan taken as a whole. Core Strategy Policy CS2 is a restrictive policy that offers support to development in the countryside only in exceptional circumstances. It is not wholly consistent with the Framework in terms of its approach to rural housing, where it is advised that exceptional circumstances should only be required in the case of proposed new dwellings in isolated locations, which this site is not. On this basis, other Inspectors² have found Core Strategy Policy CS2 to be out-of-date, and I have no reason to disagree.
24. Core Strategy Policy CS15 is a broad policy, and previous Inspectors have also found it to be out-of-date to varying degrees, owing to various inconsistencies with the Framework. Indeed, with my first main issue, I have identified conflict with Policy CS15, despite broad support from the Framework. In line with those other Decisions before me, this leads me to find the most important policies of the development plan with regards to this appeal, to be out-of-date.

² APP/D3505/W/19/3240526 & APP/D3505/W/20/3246576

25. Therefore, although the Council can demonstrate in excess of five-years supply of deliverable housing land, I am taken, in regard to the specific circumstances of the case, to the mechanisms of paragraph 11 d) ii) of the Framework which advises 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 the Framework taken as a whole.
26. The proposed development would boost the supply of housing. Given the scale of the proposed development, and the fact that the Council can demonstrate in excess of a five-year supply of deliverable housing land, this would be a moderate benefit. I also afford limited weight to the time limited economic benefits in relation to the construction phase, as well as longer term economic benefits through the level of additional support to local businesses and services that would result from a single dwelling.
27. Nevertheless, the harm that I have identified in respect of the location of the development results from a technical conflict with the development plan strategy and, indeed, the Framework itself supports an additional dwelling in this location. Therefore, although there would be some additional reliance on private transport, when assessed against the policies of the Framework, taken as a whole, the adverse impacts do not significantly and demonstrably outweigh the benefits of the proposal in this case. The proposal, therefore, benefits from the presumption in favour of sustainable development outlined at Paragraph 11 of the Framework.
28. The proposal conflicts with the development plan. However, as the most important policies for this decision are out-of-date, I attribute limited weight to the conflict with them. Conversely, the Framework, as Government policy, is a weighty material consideration and the presumption in favour of sustainable development therein weighs heavily in favour. Accordingly, there are material considerations that indicate that the development should be determined otherwise than in accordance with the development plan in this case.

Conditions

29. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the Framework and Planning Practice Guidance.
30. In the interests of certainty, conditions specifying the time limit for commencement and the approved plans are required. In order to ensure any risk to the living conditions of future occupiers is fully addressed, I have attached conditions relating to a contaminated land risk assessment, potential remediation, and verification.
31. Conditions relating to the disposal of foul and surface water are required so as to ensure that acceptable provision is made in the interests of minimising flood risk. A condition relating to securing biodiversity improvements is required in order to ensure that the proposed development delivers biodiversity net gain in accordance with the requirements of the Framework. Furthermore, it is necessary to ensure that adequate provision of access and parking is secured prior to occupation in the interests of highway safety. I have also attached a condition relating to energy and water efficiency measures in order to ensure that the development adequately addresses climate change.

Conclusion

32. For the reason set out above, the appeal is allowed subject to conditions.

C Harding

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Plan – 4062-05C
 - Block Layout Plan – 4062-21 C
 - Proposed Floor Plans and Elevations 4062-22
- 3) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site.

The assessment shall include:

- a survey of the extent, scale and nature of contamination;
 - the potential risks to:
 - i. human health;
 - ii. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - iii. adjoining land;
 - iv. ground waters and surface waters;
 - v. ecological systems; and
 - vi. archaeological sites and ancient monuments.
- 4) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and

programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out, and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority, before the development is occupied.

- 5) No development shall take place until a scheme for the provision and implementation of water, energy and resource efficiency measures, during the construction and operational phases of the development has been submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the construction and occupancy of the development. The development shall thereafter be constructed in accordance with the approved scheme and timetable.
- 6) The dwelling hereby permitted shall not be occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The drainage works shall thereafter be maintained in accordance with details that shall have been approved in writing by the local planning authority prior to the occupation of the development.
- 7) The dwelling hereby permitted shall not be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority. The sewage disposal works shall thereafter be maintained in accordance with details that shall have been approved in writing by the local planning authority prior to the occupation of the development.
- 8) The dwelling hereby permitted shall not be occupied until a Biodiversity Enhancement Strategy for Protected and Priority species has been submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following: a) Purpose and conservation objectives for the proposed enhancement measures; b) detailed designs to achieve stated objectives; c) locations of proposed enhancement measures by appropriate maps and plans. The works shall be implemented prior to first occupation of the dwelling in accordance with the approved details and shall thereafter be retained as such.
- 9) The dwelling hereby permitted shall not be occupied until the area shown on drawing "Block Layout Plan – 4062-21 C" as being available for the purposes of manoeuvring and parking (including garage spaces as applicable) has been provided and made functionally available. Thereafter that area/s shall be retained and remain free of obstruction except for the purpose of manoeuvring and parking of vehicles.

*****End of Conditions*****