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## Appeal Decision

Site visit made on 23 April 2019

**by Nick Palmer BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 May 2019**

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**Appeal Ref: APP/W3520/W/18/3215651**

**March House, The Green, Beyton, Bury St. Edmunds IP30 9AF**

- 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 Ian True against the decision of Mid Suffolk District Council.
  - The application Ref DC/18/02784, dated 19 June 2018, was refused by notice dated 10 August 2018.
  - The development proposed is a dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The Council's third reason for refusal concerns the sustainability of the proposed development. I shall deal with this in the overall balance rather than as a main issue.

### Main Issues

3. The main issues in the appeal are:
  - i) the effect of the proposal on the character and appearance of the area, including its effect on the Beyton Conservation Area, the setting of the adjacent listed building and trees; and
  - ii) the effect of the proposal on the living conditions of adjacent occupants.

### Reasons

#### *Character and Appearance*

4. The northern part of Beyton Conservation Area (CA) is centred on the village green. The historic pattern of development is of domestic scale and surrounds the green. There are many trees both on the green and in the surrounding area giving a verdant character. Modern housing development has taken place which extends back from The Green but the historic pattern of development at one plot depth is still evident. This provides a close relationship with the open countryside beyond.
5. March House is a modern detached house which is set behind an area of vegetation and a pond. Manor Farmhouse, a late 16<sup>th</sup> century grade II listed building is to one side of March House. On the other side there is a shared access drive beyond which is a 19<sup>th</sup> century detached house ('Mill House'). To

- the rear of this is a three-storey former mill building which has been converted into two dwellings. A footpath runs from the drive towards the open countryside at the rear.
6. The rear garden of March House backs onto the open countryside and gives a sense of spaciousness which is in keeping with the historic pattern of development around The Green. There are outbuildings to the rear of the house which would be replaced by the proposed dwelling, but this would be much larger in scale. The dwelling would be on higher ground than March House and of a contemporary split-level design. Its overall height would be no greater than that of the main part of March House. However, the dwelling would occupy the full depth of the rear garden, extending between the existing house and the rear boundary. For these reasons the proposal would have a cramped and over-developed appearance. The proposal would be particularly prominent and intrusive in its setting when seen from the adjacent public footpath.
  7. Although there is modern development which extends back from The Green, the historic pattern of development forms the predominant part of the character of the area. The adjacent former mill building is to the rear of frontage development, but the historic character is one of spaciousness to the rear of the frontage development. For the reasons given above the proposal would be out of character with the area and would not preserve or enhance the character or appearance of the CA. The harm to the CA would, however be less than substantial because the proposal would be to the rear of the existing house, and not readily visible from The Green.
  8. Manor Farmhouse has a more open setting than other adjacent buildings. It is set back from The Green and has space on either side. Its rear garden adjoins the open countryside although outbuildings to the rear of the listed building have been converted, forming a courtyard arrangement. However, the rest of its rear garden together with the rear garden of March House provide an open setting to the listed building and a link to the open countryside beyond.
  9. Because the proposal would occupy the garden to the rear of March House it would erode that open setting. It would be sited well away from the boundary fence between the properties and there are trees along the boundary which limit inter-visibility and for these reasons the harm to the setting of the listed building would be less than substantial.
  10. In accordance with the National Planning Policy Framework (the Framework) I give great weight to the less than substantial harms to the CA and the setting of the listed building. The proposal would be of some social and economic benefit in providing a new dwelling, including associated benefits to the economy from construction and expenditure by future residents. However, those benefits would be modest in scale and not sufficient to outweigh the great weight that I give to the harm to designated heritage assets.
  11. For the reasons given, the proposal would not accord with saved Policies HB1 and HB8 of the Local Plan (LP)<sup>1</sup> which require protection of the settings of listed buildings and the character and appearance of Conservation Areas. Neither would the proposal accord with saved Policies SB2 and GP1 of the LP which require that development does not adversely affect character and appearance

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<sup>1</sup> Mid Suffolk Local Plan (1998)

generally. Of particular relevance in the context of the proposal is the requirement of saved Policy SB2 to resist excessive infilling.

12. There is a protected oak tree in the corner of the site adjacent to the footpath. The proposed dwelling would be built within the root protection area of that tree, but the existing outbuilding extends closer to the tree. The submitted arboricultural impact assessment describes the method to be used in construction to avoid unacceptable damage to the tree roots. The Council's Arboricultural Officer has no objection to the proposal on this basis.
13. There were previously two protected but diseased trees along the boundary of the site with the footpath, which have been removed and new trees have been planted. Together the oak tree and the new trees when grown would shade the southern side of the dwelling. Use of the drive to the proposed dwelling could also affect the roots and canopies of the newly planted trees. For these reasons there could be future pressure to carry out works to the trees or the future growth of the newly planted trees could be threatened. However, the evidence regarding the potential effects on trees is not conclusive and while I have some concern, this matter is not determinative in my decision. The Council's decision refers to saved Policy CL6 of the LP. That policy provides for the use of Tree Preservation Orders (TPO) where removal of trees would be detrimental but is not relevant in this case as there is already a TPO in place.
14. I conclude on this issue overall, for the reasons given, that the proposal would unacceptably harm the character and appearance of the area.

#### *Living Conditions*

15. The proposed dwelling would include large glazed areas and a terrace, which would face towards the rear of Manor Farmhouse. There would be a further smaller terrace at first floor level. The dwelling would, however be a sufficient distance away from that property to allow reasonable privacy and the trees growing along the boundary between the properties would also ensure privacy.
16. There would be a bedroom window facing the adjacent converted mill building and its garden at an angle, but the separation distance would similarly ensure reasonable privacy. The rear of Mill House would not be unacceptably affected by overlooking.
17. However, the ground floor windows and terrace would be at a higher level than the garden of the host property and in close proximity to it. There would be potential for unacceptable overlooking of the rear garden of March House.
18. I saw on my visit that the rear-most part of March House provides a garage with accommodation in the roof above. It is not clear what that accommodation is but there are windows in the rear elevation which would face the proposed dwelling in very close proximity. Given the height of the proposed dwelling I have concerns about the potential for this to be unacceptably overbearing when seen from March House and its garden. Furthermore, the window to proposed bedroom 4 would be in very close proximity to the nearest rear windows in March House, with potential for unacceptable loss of privacy.
19. For these reasons the proposal would result in unacceptable intrusion to the occupants of March House and would be harmful to their living conditions. The proposal would not accord with saved Policies SB2 and H16 of the LP which

require no adverse effect on the privacy and amenity of neighbouring properties.

*Overall*

20. The appellant has quoted from an appeal decision<sup>2</sup> which concluded that the Council could not demonstrate a 5-year housing land supply. Subsequent to that appeal, the Council published its Housing Land Supply Position Statement which concludes that the Council can demonstrate a 5.06 years' supply. The Housing Delivery Test, which has more recently been published, may affect the housing land supply calculation. Even if the Council could not demonstrate a 5-year supply, or its policies that are most important for determining the application were otherwise out-of-date, the tilted balance in paragraph 11 of the Framework would not apply. This is because application of policies in the Framework that protect heritage assets provides a clear reason for refusing the proposal.
21. In conclusion, I find that the proposal would not accord with the development plan as a whole and that material considerations do not outweigh the policy conflict. On this basis the proposal would not be sustainable development.

**Conclusion**

22. For the reasons given I conclude that the appeal should be dismissed.

*Nick Palmer*

INSPECTOR

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<sup>2</sup> APP/W3520/W/18/3194926