
Appeal Decision

Site visit made on 13 May 2019

by Graham Chamberlain BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd May 2019

Appeal Ref: APP/W3520/W/18/3214007

The Old Post Office, The Street, Thornham Magna, Suffolk IP23 8HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Jonathan Eves against the decision of Mid Suffolk District Council.
 - The application Ref DC/18/01661, dated 16 May 2018, was refused by notice dated 25 September 2018.
 - The development proposed is described as 'erection of seven dwellings and associated garages within garden amenity land'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for future consideration. I have assessed the appeal scheme on this basis and treated the drawings as being an illustration of how the proposal could ultimately be configured.

Main Issues

3. The main issues in this appeal are:
 - Whether the appeal scheme would be in a suitable location with reference to development plan policies concerned with housing in rural areas and the accessibility of services and facilities;
 - Whether the proposed development would preserve the setting of nearby listed buildings and, if not, whether any harm is outweighed by public benefits;
 - The effect of the proposed development on the character and appearance of the area, including the landscape;
 - The effect of the proposed development on living conditions, with particular reference to privacy and outlook;
 - Whether the proposed development would include a safe and suitable access; and
 - Whether adequate information has been submitted to assess the effect of the proposal on biodiversity and the risk from any land contamination.

Reasons

Whether the proposed development would be in a suitable location

4. The appeal site encompasses a parcel of land to the rear of The Old Post Office. It adjoins the small village of Thornham Magna. This very small settlement incorporates a low-density layout that is generously landscaped. It is surrounded by woodland and agricultural fields interspersed with trees and hedges. This affords the village and wider area a rural character.
5. There are a handful of services within Thornham Magna including a public house and church, but in order to satisfy everyday functional requirements such as education, employment and shopping it is necessary for the residents of the village to travel further afield to settlements such as Gislegham and Eye. The services and facilities in these nearby settlements are beyond a comfortable walk due to the distance and physical constraints like the busy A140. For similar reasons cycling is unlikely to be desirable and, in any event, it would require a level of confidence, fitness and proficiency that future residents may not possess. Nothing of substance has been submitted to suggest there is an adequate bus service to the village.
6. Consequently, future residents of the appeal scheme would be largely car reliant. Car journeys to the nearby villages would be short in duration but daily journeys would soon add up to a high number of miles travelled with the associated carbon emissions. Even when taking account of the rural location of the appeal site, where opportunities to maximise sustainable transport will be more inhibited than urban areas, the appeal site is not well placed in terms of accessibility to services and facilities to accommodate new homes.
7. The occupants of the appeal scheme would have a similar level of accessibility to services and facilities as existing residents. However, many of the properties in the village are historic and would have been constructed in a very different context to today, and therefore this alone does not justify further development.
8. Accordingly, Thornham Magna is not identified in the settlement hierarchy encapsulated within Policy CS1 of the Mid Suffolk Core Strategy 2008 (MSCS) or Policy FC2 of the Focussed Review 2012 (FR) as one of the settlements to where the majority of new development will be directed. Instead, the village is a 'countryside village' where development will be restricted to particular types. The appeal scheme would not constitute any of the defined categories of development listed in Policy CS2 of the MSCS. There is a negative corollary that development which is not listed in the policy is not to be ordinarily permitted.
9. Moreover, Policy H7 of the Mid Suffolk Local Plan 1998 (LP) exercises strict control over development in the countryside and states that new housing will normally form part of an existing settlement. The proposed dwellings would not be located within an existing settlement boundary and would therefore not form part of an existing settlement.
10. Thus, being housing in the countryside the proposal would be at odds with, and harmfully undermine, the adopted spatial strategy for rural housing in the development plan and the consistency and relative certainty that should flow from a plan led approach to the location of new development.

Whether the proposal would preserve the setting of nearby listed buildings

11. The appeal site is located to the immediate east of The Old Post Office (No 205), which dates from around 1745 and is a two-storey building finished in brick with a tiled roof. The front elevation of this property is particularly significant given its proportions and composition. The rear comprises more modern extensions and lower order additions. The appeal site has no historic functional relationship to this building, but it nevertheless provides a visual setting and backdrop to the structure.
12. To the south of The Old Post Office is 203 and 204 The Street (Nos 203/204) which is a one and a half storey timber framed, thatched and plaster structure that is likely to be 17th century in origin. The appeal site provides a backdrop to this building too. On the opposite side of the road is the former Lambs Farm farmhouse. This is also constructed in the local vernacular materials of timber framing, thatch and plaster. The appeal site is in the wider rural setting of this building.
13. These three Grade II listed buildings address The Street and reinforce the linear pattern of the village. They have a group value and harmony. The land behind them rises markedly and this permits views from The Street of the open countryside behind them, which is largely undeveloped and generously landscaped. This provides an attractive rural backdrop that harmonises with the rural vernacular character and appearance of the three listed buildings and thus positively aids how they are experienced, understood and appreciated. Although not publicly accessible, there is a particularly good view of the grouping from the appeal site looking west towards Lambs Farm where the vernacular roof scape blends seamlessly with the bucolic setting.
14. The proposed dwellings would be set on higher land than Nos 205 and 203/204 and would be visible from The Street. They would interrupt the visual connectivity between these listed buildings and their rural backdrop and thus significantly harm the way they, and Lambs Farm, are currently experienced as a small group of vernacular buildings in a rural setting. The presence of new dwellings would also harm the view of Lambs Farm from within the appeal site. Accordingly, the findings in the appellant's Heritage Statement, that the development would have only a 'negligible' impact on the significance of the listed buildings, notably down plays the effect the appeals scheme would have.
15. The illustrative plans suggest the dwellings would all be served off a single highway access and internal spine road and therefore it is likely they would have to be arranged to be perpendicular to The Street. The houses are shown as being large detached properties with garages and driveways in an ad hoc configuration. Such a layout would be suburban in character and would jar with, and seriously erode, the rural setting of the listed buildings. The arrangement would allow for landscaping, but this would not entirely hide the presence of the dwellings.
16. The application has been made in outline so in theory a different configuration could be explored at the reserved matters stage such as single storey properties or perhaps a modest terrace. I also note that the Council did not direct for further details in order to better assess the impact on the listed buildings. However, there is little to suggest that anything other than a jarring suburban layout would be achieved and it seems that detailed consideration has not been given to the form and layout of the scheme, which is inexplicable

given the importance of the design to the principle of permitting homes in the setting of the listed buildings. Notwithstanding this, the very presence of housing would significantly and harmfully erode the setting of the listed buildings regardless of what form and layout they took.

17. In conclusion, the appeal scheme would significantly harm and erode the setting of three listed buildings in conflict with Policies HB1 and H13 of the LP and Policy CS5 of the MSCS. These policies seek to maintain and enhance the historic environment with particular attention given to the setting of listed buildings.

Whether any harm to heritage is outweighed by public benefits

18. The harm I have identified would be reasonably localised and therefore 'less than substantial' within the meaning of the National Planning Policy Framework (the 'Framework'). As a material consideration, Paragraph 196 of the Framework requires such harm to be weighed against the public benefits of the proposal.
19. The proposal would deliver up to seven new homes and this would moderately contribute towards the Council's housing supply thereby providing a moderate benefit. In addition, the proposal would result in benefits to the construction industry and future residents may spend locally, albeit from a remote base necessitating private motorised transport. Future residents may also support village life. However, the contribution to the construction industry would be short lived and I have seen nothing to suggest the 'spend' from seven additional households would have a notable effect on the viability of local facilities or the additional residents to the vitality of the community. Evidence has not been provided to suggest local facilities are suffering for lack of patronage or there is inadequate community capital. As such, the social and economic benefits carry moderate weight. The preliminary ecological assessment suggests that there is an opportunity for the scheme to result in a net gain to biodiversity but there is nothing to suggest such a gain would be more than modest.
20. Thus, when giving considerable importance and weight to the special regard I must have to the desirability of preserving the setting of listed buildings¹, I find that the significant harm that would arise from the appeal scheme would not be outweighed by its cumulative public benefits. Accordingly, there would be a conflict with Paragraph 194 of the National Planning Policy Framework as harm to designated heritage assets would not have a clear and convincing justification.

The effect on the character and appearance of the area, including the landscape

21. Thornham Magna is a largely linear settlement where properties tend to front onto and address The Street, albeit with those on the eastern side of the road set behind a stream that is only occasionally crossed by bridges. The presence of these properties is softened and screened by a largely unbroken belt of landscaping that contributes significantly to the street scene and the locally distinctive, quaint and rural character of the settlement. There are only a few examples of where development has taken place with no direct frontage onto The Street including a couple of properties behind Meadowcroft and a small

¹ See Sections 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990

development to the south of Street Farm House, which has been imaginatively designed to reflect a converted farm complex. However, this has not notably affected the overall grain of the village.

22. The construction of what would effectively be an insular cul-de-sac to the rear of the existing frontage development would jar with the linear pattern and topography of the settlement. In this respect it would appear discordant in the context of the village and thus spatially out of place, particularly so given the depth of projection back from The Street. For reasons I have already outlined, the layout is also likely to have a suburban form that would appear incongruous within the rural setting of the village.
23. The impact could be softened to an extent by generous levels of planting, but it would not be extinguished. Instead, the appeal scheme, when viewed from The Street, would appear as a somewhat discordant projection into the countryside rather than a natural and logical extension of the village. This encroachment into, and urbanisation of, the appeal site would result in some harm to the Special Landscape Area, which is a valued landscape.
24. However, the existing boundary hedging is thick and mature and therefore likely to be an effective screen, even in the winter months. The retention of this landscape feature - in accordance with the Council's Landscape Guidance Supplementary Planning Document 2015 - would soften the impact of the new dwellings on the wider Rolling Valley Claylands Landscape Character Type, including views from Workhouse Road, particularly if paired with a sensitive use of scale and materials.
25. Nevertheless, the modest impact on the landscape and the notable impact on the character of the settlement, in combination, would harm the character and appearance of the area and this would place the proposal in conflict with Policies GP1, H13, H16 and H15 of the LP, Policy CS5 of the MSCS and FC1.1 of the FR. These policies seek to secure high quality design that respects the local distinctiveness and built heritage of Mid Suffolk, including the pattern and form of development in the area².

The effect of the proposed development on living conditions

26. The outline nature of the application would allow sufficient flexibility at the reserved matters stage, in the event the appeal was otherwise acceptable, to explore layouts that would prevent the unreasonable overlooking of existing properties. The appeal site is large enough to ensure any impact on privacy would not be an inherent limitation. Similarly, there would be plentiful space to ensure the internal layout could be configured in such a way as to provide each dwelling with an adequate outlook. Accordingly, a conflict with that part of Policy H16 of the LP which relates to living conditions would not be an inevitable consequence of the appeal scheme.

Whether the proposed development would include a safe and suitable access

27. The Council have suggested that the existing bridge into the appeal site needs to be 4.1 metres wide for two cars to be able to pass one another. This follows advice from the Local Highway Authority. However, such a standard should not be applied rigidly without consideration being given to local circumstances.

² The Council have referred to Policy SB2 of the LP but the relevance of this is unclear because the proposed dwellings would be outside a settlement boundary.

28. With the railings relocated to the outside face of the bridge the width would be 4.02 metres wide. This would be marginally below the width being sought by the Council. However, it is unclear whether 4.02 metres would be enough to enable two cars to pass. If it is not, a motorist wanting to enter the site may have to wait in The Street if another vehicle is on the bridge exiting.
29. However, even if the above situation were to occur, I am satisfied that this would not prejudice highway safety because The Street appears to be a lightly trafficked country lane with good forward visibility. Motorists would be able to see and react to vehicles temporarily waiting in the road whilst any vehicle exits the bridge. Moreover, a motorist turning into the appeal site would have good inward visibility and thus be able to see any vehicle approaching the bridge. As such, there should be no need to reverse out of the appeal site. It is also a point of note that other narrow access points have operated without any apparent issue. Therefore, the width of the access/bridge would not prejudice highway safety³.
30. However, the access, including the bridge, is outside the appeal site as defined by the red line on the site plan and therefore appears to be outside the control of the appellant. I am satisfied that the width of the access would be adequate if the current bridge is retained in situ, but the appellant does not appear to have control over the visibility splays at the access. This is a significant limitation that raises doubt over the safety and suitability of the access for the level of activity that would be associated with up to seven dwellings.
31. Of greater concern is the location within Flood Zone 3 of the sole access into the appeal site. In a flood event the first 17 metres of the access could be submerged under something in the region of 0.9 metres of water. This would prevent the residents of the appeal site from safely entering and exiting the appeal site. If a flood event endured for a prolonged period, or reoccurred frequently, then future residents could effectively be trapped in their homes or put to the considerable inconvenience of finding alternative accommodation.
32. This would be the case even if they signed up to receive flood warnings from the Environment Agency and an evacuation plan is adopted. Substantive evidence has not been presented to suggest other measures, such as the flood-resistant road design recommended in the Flood Risk Assessment, would render the access safe and usable in a flood event. Accordingly, the access to the appeal site would be neither safe nor suitable for additional homes.
33. The Environment Agency (EA) have not objected to the proposal because the homes would be in Flood Zone 1 and, as such, there would be '*no danger to people*' in a flood event. Moreover, surface water drainage from the appeal site can be addressed through a planning condition. However, the EA also state that '*this does not mean we consider that the access is safe, or that the proposals are acceptable in this regard*'. Accordingly, the comments of the EA are not determinative on the acceptability of the access and I have not been presented with comments from either the Emergency Planners or the Emergency Services to suggest the access would be acceptable despite the risk of flooding.

³ As the access would be wide enough to operate safely with the existing bridge it is unnecessary to consider the Council's concerns regarding the viability of a replacement.

34. Considering the foregoing, I conclude that the proposal would not incorporate a safe and suitable access, and this would be contrary to Policy T10 of the LP.

Whether adequate information has been submitted to assess the effect on biodiversity and the risk from land contamination

35. I have already concluded that it would be unnecessary to undertake extensive engineering works to the site access, namely the widening or replacement of the existing bridge, and therefore further biodiversity surveys beyond those submitted are unnecessary. The surveys that have been submitted demonstrate that the development would not result in a harmful impact on biodiversity subject to mitigation secured through a planning condition in the event the scheme was otherwise acceptable. Similarly, the submissions indicate that the appeal site was formally an orchard and field and therefore it is unlikely to be contaminated.
36. Nevertheless, given that the occupants of the development would be sensitive end users it would be prudent, following a precautionary principle, to deal with land contamination through a suitably worded planning condition. Thus, I find that sufficient information has been submitted in respect of these matters and therefore a conflict with Policies CL8, CL9 and H17 of the MSCS and LP would not occur.

Other Matters

37. As a material consideration, Paragraph 213 of the Framework states that where policies pre date the Framework due weight should be given to them according to their degree of consistency with it. Policies CS1 and CS2 of the MSCS, Policy H7 of the LP and FC1.1 of the FR seek to prevent development outside settlement boundaries, but in the absence of an up to date spatial strategy for meeting the Council's current housing requirement this approach could frustrate its ability to deliver enough housing. It seems that the Council have relied on approving windfall schemes in the countryside contrary to these policies in order to keep pace. This reduces the weight I afford any conflict with them in my overall conclusion.
38. Nevertheless, these policies are not entirely inconsistent with the aim in the Framework to recognise the intrinsic character and beauty of the countryside, with protection given to valued landscapes, such as special landscape areas, and promote sustainable transport. As such the conflict with them is afforded moderate weight. The other relevant policies I have referred to are all broadly consistent with the aims of the Framework to secure well designed development, safeguard heritage assets and provide safe and suitable access. Thus, the conflict with Policies HB1, H13, GP1, H16, H15 and T10 of the LP and Policy CS5 of the MSCS carry significant weight in my overall conclusion.
39. The appellant has suggested that the Council are currently unable to demonstrate a five-year housing land supply, pointing to a recent appeal decision as evidence⁴, and therefore Paragraph 11d) of the Framework is relevant. However, the Council has provided an up to date housing land supply assessment which postdates the appeal decision referred to by the appellant, and this demonstrates that there is a supply of just over five years. The appellant has not disputed the Council's most recent submissions. Therefore,

⁴ APP/W3520/W/18/3194926

based on the evidence before me, the Council has a five-year housing land supply and therefore Paragraph 11d) is not applicable.

40. Nevertheless, even if I were to conclude the Council did not have a five-year housing land supply and the shortage was along the lines suggested by the appellant, I would still not find in favour of the appeal scheme. This is because the public benefits of the development would not outweigh the less than substantial harm to the setting of listed buildings. Thus, the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed.
41. Planning permission is in place for the erection of one dwelling at the appeal site⁵. The impact of a single dwelling upon the setting of listed buildings and the character and appearance of the area would be markedly different to a scheme of up to seven dwellings, this being the upper limit of the proposal to which I must have regard. The appeal scheme would have a notable and more harmfully intensive effects for the reasons already given. The extant permission would not justify such impacts.
42. The other appeal decisions listed by the appellant relate to schemes that are not in Thornham Magna and either involve one or two dwellings or very large schemes of up to 163, 180 or 560 homes. Accordingly, the planning balance in each case would have been different to the matters before me. A decision relating to a scheme of comparable size has been referred to, but this is outside the district and would have been subject to different policies and circumstances⁶. None of the appeal decisions listed by the appellant are directly comparable to the appeal scheme before me and consequently there is no inconsistency between my findings, which are site specific and based on the detailed evidence before me, and those of other Inspectors. Accordingly, the other appeal decisions referred to are matters of very limited weight to my assessment.

Conclusion

43. The proposed development could be designed to safeguard living conditions and biodiversity, but this would be outweighed by the significant harm that would occur to the setting of listed buildings, the harm to the character and appearance of the area and the inadequacy of the site access. The proposal would therefore fail to accord with the development plan taken as a whole. There are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Graham Chamberlain
INSPECTOR

⁵ Council reference DC/17/05585

⁶ APP/J3530/W/16/3165412 – 10 homes were approved but in that instance the village had an allocation in the development plan of 10 homes that the proposal would be addressing