



Appeal Decision

Site visit made on 12 August 2019

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th August 2019

Appeal Ref: APP/W3520/W/18/3216875

Land south of Long Thurlow Road, Long Thurlow, Badwell Ash, Bury St Edmunds, Suffolk IP31 3JA

- 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 A. Ross against the decision of Mid Suffolk District Council.
 - The application Ref DC/18/03808, dated 22 August 2018, was refused by notice dated 19 October 2018.
 - The development proposed is described as 'erection of 5 no. dwellings'.
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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 save for the access. I have assessed the proposal 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 the effects of the proposed development on:
1) The character and appearance of the area; 2) The setting of Holly Cottage, a Grade II listed building; 3) The living conditions of the occupants of Hawthorns and Pinewood, with particular reference to privacy and noise and disturbance; and 4) Protected and priority species.

Reasons

The effect on the character and appearance of the area

4. Long Thurlow is a broadly linear village with properties tending to be positioned towards the front of their respective plots behind front gardens. The terraced properties at the corner of Sheepgate Lane are a notable historic exception to this general pattern. The largely spacious layout of individual properties provides ample room for generous levels of soft landscaping along boundaries and within front and rear gardens. As a result, the settlement has a verdant, spacious and rural character.
5. The appeal site encompasses a parcel of land located behind Hawthorns, Pinewood and Holly Cottage and part of the rear garden of Hawthorns. It includes several mature and semi mature trees and animal shelters. It was

- previously a small holding in connection with Hawthorns. The site is very overgrown and sits alongside a public footpath.
6. The appeal scheme is for the erection of five homes and garages, the layout of which is a matter reserved for future consideration. Be that as it may, I must be satisfied that five homes can be adequately accommodated in the appeal site in a way that would not harm the character and appearance of the area.
 7. The indicative layout shows two properties positioned directly behind Hawthorns, but such a tandem arrangement would be out of character with the linear grain of the village. It would also leave comparatively little space around Hawthorns and hamper opportunities for landscaping to soften the impact of the access road. The two homes, which would nearly span the width of their respective plots, would appear relatively cramped given the spacious nature of surrounding development. The removal of the landscaping to establish the access would open up views of these properties from Long Thurlow Road to the detriment of the street scene.
 8. Given the number of properties proposed, the development would likely need to be arranged in a relatively tight and subdivided configuration and as an insular cul-de-sac, similar to the indicative plans. This would have a suburban style out of character with the rural and linear character of the village. The proposal would have a very limited impact on the wider landscape but, given the number of homes proposed, it would be possible to appreciate the jarring nature of the proposal from the public footpath, particularly when the foliage was not in leaf.
 9. The access into the appeal site would have an urbanising impact as it would require the removal of trees and planting. The indicative layout shows a turning head that would compound this. The Council's Arboricultural Officer has suggested that the eighteen trees identified for removal are of limited amenity value and the loss would have negligible impact upon the character of the local area. These comments are unsupported by substantive analysis and are difficult to reconcile with what I observed, as some of the trees that would be lost are prominent and complement the verdant character of the area. The appellant's arboricultural assessment indicates some of these are Category B trees, including three in the path of the proposed driveway. The overall loss of trees without adequate compensation¹ adds to my concerns. It is also unclear whether the homes could be provided without retained trees having an oppressive relationship on the occupants.
 10. It would be possible to design the proposed houses so that they did not have the bland and generic estate type appearance shown on the indicative elevations and perhaps employed a more rural style. However, this would not overcome the inherent limitations that would flow from attempting to accommodate five homes at the appeal site.
 11. The appeal site is located opposite Willow Drive, a small cul-de-sac of houses. However, the only property readily apparent from Long Thurlow Road is a bungalow set in a large plot behind hedging and a five-bar gate. This is viewed in the context of a spacious gravel drive devoid of kerb edging and softened by wide grass verges. Willow Drive does not respond to the linear character of the village but, unlike the appeal scheme, it is a spacious and verdant addition. Its

¹ The arboriculture assessment indicates an intention to fell eighteen trees and plant only fifteen

presence would not justify or mirror the relatively cramped and suburban character that would be inherent in the appeal scheme.

12. In conclusion, the proposal would significantly harm the character and appearance of the area and this would be contrary to Policy CS5 of the Core Strategy (CS)² and Policies GP1, H13 and H15 of the Mid Suffolk Local Plan 1998 (LP). 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 area. This is broadly consistent with Paragraph 127 of the National Planning Policy Framework (the 'Framework').

Whether the proposal would preserve the setting of Holly Cottage

13. Holly Cottage is a detached dwelling which probably dates from the 16th Century with later additions and alterations. It is angled with its gable end facing the road and is a timber framed example of the local rural vernacular. It is therefore intrinsically linked with the rural agricultural landscape around the village. This is part of how it is appreciated, experienced and understood – its setting. The appellant's analysis of setting has largely relied on static views and therefore underplays this point.
14. The appeal site has no apparent historic functional relationship to this building, but it nevertheless provides a rural setting and backdrop to the structure. The appeal site was once part of a network of fields that abutted Holly Cottage. Later linear housing development has eroded this context, but the undeveloped appearance of the appeal site provides some sense of connectivity between the listed building and the open countryside beyond. The number of homes and the likely suburban layout of the appeal scheme would have an urbanising impact on the setting of Holly Cottage and disrupt the sense of connectivity between the listed building and the countryside. This would harmfully erode its setting.
15. The retention of the existing screening between the appeal site and Holly Cottage would soften the visual impact and presence of the properties. Moreover, the dwellings could be designed as single storey homes, which could perhaps reflect the rural vernacular by, for example, having the appearance of subservient converted barns or such like. However, this would not entirely mitigate the presence of the proposal, which in combination would have considerable massing and associated activity. Accordingly, five homes would not be a sufficiently discrete addition that would preserve the setting of the listed building.
16. In conclusion, the proposal would harm the setting of Holly Cottage and this would be contrary to Policy CS5 of the CS, which seeks to secure development that maintains and enhances the historic environment. This is broadly consistent with Section 16 of the Framework.

The effect of the proposed development on the living conditions of the occupants of Hawthorns and Pinewood

17. Positioning a pair of two storey semi-detached houses directly behind Hawthorns at the distance shown on the indicative plans would result in a harmful level of overlooking, particularly of the modest rear garden retained for that property. However, this is not a firm proposal and therefore the semis could be single storey. Given the cramped appearance that properties behind

² Core Strategy Development Plan Document Adopted September 2008

Hawthorns would have, it is more likely that the semis would need to be relocated elsewhere in the site. Either way, the appeal scheme could be designed in a way that would safeguard the privacy of the occupants of Hawthorns. Accordingly, there would be no conflict with Policy H13 of the LP.

18. The proposed access road to the rear of the site would apparently be broadly in the place of a previous driveway, now overgrown. It would be positioned between the flank elevations of Hawthorns and Pinewoods. Space could be provided either side for landscape buffering. Neither of the existing properties have windows in the flank elevations and Pinewoods has an attached garage and large garden that would provide a noise buffer and limit any impact from headlights. Conversely, Hawthorns would have a modest rear garden so the passing of vehicles would be particularly apparent from this area.
19. If used infrequently, as it appears to have been in the past when the site was a smallholding, and buffered by landscaping, the access would not result in a harmful level of noise and disturbance. However, five homes could generate around thirty vehicle trips a day and this may be bunched at peak hours in the morning and evening. The movements may be higher given the lack of schools and services in the village. The high number of comings and goings would result in noise and disturbance to the occupants of both Pinewoods and Hawthorns. The impact would be harmful upon the residents of the latter due to the small garden and the closer proximity of the flank elevation to the driveway. This impact would occur regardless of who owns the property.
20. In conclusion, the proposal would harm the living conditions of the occupants of Hawthorns and this would be contrary to Policy H16 of the LP, which seeks to secure development that protects existing residential amenity from nuisance. This is consistent with Paragraph 127 of the Framework.

The effect on protected and priority species

21. The presence of several mature trees and the over grown nature of the site may result in protected and priority species being present and thus potentially effected by the proposed development. The proposal is supported by a Preliminary Ecological Appraisal with a Bat Roost Assessment and Great Crested Newt Survey. The appraisal concludes that subject to mitigation the proposal would not harm protected and priority species. Several enhancement measures were also recommended. This could be secured through planning conditions in the event the scheme was otherwise acceptable.
22. Both the Suffolk Wildlife Trust (SWT) and Essex County Council Place Services (ECC) (advising the Council on matters of biodiversity) were broadly content with these findings although both noted that a further reptile survey was recommended. This initially resulted in recommendations of refusal from both specialists. However, clarification was provided by the appellant's ecologist that habitat changes at the site means it is unlikely to be suitable for reptiles and therefore a precautionary method of site clearance would be appropriate instead of further surveys. Both SWT and ECC removed their objections after considering this clarification.
23. The Council's fourth reason for refusal appears to have been based on the original comments of SWT and ECC and not the subsequent clarification. Moreover, it does not specify which species may be present and possibly harmed by the proposal or refer to any development plan policy, technical

guidance or standing advice. The Officer's report provides no further detail. Accordingly, there is no substantive evidence before me to suggest a different conclusion should be drawn to that of the SWT and ECC. Accordingly, the evidence before me indicates the proposal would not have an adverse impact on protected and priority species.

Other Matters

24. The significant harm I have identified to the setting of Holly Cottage would be reasonably localised and therefore 'less than substantial' within the meaning of the Framework. As a material consideration, Paragraph 196 of the Framework requires such harm to be weighed against the public benefits of the proposal. The Framework also states that great weight should be given to an asset's conservation.
25. The proposal would deliver five new homes in a village at a point in time when the appellant suggests the Council cannot demonstrate a five-year supply as required to by the Framework, with the supply being around 3.4 years. A point undisputed by the Council. Housing, on a small deliverable site at the scale proposed, would be a moderate public benefit. In addition, the proposal would result in benefits to the construction industry and future residents may spend locally and generally support village life. These can all be considered public benefits.
26. However, the contribution to the construction industry would be short lived and I have seen nothing to suggest the 'spend' from five 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, these public benefits carry limited weight.
27. Thus, when giving considerable importance and weight to the special regard I must have to the desirability of preserving the setting of a listed building³, I find that the 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 Framework as harm to a designated heritage asset would not have a clear and convincing justification.
28. In a circumstance where the Council is unable to demonstrate a five-year housing land supply Paragraph 11d) of the Framework is relevant and this states that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development proposed. Given my findings in respect of Paragraphs 194 and 196 of the Framework, there are clear reasons for refusing the development. Consequently, it is unnecessary to consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.
29. Various concerns have been raised by interested parties including reservations regarding the site's apparent location outside a settlement boundary and its effect on highway safety. However, given my findings above it has not been necessary for me to address these matters further as the appeal has failed.

³ See Sections 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990

Conclusion

30. The proposed development would not have an adverse impact on protected and priority species or the living conditions of the occupants of Pinewood, but this would be outweighed by the significant harm that would occur to the character and appearance of the area and the harm to the setting of Holly Cottage and the living conditions of the occupants of Hawthorns. Consequently, the proposal would not accord with the development plan taken as a whole. There are no other considerations, including the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Graham Chamberlain
INSPECTOR