
Appeal Decision

Site visit made on 6 August 2019

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2019

Appeal Ref: APP/D3505/W/19/3224220

Land West of Bury Road, Lawshall IP29 4PJ

- 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 Hartog Hutton Ltd against the decision of Babergh District Council.
 - The application Ref DC/18/02099, dated 10 May 2018, was refused by notice dated 14 December 2018.
 - The development proposed is erection of 15 Dwellings (including 5 affordable homes), with associated parking and sustainable drainage. Along with new vehicular access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was in outline with all matters reserved with the exception of access. I have had regard to the submitted plans but have considered all elements of these drawings as indicative except the access from Bury Road.
3. The Lawshall Neighbourhood Plan 2016-2036 (2017) (the NP) has been made and forms part of the Development Plan.

Main Issues

4. The main issues are:
 - The effect of the development on:
 - the setting of Lawshall within the wider landscape; and
 - the character and appearance of the surrounding area.
 - Whether the appeal scheme would amount to sustainable development, including the provision for sustainable urban drainage (SUDS).

Reasons

The setting of Lawshall

5. Lawshall and the surrounding hamlets are located within a rural area and the gaps between both small and larger clusters of existing development form an

important part of the character of the wider landscape. Policy LAW1 of the NP identifies Built-up Area Boundaries (BUAB).

6. The appeal site, which falls beyond a BUAB, forms part of a gap between development around the junction of Bury Road with Lawshall Row and a group of buildings including Willows Nursing Home. Whilst the contribution which the site makes to the street scene is limited by a heavy shrub and tree belt on the road frontage, there is a gap beside the entrance to the Foundry, which accommodates the Green Light Trust, from where the site can be viewed, and which is the entrance to a community woodland. The mixed nature of the shrub and tree belt also includes some deciduous species which would be likely to reduce its screening effect in the winter months.
7. The importance of the appeal site is recognised in the NP through the identification of its frontage as both a settlement gap and an ancient hedgerow on the Proposals Map for Lawshall West (the NP Proposals Map). The Foundry Meadow and the community woodland are also identified in the NP as an important recreation and green space and important woodland respectively. Taken together, my observations regarding the contribution which the site makes as a gap between clusters of buildings and the likely experience of it by residents visiting Foundry Meadow and the community woodland, lead me to conclude that the site currently forms an important part of the setting of this part of Lawshall.
8. Whilst the layout, scale and appearance of the development are reserved matters, the number of dwellings proposed, which is under consideration, would result in a significant change to the appearance of the site and the contribution which it makes to the wider area. The illustrative plan indicates that the majority of the site would be covered by houses, garages and private gardens which would erode the gap between clusters of existing buildings and would lead to the coalescence of built form within this part of Lawshall. Given the importance which I have attached to the site as a gap between clusters of buildings within the setting of Lawshall, the development would amount to harm.
9. The appellants argue that as a consequence of the screening of the site it does not form an important gap and its development would not be harmful to the local character of Lawshall. However, there is limited evidence before me to demonstrate that as a result of the existing planting, with or without any further planting, the new houses would not form part of the street scene. To the contrary, the indicative street elevation shows that the houses would be visible from Bury Road and would significantly alter the character and appearance of this part of Lawshall.
10. The appellants also argue that the development would not undermine the visual separation between clusters of development because there would still be a gap on the opposite side of the road and a break to the north. The NP recognises the importance of the gaps on both sides of Bury Road and both are identified on the NP Proposals Map. The development would significantly undermine the effect of the gaps on both sides of the road in ensuring that clusters of built form do not combine. Furthermore, the Foundry site is not part of the protected gap and contributes towards the street scene in a different way to the open areas to the south. The Foundry site does not have the same function as the protected gaps in preventing coalescence of built form.

11. My attention has been drawn to a map of sites in Lawshall-Lambs Lane which forms part of the Babergh and Mid Suffolk Joint Local Plan Consultation Draft – August 2017. I have very limited information regarding the status of this document, but on the basis that it is part of a plan which is to be the subject of consultation it does not form part of the Development Plan and attracts very limited weight. Therefore, notwithstanding the appellants reference to the Councils consideration of the appeal site as a potential site for development, this document does not outweigh the harm to the setting of Lawshall which I have identified.
12. The appellants reference the Landscape Architects consultation response to the Council. The conclusions reached by the Landscape Architect do not align with the Council's decision. However, having considered them they do not dissuade me from the conclusions which I have reached regarding the importance of the role which the appeal site plays in the setting of Lawshall or the adverse impact on that setting which would result were the appeal scheme to be allowed.
13. I conclude that the appeal scheme would have a harmful effect on the setting of Lawshall within the wider landscape. The development is therefore contrary to Policies CS11 and CS15 of the Babergh Local Plan 2011-2031 Core Strategy and Policies (Part 1 of the New Babergh Local Plan) (2014) (the Core Strategy and Policies) and Policies LAW3 and LAW9 of the NP. These policies amongst other things require development to be appropriate in character to its setting and to the village and well related to the existing pattern of development, that development makes a positive contribution to local character and restricts housing development outside the BUAB and which harms or undermines a Settlement Gap. For similar reasons the development would be contrary to the National Planning Policy Framework (the Framework) in relation to the conservation and enhancement of the natural environment.
14. The appellants argue that Policy LAW3 of the NP which relates to housing development outside the BUAB is not justified and is not in accordance with the Framework. Even if I accepted this argument the development is contrary to other policies in the Development Plan.

Character and appearance

15. Bury Road is characterised by both ribbon development and houses and bungalows in cul-de-sacs including Windsor Close and Churchill Close. Whilst the housing density is low where buildings have a frontage to Bury Road, it is higher within the cul-de-sacs. The Willows Nursing Home which is on the opposite side of Bury Road to the appeal site is a substantial building set within landscaped grounds. The wide variety of housing types in the surrounding area give this part of Lawshall a pleasant, rural village character.
16. On the basis of the evidence before me the appeal scheme would contribute towards the mixed assortment of house types already prevalent in the area and the density of development would be compatible with that in the wider village. The layout and scale of development are reserved matters, however given the number of dwellings proposed, the constraints upon access to the site, which are necessary to protect the hedge on the road frontage, and the shape of the site there are limited permutations as to how it could be laid out.
17. The indicative layout which is shown on the plans demonstrates one way in which the site could be laid out and includes an internal road which runs

broadly parallel with Bury Road. Such a layout would be out of character with both the ribbon development on adjacent sites and the cul-de-sacs further afield which generally run perpendicular to the main carriageway. There is limited information before me in terms of alternative ways of laying out the site so as to avoid this harmful impact on the character of Bury Road. Consequently, on the basis of the evidence and the limitations on the layout of the site which are demonstrated by the indicative proposals, the development of the site for 15 dwellings would harm the character and appearance of this part of Lawshall.

18. I conclude that the appeal scheme would harm the character and appearance of the surrounding area. The development is therefore contrary to Policies CS11 and CS15 of the Core Strategy and Policies. These policies amongst other things require development to be appropriate in character to its setting and to the village and well related to the existing pattern of development and that development makes a positive contribution to local character. For similar reasons, the development would be contrary to the Framework in relation to the conservation and enhancement of the natural environment.

Sustainable development/SUDS

19. The Council has clarified in its Statement that in its view the appeal scheme would not amount to sustainable development because it effectively fails the environmental objective set out in the Framework. Whilst this objective and the social and economic objective set out in the Framework are not criteria against which every decision can or should be judged, it will be seen from the foregoing that I share the Council's concerns regarding the environmental harm which would arise from the development. On that same basis I have found that the development is contrary to CS11 and CS15 of the Core Strategy and Policies.
20. With regard to the risks of flooding and the use of SUDs, I have received a representation from the Flood and Water Engineer at Suffolk County Council. It is clear from his comments that his concerns regarding the potential for flooding and use of SUDs arise from a lack of information. The appellants argue that without an agreed layout it is not possible to produce a detailed drainage strategy. I have very limited information before me to counter the appellants' argument and on that basis, I consider that the risks of flooding and the use of SUDs and other mitigation measures is a matter which could be addressed satisfactorily by planning condition.
21. I conclude that, subject to the imposition and compliance with a suitably worded condition, the appeal scheme would make adequate provision for SUDs. The development would therefore be in accordance with Policy CS15 of the Core Strategy and Policies which amongst other things requires new development incorporates SUDs.

Other matters

22. The development would provide 15 dwellings which would support the housing supply and would create economic benefits in the form of construction jobs and support for local shops and services from new residents. Whilst these benefits would be limited by the scale of the appeal scheme, they count in favour of the development.

23. The appellants indicate, in their Planning Statement, that the delivery of the affordable homes which are included in the description of development would be controlled by a s106 Agreement; however, a completed document is not before me. Furthermore, in this case I do not find that the development is so complex or strategically important as to justify a negatively worded condition requiring a planning obligation or other agreement to be entered into before the development commences as suggested by the appellants in their Final Comments. In the light of this the weight which I can attach to the provision of affordable housing as a benefit is very limited.
24. The Council does not have a 5-year housing land supply (5YHLS), therefore paragraph 11 (d) of the Framework is engaged. Accordingly, 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. I acknowledge there are benefits of the scheme as set out in the preceding paragraphs. Nevertheless, I consider the harm identified above significantly and demonstrably outweighs the benefits of the appeal scheme when assessed against the policies of the Framework taken as a whole, notwithstanding the Council's position in respect of housing land supply.
25. The appellants contend that if the development were restricted to 5 dwellings under the terms of Policy LAW3 of the NP, this would amount to inefficient use of land. However, the Framework sets out that in supporting the efficient use of land decision makers should consider the desirability of maintaining an area's prevailing character and setting. In this case the harm to the character and appearance of the setting of Lawshall outweighs the benefits of developing land in a more efficient way.
26. Elm House is a Grade II Listed Building which fronts Bury Road. It is separated from the appeal site by The Foundry. Neither the principle of development nor the proposed access arrangements for the appeal scheme would have a harmful effect on this heritage asset or its setting.
27. I have received representations from the Highways Authority in relation to highway safety. Given that I find the proposal to be unacceptable for other reasons, and any such concerns would have no bearing on my overall planning balance, it is not necessary for me to address these matters any further as part of this decision.

Conclusion

28. For the reasons set out above, the appeal is dismissed.

Sarah Dyer

Inspector