
Appeal Decision

Site visit made on 6 June 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 09 September 2019

Appeal Ref: APP/J3530/W/19/3219713

**Land to the North of The Thatched Roadhouse, The Street, Martlesham
IP12 4RJ**

- 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 P Brown of DeBurgh Developments against the decision of Suffolk Coastal District Council.
 - The application Ref DC/18/3793/FUL, dated 17 August 2018, was refused by notice dated 30 November 2018.
 - The development proposed is change of use of car park to car sales premises.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. While I note that the description of development differs on the appeal form and decision notice, I have taken the description of development above from application form in the interests of certainty.
3. I note that the application was made in outline with all matters reserved and I have assessed the appeal on this basis.
4. While the planning officer's report refers to an application for advertisement consent, the details of that application are not before me and it has not been determinative for this appeal.
5. I note that Suffolk Coastal District Council (SCDC) and Waveney District Council have been superseded by East Suffolk Council since the application was determined. However, since the application was determined by SCDC, I have not amended the council name in the header above.
6. Under Regulations 5 or 5A of the Planning (Listed Buildings and Conservation Area) Regulations 1990 ('1990 Regulations') the Council are required to publicise Listed Building Consent applications, or planning applications affecting the setting of a listed building or the character or appearance of a conservation area. While the application was not advertised as required by the Regulations during the application process, this was done during the appeal and Historic England were consulted. No comments were received.
7. The Council included a number of reasons for refusal with several main issues and policies, I have therefore considered each of the main issues with reference to only those policies that are directly relevant in each case.

Main Issues

8. From the evidence before me the main issues are:

- whether the proposed development would accord with the Council's strategy for the location of development;
- the effect of the proposed development on the character and appearance of the area including on the Area of Outstanding Natural Beauty (AONB) and the Special Landscape Area (SLA);
- the effect of the proposed development on the setting of nearby listed buildings; and
- the effect of the proposed development on flood risk.

Reasons

Location

9. The site lies outside the physical limits boundary of Martlesham. Policy SP29 of the Suffolk Coastal District Local Plan Core Strategy & Development Management Policies Development Plan Document July 2013 (CS) sets out that new development outside physical limits of settlements will be limited to that which of necessity requires to be located there and accords with other relevant policies within the CS. CS Policy SP7 sets out the Council's strategy for economic development in rural areas and requires accordance with the settlement hierarchy. Furthermore, Policy MAR1 of the Martlesham Neighbourhood Plan 2016-2031 Made July 2018 (MNP) states that development proposals outside the physical limits boundary will not be permitted unless they are in accordance with Suffolk Coastal Local Plan policies in respect of appropriate uses in the countryside; or they relate to necessary utilities infrastructure and where no reasonable alternative location is available.
10. These policies clearly set out the Council's strategy of directing development to within physical limits boundaries and restricting development outside these boundaries to necessity only basis. Since the development would lie outside the physical limits boundary of Martlesham, and a need for the development to be sited in this location has not been demonstrated, the proposal would conflict with the Council's strategy for the location of development.
11. While the appellant considers that Policies SP7 and SP29 are not wholly in accordance with the National Planning Policy Framework (Framework), the CS post-dates the first publication of the Framework and is therefore likely to have been found to be in accordance with it. While the CS Policies may go further than the Framework in certain aspects, this does not necessarily mean that the Policies are not in accordance with it. The subsequent editions of the Framework have not changed substantially with respect to the main issues of this case and from the evidence before me the CS Policies are in accordance with the Framework.
12. While the Council considers the site to be previously developed land, I have reservations in this regard. Taking the appellant's best case, even if the site is considered to be previously developed land and while I acknowledge that the Framework encourages the growth of rural businesses, for the reasons given above, the proposed development would be contrary to the Council's strategy

for development. I acknowledge the evidence regarding the accessibility of services and facilities, however this does not override the policy conflict identified above.

13. Therefore, the proposed development would not accord with the Council's strategy for the location of development and would conflict with CS Policies SP7 and SP29 and MNP Policy MAR1 which seek to direct new development to within settlement boundaries.

AONB and SLA

14. The appeal site is an open area laid to shingle that is currently used as part of a car park for the adjacent site which is occupied by an antiques shop. The site is within the AONB, bounded on two sides by tall trees and hedgerow that offer glimpses through to the river beyond. The frontage including the access of the site falls within an SLA. Overall, the area has a green and open character with a number of buildings nearby in traditional styles.
15. The proposal consists of a change of use of the existing site to a car park for the purpose of car sales. While the existing use of the site is that of a car park, from the evidence before me and my observations during the site visit, the site is unlikely to be fully occupied by cars during substantial parts of the day. The proposal in contrast would be most likely to consist of the site being fully occupied by cars on a permanent basis.
16. Since landscaping is a reserved matter, the retention of the hedgerow that fronts the highway could be a future consideration. However, the development would still be visible from various parts of the street via the wide accesses to the site and the antiques shop that are located either side of the hedge. The permanent occupation of the car park would be unsightly and discordant given the green open character of the area. It would also have an adverse effect on the SLA in this regard.
17. AONBs have the highest status of protection in relation to landscape and scenic beauty and great weight is to be afforded to conserving their landscape and scenic beauty as stated in the Framework. I acknowledge the Council's position with respect to the level of harm to the AONB, and that the site's existing boundary treatments would partly screen the proposal when viewed from other parts of the AONB. However, since a mostly unoccupied site would be likely to be fully occupied by parked cars on a permanent basis and given the great weight to be afforded to conserving the scenic beauty of the AONB, I consider that the proposal would nevertheless be harmful to the AONB and character and appearance of the area.
18. Consequently, the proposed development would harm the character and appearance of the area including the AONB and the SLA and would conflict with CS Policy SP15 which among other things seeks to protect and enhance the various landscape character areas and the protected landscape of the AONB and with Policy SSP38 of the Site Allocations and Area Specific Policies Development Plan Document January 2017 (SAASP) which seeks to protect the landscape qualities of SLAs. It would also conflict with CS Policy DM21 which requires developments to relate well to the character of their surroundings among other things and with CS Policy DM12 in this regard which permits proposals to intensify existing employment sites unless the scale of the

development would cause demonstrable harm to the conservation of the environment.

19. CS Policy DM16 relates to farm shops and is not directly relevant to the proposed development.

Listed buildings

20. There are a number of residential properties nearby including two Grade II listed buildings – Red Lion Public House and Red Lion Cottages. Their significance lies in the evidence of vernacular historic architecture. The appeal site contributes to the setting by being in keeping with the open green surroundings that provides a pleasant backdrop to the Red Lion PH.
21. Although the Red Lion PH is separated from the appeal site by Bealings Road, since it is located on the corner of The Street and Bealings Road, the proposed development would be visible from it through the wide access of the antiques store. Since the proposal would introduce parked cars on a permanent basis on a site near the listed building and would be clearly visible from it, the proposal would diminish the green and open aspect that forms a pleasant setting for the listed building and would visually distract from it.
22. Since the appeal site would be largely obscured by the antiques shop and trees when viewed from the Red Lion Cottages and is further away from them than the Red Lion PH, it does not provide a great contribution to the setting of these listed buildings. The adverse effects on the setting of the Red Lion Cottages would be minimal given the limited contribution of the site to the setting of the listed building.
23. Consequently, the proposed development would harm the setting of the nearby Grade II listed Red Lion PH and would conflict with the Framework in this regard.
24. The identified harm to the setting of the listed building would be less than substantial and in accordance with paragraph 196 of the Framework, that harm should be weighed against any public benefits of the proposal, including securing its optimal viable use. Bearing in mind the statutory duty¹ to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, the identified harm carries substantial weight against the proposed development.
25. While the generation of employment has been put forward as a benefit, given that the number of jobs is likely to be small, the public benefit in this regard would be limited. Therefore, the benefits claimed by the appellant do not outweigh the substantial weight attached to the harm to the setting of the listed buildings.

Flood risk

26. The appeal site lies wholly within flood zones 2 and 3 due to its close proximity to the River Fynn. Neither the application nor the appeal was accompanied by relevant information such as a Flood Risk Assessment.
27. While I note that the site would not be resurfaced as part of the proposal, and that all matters are reserved for future consideration, from the indicative plan,

¹ S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

it is likely that a portacabin would be installed on the site. Furthermore, the proposal would result in a greater number of cars being parked on the site permanently in contrast with the fewer number of cars that are currently being parked on the site for short periods of time.

28. While the floor area of the portacabin may be relatively small, it would nevertheless be likely to result in some displacement of flood water that would have an effect elsewhere in the floodplain. Furthermore, since the portacabin is likely to be occupied for substantial parts of the day, there would be risk to the occupiers given the proximity of the River Fynn. Since no evidence such as a Flood Risk Assessment has been provided, it has not been demonstrated that the risks could be mitigated. Furthermore, paragraph 163 of the Framework requires that a site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. It also sets out a number of factors that should be demonstrated by a site-specific flood-risk assessment. The evidence before me has not provided such demonstration.
29. I note that the appellant's suggestion that a condition requiring a flood evacuation plan could be attached. However, since there has not been any objective analysis of the risks presented by the site being in a flood risk area, it has not been demonstrated that such a condition would be likely to mitigate the detrimental effects on flood risk.
30. On this basis there is a reasonable prospect that the proposal would have an adverse effect on flood risk and would conflict with CS Policies DM28 and SP12 which together require developments to, among other things, minimise the risk of flooding and ensuring appropriate management of land within flood plain. It would also conflict with the Framework in this regard.

Other Matter

31. I acknowledge that the Council failed to consult with the landscape officer. However, I have considered the case on its planning merits.

Conclusion

32. For the reasons given above the appeal is dismissed.

R Sabu

INSPECTOR