



Appeal Decision

Site visit made on 14 November 2019

by David Nicholson RIBA IHBC

an Inspector appointed by the Secretary of State

Decision date: 05 December 2019

Appeal Ref: APP/W3520/W/19/3230783

Land Opposite Wheatcrofts, The Street, Horham IP21 5DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (TCPA) against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs G Cooper against the decision of Mid Suffolk District Council.
 - The application Ref. DC/18/04801, dated 29 October 2018, was refused by notice dated 12 April 2019.
 - The development proposed is: Erection of up to 2 detached dwellings with garages (resubmission).
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Procedural Matter

1. The application was made in outline with approval only sought for means of access, all other matters being reserved.

Decision

2. The appeal is allowed, and outline planning permission is granted for: Erection of up to 2 detached dwellings with garages at Land Opposite Wheatcrofts, The Street, Horham in accordance with the terms of the application Ref. DC/18/04801, dated 29 October 2018, subject to the conditions in the attached Schedule.

Reasons

3. Horham is defined as a Secondary Village in Mid Suffolk District's 1998 Local Plan (LP) as amended by its 2008 Core Strategy (CS). Services in Horham include a Post Office Stores, a Social Club and a Church. The adjoining village of Stradbroke has many more facilities. Horham is served by some public transport although I was informed that the number 3P bus service may soon be withdrawn. The site is just outside the settlement boundary, and so defined as within the countryside, but adjoins the boundary on two sides. It is not isolated¹ or separated from the village in any other way.
4. The appeal site covers an area of 0.18 hectares of grassland at the west end of Horham. There are existing dwellings to one side and across the road. The other boundaries adjoin agricultural land. The adjacent Whitehouse Cottage dates from the late 17th Century with later additions and is listed at Grade II. It is rendered under a thatched roof with fairly low eaves. On one side there is a

¹ As established in *Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Development Limited* [2017]

bungalow with rooms in the roof. The house across the road is two storeys high but set down with low eaves and modest detailing. Over the years Whitehouse Cottage may have been subdivided and one historic map shows the house and the appeal site as parts of the same plot; an earlier map shows them as separate. No other evidence suggests that the undeveloped agricultural nature of the appeal site is, of itself, important to the historic significance of the listed building and nothing was apparent to me on site.

5. The size and position of the houses on the proposed layout plan suggest large dwellings with potentially high roofs set a little way back from the road. There is a risk that, if developed in this way, the houses could be out of scale with the listed building and its low eaves and detract from an appreciation of it in its current setting. However, as reserved matters would need to be submitted, and as the plan is for illustrative purposes only, there would be every opportunity to adjust the size of the houses so that they would be acceptable.
6. For these reasons, the scheme would not conflict with LP Policy HB1 which places a high priority on protecting the character and appearance of all buildings of architectural or historic interest, and that particular attention will be given to protecting the settings of listed buildings, or with Policy CS5 which seeks to maintain and enhance the District's historic environment. The proposals would satisfy paragraphs 193 and 194 of the 2019 National Planning Policy Framework (NPPF) which gives great weight to the conservation of designated heritage assets and requires that any harm to, or loss of, the significance of a designated heritage asset (including from development within its setting) should require clear and convincing justification.
7. LP Policy H7 and CS Policies CS1 and CS2 restrict development in the countryside for its own sake, and to protect its landscape quality and character. New housing development should also take the form of infilling within settlement limit area boundaries. Furthermore, not all the services and facilities required for sustainable development are within 2km of the site and the route to these services is by unlit footways. This is likely to lead to a reliance on the private car and less integrated communities.
8. The Appellants have referred me to the appeal decision for new housing in another site in Mid Suffolk² in September last year where the Inspector allowed the appeal after finding that the Council had not reviewed its housing numbers and could only demonstrate at most a 3.4 year housing land supply (HLS). Although that appeal was on a site next to a larger village, in other regards there are similarities. In particular the site adjoined the village boundary on two sides and was within the setting of heritage assets. However, the Council now claims to have a 5 year HLS although I have no details of a review. Unlikely as this speed of improvement may be, it makes little difference since as, also identified in that appeal decision, the relevant policies (CS1 and CS2) restrict housing development in the countryside contrary to NPPF§78. Consequently, the Council's relevant policies are out of date in any event.
9. NPPF§11d imposes a tilted balance where the policies which are most important for determining the application are out-of-date. Under §11d)i. this does not apply where policies for protected assets, including listed buildings, give a clear reason for refusing development. Here I have found that, subject to reserved matters, the significance of the listed building would not be harmed

² Ref: APP/W3520/W/18/3194926

and so this exception does not apply. Even if I had found a small measure of less than substantial harm to the setting of the listed building, this would be outweighed by the public benefits of housing and the tilted balance would not be disallowed. I find that this balance goes in favour of the appeal, which should be allowed. Furthermore, I find that this is a material consideration which outweighs the sustainability limitations of the location and any conflict with the development plan taken as a whole.

Conditions

10. Apart from the standard conditions on time limits, reserved matters and plans, issues were raised over access and highway safety. While the County Council's comments also suggest conditions to control parking and bin storage, as the plots are generous this is unnecessary.
11. The illustrative layout not only shows the proposed position of the access, which is not reserved, but also extensive visibility splays which would go beyond the site boundary. An initial objection from the highway authority was removed subject to conditions requiring a minimum access width and visibility splays. The land which would be required for the visibility splays is not owned by Appellants and the owners object to this and the loss of any trees. While land ownership could prevent development, it is not a planning matter and, subject to a condition controlling the access and requiring suitable visibility splays, this concern should not prevent permission being granted. These splays are anticipated by the Appellants as they are shown on the illustrative drawing. While in the absence of detailed highways evidence the access and splays might appear to be excessive, and require the loss of trees, a pre-condition³ preventing development prior to agreement securing the width and extent of visibility splays would reduce the risk to highway safety to an acceptable level and allow further consideration of their extent.

Conclusions

12. For the reasons given above, having regard to all other matters raised including the need for affordable housing in the area, I conclude that the appeal should be allowed.

David Nicholson

INSPECTOR

Schedule of conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

³ Noting that the wording at 100ZA(8) of the Neighbourhood Planning Act 2017 excludes conditions imposed on grants of outline planning permission which are outside s100ZA(5) for the purpose of s100ZA of the TCPA.

- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location plan scale 1:1250
 - Existing layout plan 5733.05
 - Proposed layout plan 5733.06A
- 5) Notwithstanding the submitted drawings, no development shall take place until details of the junction and sight lines between the proposed service road and the highway have been submitted to and approved in writing by the local planning authority; and the development shall not be occupied until that junction has been constructed in accordance with the approved details. The junction shall thereafter be retained and no obstruction to the sight lines shall be erected, constructed, planted or permitted to grow within the areas of visibility splay set out in the agreed details.