The Planning Inspectorate

Appeal Decision

Site visit made on 25 November 2019

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 15 January 2020

Appeal Ref: APP/W3520/W/18/3217178
The Pightle, Elmswell Road, Great Ashfield IP31 3HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Rachel Isaac against the decision of Mid Suffolk District Council.
- The application Ref DC/18/03026, dated 3 July 2018, was refused by notice dated 28 August 2018.
- The development proposed is the erection of detached dwelling and construction of an access.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with access to be decided, with appearance, layout, scale, and landscaping as reserved matters. The Council made their decision based upon a Red Line OS Plan,[1] a Planning Statement,[2] a Land Contamination Questionnaire,[3] and a Land Contamination Assessment Enviroscreen Certificate.[4] These reports, statement and plan reflect the description of the development. As the Council had regard to these in determining the application, I have dealt with the appeal on the same basis.

3. I note reference within the appellant's Statement of Case[5] (SoC) that the application was 'submitted in outline form with all matters reserved.' I believe this to be an error in that Section 3 of the application form submitted with the original application clearly states that 'Access' is a matter to be approved. I have therefore treated this appeal on this basis.

4. The Council's and appellant's SoC refers to the 2018 version of the National Planning Policy Framework (the Framework) before the current one, published in February 2019 with an addendum June 2019. This does not, however, have a direct bearing on my consideration of the appeal and does not require reference back to the parties on this matter.

5. The appellant has submitted a plan[6] as part of their SoC and have asked that I consider it as part of this appeal. The plan indicates visibility splays in order to

[1] Promap, Scale 1:2500, Headed by Phil Cobbold Planning Ltd
[2] Planning Statement incorporating Local Validation Statement, Ref 2034, Dated June 2018, By Phil Cobbold Planning Ltd
[3] Signed by Phil Cobbold
[4] Approved by Argyll Environmental, Order No 171076281-1, Dated 26-Jun-18
[5] Paragraph 10
[6] Appendix 4 – Promap, Scale 1:1000

provide evidence to support a matter regarding Highway Safety. The plan does not change the scheme and on the basis of the 'Wheatcroft Principles'[7] I find that the acceptance of this further information would be appropriate and would not deprive those who should have been consulted of the opportunity of such consultation. As such, I will base my decision upon it.

Main Issues

6. The main issues are:

- Whether the proposal would preserve the settings of the surrounding listed buildings known as 'All Saints Church' (Grade I), 'The Pightle' (Grade II), and 'Nos 1 and 2 Church Cottages' (Grade II);
- the effect of the development upon highway safety;
- the effect of the development upon the surrounding landscape;
- the effect of the development upon ecology and protected species; and
- whether the proposal would provide a suitable site for development, having regard to its location in conjunction with the Housing Strategy of the area.

Reasons

Listed Building considerations

7. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 prescribes a duty upon a decision maker to give special regard to the desirability of preserving the significance of a listed building or its setting.

8. The Planning Statement and appeal documents contain reference to the surrounding historic buildings, however the assessment predominantly concentrates on views. Such statements of significance for historic assets should seek to understand the heritage values which derive from tangible and intangible elements, associations and relationships that make up the significance of the listing, including their setting. The Planning Statement does not undertake this assessment of significance and hence is limited in aiding understanding of significance, or harm caused to this significance as a result of development within the setting of the listed buildings. Nevertheless, having regard to all the evidence before me and what I saw on site, I am satisfied that I have sufficient information to assess the proposals.

9. The appeal site is an undeveloped parcel of land that lies to the immediate south of Pightle (Grade II), on the opposite side of Elmswell Road from Nos 1 and 2 Church Cottages (Grade II); and to the north of the Pightle is the All Saints Church (Grade I). Whilst the buildings individually will have their own elements of significance and heritage value, the main contention in this appeal is with regards to whether the appeal site contributes to the significance and setting of these buildings and the resultant effect (if any) as a result of the proposed development.

10. Whilst there has been some later twentieth century development to the north of All Saints Church, and to the west of Church Cottages, the three historic buildings of the Church, Church Cottages and The Pightle have an inherent

[7] Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

historic relationship where the buildings are experienced together within the undeveloped rural context and countryside surrounding. The undeveloped land and spaces surrounding contribute to an understanding of the former form and function of the historic buildings and how the buildings are experienced, reinforcing their rural location, identity and setting. This experience is particularly noticeable when travelling along Elmswell Road with the tower of the church coming into view, together with the appreciation of surrounding historic buildings on either side of the road and the rural aspect surrounding. These are some of the important elements that make up the setting of these three listed buildings and this setting is integral to their significance.

11. The appeal site is experienced as part of the undeveloped spaces surrounding the historic buildings which contributes to this significance and historic relationship as outlined previously. The development of the appeal site would introduce a residential use which would extend the building form to the east of and forward of the Pightle, creating a distraction from the strong presence and group of historic buildings in this location. Being positioned forward of the Pightle, the proposed dwelling would bear no relationship to the existing layout, character and local distinctiveness of the area in terms of setback and layout from Elmswell Road. The proposed dwelling would be a discordant form and layout within this undeveloped countryside environment that would erode the undeveloped spaces surrounding the listed buildings which are important components of their setting.

12. I acknowledge the appellant's comments that the proposed building would be of a traditional form and appearance and one and a half storeys in height, however these elements are not for approval. Even so, the design approach would offer only some minor mitigation but would not alter the fundamental concern regarding the contribution that the site makes to the significance of the Listed Buildings. I also acknowledge that the appeal site is relatively screened from the surrounding buildings via vegetation along the boundaries, however this may change as a result of residential use and also does not change the interference with the historic relationship of the listed buildings and the spaces surrounding.

13. The proposal would therefore fail to preserve the setting of the Grade I and Grade II listed buildings as required by S66 of the PLBCA in accordance with the expectations of the PLCBA and the Framework at Paragraph 193 where great weight should be given to the asset's conservation … irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance.

14. Although serious, the harm to the heritage asset in this case would be 'less than substantial,' within the meaning of the term in paragraph 196 of the National Planning Policy Framework (the Framework). Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.

15. The public benefits of the scheme were outlined in the appellant's SoC which state that the development would deliver an additional dwelling, which would make a modest contribution to meeting housing need. The dwelling would support the limited facilities of the village and those surrounding, as well as

result in short term employment opportunities in the construction of the dwelling, and the socio-economic benefits and contribution to local expenditure from future occupiers. These factors weigh moderately in favour of the development.

16. Overall, the public benefits arising from the proposed development would not outweigh the harm I have identified and to which I accord considerable importance and weight. The scheme therefore conflicts with the Framework, which directs, at paragraph 193, 'that great weight should be given to the asset's conservation … irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance.'

17. The proposed scheme would also be contrary to Saved Policy HB1 of the Mid Suffolk Local Plan 1998 (LP) (which seeks that particular attention is given to the protection of the setting of listed buildings); Policy H13 of the LP (which seeks that historic features of a site should be retained); and Saved Policy CS5 of the Mid Suffolk Core Strategy 2008 (CS) (which amongst a number of criterion, seeks to maintain the historic environment and retain the local distinctiveness of the area).

Highway Safety

18. I appreciate that the road conditions I experienced on my site visit was only a snapshot of the road at this particular time, however I have also considered the evidence submitted by both main parties and a submission from an interested party and, in light of this, I am satisfied that what I saw represents typical conditions.

19. The main contention between the parties is whether an adequate visibility splay could be achieved. Whilst I appreciate that this section of road is 30mph, on my site visit it did appear that vehicles were travelling over 30mph with the Council's Highways officer seeking to utilise guidance from the Design Manual for Roads and Bridges which recommends a wider visibility splay of 2.4m x 90m than the Manual for Streets Recommendation of 2.4m x 43m.

20. Whilst I am unaware of any reported incidents in the past 5 years, and that the road appears to be operating without any significant safety issues, in this case a precautionary approach is required until a speed survey is undertaken to determine the appropriateness of the access and actual visibility splays if seeking less than 90m.

21. With regards to the new proposed access and visibility splays indicated on the plan submitted as Appendix 4 of the appellant's SoC, the proposed scheme is not able to demonstrate the required visibility splays in either direction without being reliant on third party land where there are currently hedgerows which block splays on either side.

22. Based on the evidence before me, I am not convinced that the proposed scheme is able to demonstrate appropriate visibility splays and access, and further investigations to the speed of the road may cause the splays needing to be wider. As such there is a lack of adequate information available within the appeal documents in order to demonstrate that a safe and suitable access to the site can be achieved for all users, contrary to paragraph 109 of the Framework.

Landscape

23. Whilst the appeal site is not within a special landscape designation or specifically identified in a policy of the development plan, the Joint Babergh and Mid Suffolk District Council Landscape Guidance 2015 defines the appeal site within an area designated as Ancient Plateau Claylands (APC). The key characteristics of an APC comprise flat or gently rolling arable landscapes of clay soils dissected by small river valleys with dispersed settlement patterns, scattered with ponds, water filled pits, substantial open areas, scattered ancient woodlands, medieval greens and tyes, medieval churches, ancient enclosed field patterns, substantial older hedgerows and trees.

24. The objectives of the area include: To maintain and enhance the landscape areas and settlement pattern, ensuring the sense of separation between settlements is maintained where appropriate; To reinforce and enhance the existing field boundaries; To safeguard the plantation and ancient woodland areas; and to safeguard the parkland area.

25. There are a number of elements from the APC that are evident to the appeal site such as the gentle rolling arable landscape, the enclosed field patterns, hedgerows and trees, substantial open areas with water via the brook nearby adding to the rural experience and landscape character in this particular location.

26. I note Appendix 3 of the appellant's SoC where two applications[8] were granted for 106 dwellings at Elmswell and 98 dwellings at Haughley whereby these sites are also within land designated as APC. I do however note that both these sites are located to the periphery of larger settlements where the character of the landscape is quite different to the appeal site where the open countryside and rural context is a main contributing factor to the character of this area. I am not convinced that the two example applications are analogous to the considerations of the appeal site and as such afford these examples limited weight in this decision.

27. Whilst I acknowledge comments that the appeal site is screened from views due to dense vegetation surrounding the boundary, this will vary according to season, and I am not convinced that the site is entirely screened given that there are vantage points towards and from the site, particularly from the south and west. There is also the need to consider how the appeal site contributes to the setting of not only the landscape itself but the setting of medieval churches and buildings which gives the area its distinct landscape character.

28. In conclusion on this matter, it is clear that given the rural location and the strong contribution that the appeal site has as part of the landscape setting and to surrounding buildings, the further erosion of open landscape via the erection of a dwelling would cause a significant effect to the landscape character of the area.

29. The scheme would therefore be contrary to saved Policy H13 of the LP (where amongst a number of design principles, the design and layout should respect the character of the proposal site and the relationship of the proposed development to its surroundings); Policy H15 of the LP (which seeks that new housing should be consistent with the pattern and form of development in the

[8] Council Planning Ref: DC/17/04113 and 0210/17

neighbouring area, the character of its setting including its natural features); Policy CS5 of the CS (where development will maintain and enhance the environment, including the historic environment, and retain the local distinctiveness of the area); saved Policy GP1 of the LP (which amongst other criteria, seeks to ensure proposals maintain or enhance the character and appearance of their surroundings), and the relevant paragraphs of the Framework relating to local character, landscape and the natural environment.

30. I note reference in the Council's Decision notice that the proposal would be contrary to saved Policy SB2 of the LP. This policy relates to sites within settlement boundaries and would not be relevant to the consideration of this scheme.

Ecology and Protected Species

31. The Council's Ecology Officer seeks that an ecological appraisal is submitted with the planning application as in their professional opinion, there is a strong probability that protected species may be present on, in and around the site, such as within hedgerows, ponds, trees and waterbodies within the area.

32. The appellant has not submitted any information regarding ecological impacts and considers the submission of such information to be unreasonable, given that the National Planning Practice Guidance (NPPG) seeks that '*Local planning authorities should only require ecological surveys where clearly justified, for example if they consider there is a reasonable likelihood of a protected species being present and affected by development.'* The appellant also questions the approach by the Council in this instance given that there are no records or evidence of protected species or habitats for the appeal site.

33. The NPPG also states within this paragraph noted by the appellant that *'An ecological survey will be necessary in advance of a planning application if the type and location of development could have a significant impact on biodiversity and existing information is lacking or inadequate.*[9]*'* This paragraph also references the need to seek expertise in helping to inform decision making.

34. Whilst there may be no information regarding protected species on the appeal site, this does not mean that there is no impact or potential for impact which may preclude the principle of the development from coming forward. As noted in the Council's SoC, there are nearby ecological habitats, waterbodies and undeveloped land, as well as hedgerow removal as part of visibility splays which would require further ecological assessment. I am not convinced that such an issue could be reasonably dealt with via a reserved matters condition and as per the NPPG. As described previously, where information is lacking, it will be up to the expertise of a professional to determine whether such a report is reasonable. I am unaware of any evidence submitted by an ecological expert on behalf of the appellant which counters the opinion of the Council's Ecology Officer that such evidence is not required.

35. As there is no contrary expert evidence to balance against the Council's Ecology Officer, I am minded to agree with the Council's assessment and find that it is reasonable to provide a statement on ecology and protected species which is proportionate to the scheme as per the NPPG guidance.

[9] Paragraph: 018 Reference ID: 8-018-20190721, Revision date: 21/07/2019

36. In conclusion on this matter the appeal scheme is not able to demonstrate that there are no detrimental effects upon ecology and protected species or that any effects could be successfully mitigated. As such the scheme would be contrary to Saved Policy CL8 of the LP which seeks that development should be refused where it is likely to bring about threat to rare or vulnerable species, especially those protected by law, including wildlife habitats.

Suitability of the site for development

37. The Council's Housing Strategy consists of saved Policies FC1, FC1.1, and FC2 of the Mid Suffolk Core Strategy Focussed Review 2012 (CSFR); saved Policy H7 of the LP; and saved CS Policy CS1. The housing strategy seeks that most new dwellings are located within defined settlement boundaries in accordance with a settlement hierarchy. Great Ashfield is not a designated settlement for delivering growth under Policy CS1 of the CS. However, I also note that flexibility is given within paragraph 78 of the Framework to locations of new housing in settlements where they are able to support the facilities of another settlement which is also a material consideration to this determination.

38. Paragraph 103 of the Framework also stresses the importance of provision of sustainable transport modes and travel choice. It also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making.

39. I also note a planning permission[10] at Norton Road, Thurston where 20 dwellings were granted where the appellant highlights that in the Officer's report that the site was suitably located and could not 'warrant refusal on sustainability grounds.' I also note an appeal decision[11] where it was considered that the minor harm created by the need for additional private car journeys would not significantly and demonstrably outweigh the moderate benefits of providing a new dwelling in the location. The considerations regarding accessibility from services and car dependency would also be similar to this proposal, to which I afford moderate weight in this decision.

40. In assessing the suitability of the proposed scheme in terms of its accessibility and reliance on private vehicle, the appeal site is not 'isolated' considering relevant case law[12] as the site is located to the periphery of a small settlement known as Great Ashfield. Great Ashfield only has a church with no facilities to cater for the day to day needs of residents. Whilst there is a bus stop nearby the appeal site, the frequency is very poor given that there is one bus a day in either direction to nearby settlements. The nearest larger settlements are Elmswell, Badwell Ash and Norton, with Elmswell located approximately 2.5 miles away with Elmswell Road leading directly to this settlement. Elmswell is served by a train station with hourly connection to Bury St. Edmunds and has a number of services and facilities able to cater for day-to-day needs of the surrounding population. Whilst there is a footpath which goes some of the way from the appeal site to Elmswell, it is relatively unkept from a lack of use with the road and footpath insufficiently lit and is not a practical or an ideal walking or cycling environment as Elmswell Road is a narrow rural carriageway.

[10] Council Ref: DC/17/04938
[11] Appeal Ref:APP/W3520/W/16/3152003
[12] Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Development Limited [2017].

41. It is clear that future occupants would be entirely dependant upon private vehicles to access the services of nearby villages, however it would not be such a long journey. Whilst there are little opportunities for public transport to access surrounding villages, in this particular location the addition of one dwelling would not add significantly to the journeys which already occur from this location.

42. Therefore, taking these findings as a whole, I conclude that the location would not be unsuitable for the proposed development with regards to whether occupants of the proposed dwelling would have adequate access to services and facilities without undue reliance on private vehicle use. Consequently, there is no conflict with saved CSFR Policies FC1, FC1.1, and FC2, or saved policy CS1 of the CS.

43. I note saved Policy H7 of the LP which is given as a reason for refusal has a stricter definition of development within the open countryside which would not be appear to be consistent with the Framework which acknowledges that some rural locations can support other nearby settlements. Whilst tit appears that there may be a conflict within this policy when assessed against the Framework I have given greater weight to the compliance with saved CSFR Policies FC1, FC1.1, FC2, and saved policy CS1 of the CS.

Other Matters

44. I note reference in the appellant's SoC which states that the Council does not have a five year housing land supply. According to comments made by the Council, whilst this may have been the case in the past, the Council can now demonstrate a five year land supply. This position was supported in a previous and more recent appeal[13]. I have not been presented with any information from the appellant which would counter this opinion by the Council. As such I do not consider that paragraph 11 of the Framework has been engaged.

45. I note further comments from the appellant during the course of the appeal which presents a map showing the proposed settlement boundary of Great Ashfield within the Emerging Babergh and Mid Suffolk Joint Local Plan - Preferred Options (Regulation 18) Consultation (ELP). This plan shows that the appeal site would be adjacent to, but outside of this proposed settlement boundary for Great Ashfield. Paragraph 48 of the Framework seeks that weight is given to emerging plans depending upon how advanced they are in the adoption process. I am not convinced that any weight should be afforded to an emerging plan that is at Preferred Option stage as this is clearly at the very early stages of the adoption process. Additionally, there was also a judgement made by the Council with regards to excluding the appeal site from the proposed settlement boundary which does not play in favour of the appeal site as an acceptable site for housing provision. Taking this into account, I do not afford weight to the ELP or the proposed settlement boundary in this decision.

46. I acknowledge the submission by the appellant of a planning permission for the demolition of an outbuilding and the erection of a dwelling[14] within Great Ashfield. The site is located further south of the appeal site within another small group of dwellings separated by open countryside from the appeal site. I have not been presented with any information relating to this appeal and which

[13] Appeal Decision APP/W3520/W/18/3217366
[14] Council Ref: DC/19/00041

shows how it is analogous to the appeal site. It is noted that the site is not located adjacent listed buildings as per this appeal and would appear to have been a development resulting from the demolition of an existing building which is also not similar to the considerations under this appeal. As such, I afford this decision limited weight in this decision.

47. I acknowledge comments from a neighbouring resident and have factored this consideration into my determination, however has been unable to overcome the reasons for the inappropriateness of this scheme.

Conclusion

48. I have found in the appellant's favour with regards to a main issue that the site would be a suitable location for development from a purely accessibility perspective. However, this is insufficient to outweigh the other matters that were shown to be inappropriate such as failing to preserve the setting of the listed building in accordance with the expectations of the PLCBA and the Framework, as well as for reasons of landscape, access and ecology. The proposal would also be contrary to the development plan when considered as a whole.

49. For the reasons given above, I conclude that the appeal be dismissed.

J Somers

INSPECTOR