



Appeal Decision

Site visit made on 21 January 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2020

Appeal Ref: APP/X3540/W/19/3239124

Land adjacent to Hall Cottage, Church Road, Henstead, Suffolk NR34 7LD

- 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 Mr Attoe (Carat Developments Limited) against the decision of East Suffolk Council.
 - The application Ref: DC/19/2105/FUL, dated 22 May 2019, was refused by notice dated 26 July 2019.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling at Land adjacent to Hall Cottage, Church Road, Henstead, Suffolk NR34 7LD in accordance with the terms of the application, Ref: DC/19/2105/FUL, dated 22 May 2019, subject to the conditions on the attached schedule.

Main Issues

2. The main issues are the effect of the development on 1) the setting of a designated heritage assets and 2) highway safety.

Reasons

Heritage Assets

3. The appeal site forms a parcel of land that is sited between 1 and 2 Church Road to the east and Hall Cottage to the west, which is a Grade II listed building. As the appeal site is within the setting of a designated heritage asset, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to pay special attention to the desirability of preserving a building or its setting or any features of special architectural or historic interest which it possesses. Therefore, in undertaking this duty, I have based my assessment on the evidence presented before me and the observations I made during my site visit.
4. From its listing description, Hall Cottage is described as an early or mid-17th century property that sits under a thatched roof. The property is set back from the road and has a simplicity to its elevations with two ground floor windows either side of the front door with a further two windows at first floor level and chimney stacks either side of the gable ends. This lends the main element of the building a symmetrical appearance when viewed from the front. Nonetheless, the building contains elements of architectural quality such as the

distinctive windows which contain pointed heads which is replicated over the door. Thus, I find that the significance of the building stems from its architectural quality and the simplicity of the building's elevations and its distinctive features along with its setting back from the road, which is consistent with two previous Inspectors¹ findings regarding Hall Cottage.

5. The Council emphasise the design of the proposed dwelling, which is considered to be a "*pastiche*" and "*purporting to have an historical relationship with surrounding cottages when it has none*". It finds the development of an estate cottage problematic as it breaks down the historical links between the existing buildings and the extent of land ownership. The Council also refer to 1 and 2 Church Road which are stated to be former estate cottages to Henstead Hall. The Council argue that developing the appeal site would divorce Hall Cottage from the strong historical relationship it has with these estate cottages.
6. However, the appeal site is bound by existing development to the east and west and is separated from Hall Cottage by its garden, a belt of fir trees and fencing. While the proposed dwelling would provide windows with pointed heads that would be similar to those on Hall Cottage, the proposal does not seek to slavishly replicate dwellings in the vicinity. Moreover, the cottages at 1 and 2 Church Road are already physically divorced from Hall Cottage by the intervention of a garage on the boundary of the appeal site, along with the intervening landscaping. In addition, while Hall Cottage may display a greater relationship to Henstead Hall, I am not persuaded that this inevitably translates to 1 and 2 Church Road or the appeal site, which are much further away and for the reasons already stated, do not display a physical relationship to Hall Cottage.
7. Furthermore, the proposed dwelling would be 1½ storey and smaller than the dwellings at 1 and 2 Church Road. It would also be constructed using different materials such as a slate roof, in contrast to the pantiles on 1 and 2 Church Road and the thatch on Hall Cottage. Given the distance from Hall Cottage and the overall scale of the proposed dwelling and its plot size, I am not persuaded that the development would seek to compete with the listed building or indeed affect its setting.
8. Thus, I find that the proposal would have a neutral effect that would conserve the setting of the listed building. It would not be in conflict with Policies WLP8.29 and WLP8.37 of the East Suffolk Council Waveney Local Plan 2019 (the Local Plan) and the National Planning Policy Framework (the Framework) which seek, amongst other things, that developments conserve heritage assets and their settings and respond to local context and the form of surrounding buildings.

Highway Safety

9. The appellant sought to utilise the existing access into the site which currently serves Hall Cottage. However, the visibility splay to the west is considered substandard as a result of the hedge on the boundary. As the appellant does not own the hedge it would not be possible to improve visibility at the existing access.

¹ APP/T3535/W/18/3198945 and APP/T3535/W/16/3161181

10. However, the increase in use as a result of one additional dwelling that would use the existing access is not excessive. Therefore, while the visibility at the entrance would fall short of the Highway Authority's requirements as set out in the Design Manual for Roads and Bridges, it cannot be said that the small increase in its use means that it will not be a safe or suitable access. Moreover, just because visibility may be below recommended levels, does not necessarily mean that accidents are bound to occur.
11. Moreover, the shared entrance is existing and notwithstanding the results of the speed survey undertaken in 2019, I have not been provided with any data regarding accidents at the appeal site that would lead me to conclude that the access is indeed dangerous. In addition, the accident on the B1127 as reported by the owner of Hall Cottage, was not at the appeal site and not as a result of vehicles entering or exiting the site. Furthermore, regardless of the result of this appeal, the existing entrance will still be used to access Hall Cottage.
12. Therefore, as I do not consider that the use of the current entrance to access the appeal site would result in an unacceptable impact on highway safety, there is no requirement for me to have regard to the amended drawing that was submitted as part of the appellant's appeal submissions.
13. Thus, the proposed access would not result in unacceptable impact on highway safety. It would not be in conflict with paragraph 109 of the Framework which seeks, amongst other things, to ensure that developments are provided with a safe and suitable access.

Other Matters

14. Although not a reason for refusal, the appeal scheme proposes a dwelling on a site that lies within the Zone of Influence of the Minsmere to Walberswick Heaths & Marshes Special Area of Conservation (SAC), the Minsmere – Walberswick Special Protection Area (SPA) and the Benacre to Easton Bavents SPA. Since the development is for one dwelling only, the number of additional recreational visitors would be limited and the likely effects on the SAC and SPA site from the proposed development alone may not be significant. However, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Consequently, an Appropriate Assessment (AA) is necessary to ascertain the implications for the site.
15. The interest features of the SAC and SPA include important rare breeding birds associated with marshland and reedbeds. The Habitats Regulations Assessment Recreational Disturbance Avoidance and Mitigation Strategy for Ipswich Borough, Babergh District, Mid Suffolk District and East Suffolk Councils – Technical Report 2019 (the RAMS) sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures and have been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the SPA and SAC sites.
16. The appellant has submitted a signed and dated undertaking pursuant to Section 111 of the Local Government Act 1972 for £321.22 to be paid to the Council. The Council has stated that the payment has been made and it is

satisfied that as this mitigation has been secured, the proposal is not likely to have significant effects on the integrity of the European sites.

17. Given the evidence before me I am satisfied that the mitigation measures will be secured in a timely and effective manner. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 (2) of the Community Infrastructure Levy Regulations 2010 (as amended). As such, the contributions toward the schemes identified within the RAMS would count as mitigation toward maintaining the integrity of the sites.
18. Turning to the impact of the development on the living conditions of neighbouring properties, the proposed development would be sited adjacent to the garden of Hall Cottage. I accept the concerns raised regarding overlooking to the garden area, and a condition requiring details of how the bedroom window on the elevation facing Hall Cottage would be obscurely glazed would overcome this particular matter. With regard to light affected by the development, the appeal site is a sufficient distance from neighbouring properties so that significant levels of overshadowing or loss of light would not occur.
19. I have also been directed to Policy WLP8.7 of the Local Plan which relates to small scale developments within the countryside, and in particular consistency with other developments in the vicinity. While I acknowledge the argument put forward and although it may be smaller than other sites in the area, the appeal site would nonetheless provide an adequate garden and parking area with space about the building so as not to appear as a jarring development that would be out of character with the area.
20. Reference is also made to an appeal in Mutford² whereby an appeal was dismissed for lack of access to services and facilities. Although I have not been provided with a copy of the decision to enable me to make a direct comparison to the development before me, the Inspector that considered a previous development³ at the appeal site confirmed that there is no requirement within Policy WLP8.7 of the Local Plan for a site to be accessible to local services and facilities. Moreover, I have considered this appeal on its own merits which is a fundamental principle that underpins the planning system.

Conditions

21. The Council suggested a number of conditions which I have considered in accordance with the Framework and the national Planning Practice Guidance. In the interest of precision and enforceability, I have amended or re-worded them where necessary. As of 1 October 2018, any planning permission granted on or after that day with pre-commencement conditions imposed must have the written agreement of the applicant or appellant to the wording of those conditions⁴. The appellant has confirmed acceptance in writing to the use of pre-commencement conditions.
22. In addition to the standard time condition (1), it is necessary, for certainty, to define the plans with which the scheme should accord (2). In the interest of

² APP/T3535/W/18/3210972

³ APP/T3535/W/18/3198945

⁴ The Town and Country Planning (Pre-commencement Conditions) Regulations 2018

highway safety, it is necessary for full access details to be submitted to the Council (3), along with details of bin storage areas (4) and parking for vehicles and cycles (5).

23. To ensure that the setting of the listed building is safeguarded, details of the materials (6) to be used in the development must be agreed with the Council. In addition, to ensure that the appearance of the area is enhanced, a landscaping scheme (7) and implementation period (8) must also be agreed with the Council.
24. Turning to living conditions, to safeguard future occupiers from any unexpected contamination (9) this must be reported to the Council should it be found and obscure glazing details for the bedroom window on the western elevation (10) must also be submitted to and agreed with the Council.

Conclusion

25. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is allowed.

Graham Wyatt

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun within a period of three years beginning with the date of this permission.
- 2) The development shall be carried out in accordance with the following plans: 1036 Rev A and 135/Rev A
- 3) No part of the development shall be commenced until details of the access (including the position of any gates to be erected and visibility splays provided) have been submitted to and approved in writing by the Local Planning Authority. The approved access shall be laid out and constructed in its entirety prior to occupation. Thereafter the access shall be retained in its approved form.
- 4) Before the development is commenced details of the areas to be provided for storage and presentation of refuse/recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.
- 5) Before the development is commenced details of the areas to be provided for the manoeuvring and parking of vehicles, including secure covered cycle storage, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.
- 6) Details in respect of the following shall be submitted to and approved in writing by the Council as local planning authority before the work is begun. The work shall be carried out in accordance with such approved details: Full materials specification and all construction details.
- 7) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc indicating lines, manholes, supports etc); retained historic landscape features and proposals for restoration, where relevant. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed number/densities where appropriate; implementation programme.
- 8) The landscaping scheme shall be completed within 3 months from the completion of the properties, or such other date as may be agreed in writing with the Local Planning Authority. Any trees or plants which die during the first 3 years shall be replaced during the next planting season.

- 9) In the event that contamination which has not already been identified to the Local Planning Authority (LPA) is found or suspected on the site it must be reported in writing immediately to the Local Planning Authority. Unless agreed in writing by the LPA no further development (including any construction, demolition, site clearance, removal of underground tanks and relic structures) shall take place until this condition has been complied with in its entirety.

An investigation and risk assessment must be completed in accordance with a scheme which is subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and conform with prevailing guidance (including BS 10175:2011+A1:2013 and CLR11) and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

Where remediation is necessary a detailed remediation method statement (RMS) must be prepared, and is subject to the approval in writing of the Local Planning Authority. The RMS must include detailed methodologies for all works to be undertaken, site management procedures, proposed remediation objectives and remediation criteria. The approved RMS must be carried out in its entirety and the Local Planning Authority must be given two weeks written notification prior to the commencement of the remedial works.

Following completion of the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation must be submitted to and approved in writing by the LPA.

- 10) The building hereby permitted shall not be occupied until details of the type of obscured glazing to be installed in the first floor side (west) elevation shall be submitted to and approved in writing by the local planning authority before the window is installed. Once installed the obscured glazing shall be permanently retained thereafter.

~END~