
Appeal Decision

Site visit made on 7 January 2020

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 07th April 2020

Appeal Ref: APP/U2615/W/19/3227820

Site adjacent to Oak Tree Cottage, Mill Road, Burgh Castle, Great Yarmouth NR31 9QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Dorothy Sawyer, Middleton and George Ltd against the decision of Great Yarmouth Borough Council.
 - The application Ref: 06/18/0335/O, dated 8 June 2018, was refused by notice dated 5 April 2019.
 - The development proposed is described on the application form as 4 No Starter homes with garages accessed via private courtyard from Mill Road.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal proposal relates to an outline planning application, with matters reserved except for access, layout and scale.
3. The proposed layout shown in the Tree Constraints Plan (TCP)¹ differs from Preliminary Block and Site Plans drawing 203/1 Rev C² in that it shows car ports in place of garages, and less parking spaces along the frontage of the site. For the purposes of making my decision, I will assess the proposed scheme as that shown in the layout in the TCP, and as described in the planning officer's report, appeal form and appellant's statement of case, as 'a terrace of 4 dwellings with car ports and parking'.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the area including the effect on trees
 - Whether the proposed development's location is suitable and accessible, with particular reference to reliance on the private car, and
 - The effect of the proposal on European designated sites.

¹ Appendix C of the Tree Survey, Arboricultural Implications Assessment and Method Statement (AIA), September 2018.

² Dated 8 June 2018.

Reasons

Character and appearance

5. The appeal site is an area of overgrown land fronting onto Mill Road. It is bounded on two sides by fields, and by terraced housing to the south. A detached house is situated on the opposite side of the road.
6. The site is outside and adjoining the Village Development Limit. A row of old field boundary Oak trees, subject to a Tree Preservation Order, are located along the southern perimeter of the site. A substantial earth mound is located around the base of the tree line.
7. The southern perimeter is part of a line which marks the start of an area of countryside to the east and north of the built-up area of the village. Heading out from the village past the site in a north-easterly direction along Mill Road, a loose-knit pattern of development intersperses the predominantly undeveloped landscape of fields and woodland.
8. The row of Oaks along the site's southern perimeter is part of a longer boundary line of substantial trees, which extends from the front of the site to the west, beyond. The trees have an undisputed rating of mainly category A³ with one tree rated as B⁴. As such, the tree line is a noticeable and distinctive feature of quality within the local landscape, which contributes to the verdant character and identity of the countryside setting of Burgh Castle. Within the above context, it is important that the vitality and longevity of the line of trees is protected, in order to retain its integrity as a landscape feature.
9. The proposal is for a terrace of four houses, four car ports and six parking spaces on the site. The development would be served by a vehicular access towards the north-eastern end of the site.
10. The southern part of the proposed development would entail excavation and clearance of a substantial mound of earth around the base of the boundary line of Oaks. This is likely to expose the trees to significant risk of root damage.
11. The area of surfaced driveway to the south of the proposed row of dwellings would encroach into a substantial proportion of the root protection area (RPA) and canopy extent of trees T2, T3 and T4. The proposed driveway would also combine with the car ports to constitute substantial intrusion into the RPA and canopy extent of tree T5. Possible informal car parking in front of and to the side of the row of car ports could also result in pressure for disfiguring pruning due to perceived nuisance from leaf, acorn and branch drop, and bird droppings onto cars below. Even if a permeable driveway was used, vehicle presence within the extent of the RPAs proposed would add to future risk in terms of ground compaction and pollution.
12. The two southernmost car ports would be within the RPA of trees T3, T4 and T5. Those car ports would also be located under the canopy of tree T4, and close to the canopy extents of T5 and T6. Together, the above factors would result in a risk of root damage to trees T3, T4 and T5, and place future pressure for disfiguring pruning on trees T4, T5 and T6.

³ Trees T1, T2, T3 and T5, as per the AIA. Tree categories as per BS5837:2012.

⁴ Tree T4, as per the AIA.

13. I note the draft Arboricultural Method Statement (AMS), with Tree Protection Plan drawing to be confirmed, within the AIA⁵. However, I find that the proposed layout would result in a combination of risks to and future pressures on the vitality and longevity of the line of Oaks, as outlined above, which would amount to significant harm to this important local landscape feature.
14. Furthermore, through addition to the existing housing which is located to the south and south-east of the appeal site, the proposal would erode the predominantly spacious and verdant countryside character to the east and north of the main built-up area of the village.
15. My attention is drawn to planning permission for development on another site in the area⁶. However, the other development differs from the appeal proposal in that it is a replacement dwelling. Moreover, full details of the other case are not before me, and the appeal proposal has its own setting and circumstances. As such, I assess the proposal on its own merits.
16. The appellant considers that the proposal would fit in well, given the presence of other dwellings in the area. I note that trees shown in the AIA within the interior of the site, other than the southern boundary line of Oaks, have been removed from the site.
17. Nevertheless, the factors which I have identified above together lead me to conclude that the proposal would significantly harm the character of the countryside setting of the village of Burgh Castle. As such, it would conflict with Policy CS1 criterion (a) of the Great Yarmouth Core Strategy 2013-2020 (2015) (CS) which, amongst other things, seeks to ensure that development complements the character of settlements. It would also not accord with the guidance in the Great Yarmouth Interim Housing Land Supply Policy, in respect of appropriateness to the character of the settlement.
18. I appreciate that the officer's report found insufficient harm in relation to character and appearance to justify refusal, but this does not alter my reasoning. In any case, Members reached a different conclusion.

Suitability of location

19. Burgh Castle is categorised in the CS as a Secondary Village, which is defined as a settlement 'containing few services and facilities, with limited access to public transport and very few employment opportunities'⁷. The village has a shop and post office, takeaway, holiday parks and a fishing lake.
20. Whilst some cycling into the village and beyond is feasible, substantial travel outside the village is likely to be necessary for future occupiers of the proposed dwellings, in order to access services and facilities including employment and healthcare. The following combination of factors is likely to constrain use of public transport and safe pedestrian access to local facilities by future occupiers: the lack of complete, lit pavement access to the centre of the village along Mill Road - which, from what I saw during my site visit and residents' descriptions, is well-used by vehicles; and the limited frequency of the bus service.

⁵ Appendix E.

⁶ Planning Application Ref: 06/17/0254/F.

⁷ Table 5: Settlement Hierarchy of the CS.

21. I recognise that the officer's report found insufficient harm in relation to suitability of location to justify refusal, however this does not alter my reasoning. In any case, Members reached a different conclusion.
22. I conclude that the proposed development would lead to substantial reliance on the private car by future occupiers of the proposed development. As such, it would conflict with Policy CS1 criterion e) of the CS, which seeks to ensure, amongst other things that, development provides easy access for all to jobs, shops and community facilities by walking, cycling and public transport. It would also not accord with Policy CS2 of the CS, which seeks to balance the delivery of new homes with the creation of self-contained communities and reducing the need to travel.

Designated sites

23. In respect of the effect on Natura 2000 sites, as I am dismissing the appeal for other reasons, I have not undertaken an Appropriate Assessment of the proposal. Accordingly, it is not necessary for me to address this matter in further detail.

Other Matters

24. I note resident concerns about the proposal's effect on wildlife on the site. As I am dismissing this appeal on other grounds, it is not necessary for me to address this matter in further detail.

Planning Balance and Conclusion

25. The Council states, without dispute, that it has a housing land supply of 2.6 years. Accordingly, the evidence before me indicates the Council cannot demonstrate a five year supply of deliverable housing sites.
26. As such, policies which are most important for determining the application are to be considered out of date. The tilted balance, as set out within paragraph 11 of the National Planning Policy Framework (the Framework), would normally apply. The tilted balance would be disengaged if I were to find that there would be unmitigated harm to European designated sites. However, having not undertaken an Appropriate Assessment of the proposal for the purposes of making my decision, I have applied the tilted balance.
27. The proposal would make a modest contribution to local housing supply, in the form of four three-bedroom houses. The above would bring associated socio-economic benefit during and after construction, including potential additional custom for local services and facilities in the village, Belton and Great Yarmouth. Nonetheless, I have identified significant harm in relation to the character and appearance of the area, and accessibility to jobs, shops and community facilities.
28. I appreciate that the Framework sets out a presumption in favour of sustainable development but even where the tilted balance is engaged, the benefits of additional housing do not necessarily outweigh all other concerns. Moreover, case law has found that even where policies can be considered out of date, this does not mean that they carry no weight. The balancing exercise remains a matter of planning judgement.

29. As such, given the totality of harm identified above, I conclude that the adverse impacts of the proposed development would significantly and demonstrably outweigh the relatively modest scale of benefit, when assessed against the policies in the Framework taken as a whole. The proposals would fail to comply with the relevant policies of the development plan and national guidance, and therefore the appeal should be dismissed.

William Cooper

INSPECTOR