



Appeal Decision

Site visit made on 23 January 2020

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2020

Appeal Ref: APP/D3505/W/19/3230710

Land to the south of Whatfield Road, Elmsett, Ipswich, Suffolk

- 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 Charles Course (Heathpatch Ltd) against the decision of Babergh District Council.
 - The application Ref DC/18/02316 dated 15 May 2018, was refused by notice dated 14 December 2018.
 - The development proposed is described on the application form as "Proposed New Residential Development comprising 42 dwellings, incorporating 35% affordable, together with associated new access road and public open space."
-

Decision

1. The appeal is dismissed.

Procedural matter

2. During the determination of the appeal I was made aware that an emerging Neighbourhood Plan had been supported at referendum. The appellant was given the opportunity to comment on this and I have taken their response into account. Following this, I was further informed that the Neighbourhood Plan had been made on 10 December 2019¹. I am required to consider this appeal on the basis of the development plan which is in place at the time of my decision, and I have accordingly determined it on that basis.

Main issues

3. The main issues are:
 - the effect of the proposed development on the settlement form of the village, the setting of an adjacent listed building (the Chequers Public House), and a designated important view;
 - whether the proposed development meets a locally identified housing need.

Reasons

Appeal site context

4. The settlement of Elmsett is identified as a Hinterland Village in the Core Strategy² and Neighbourhood Plan. The appeal site forms part of a larger

¹ Elmsett Neighbourhood Plan 2017-2036, Made Plan, December 2019, Elmsett Parish Council.

² Babergh Local Plan 2011-2031, Core Strategy & Policies, February 2014.

agricultural field enclosed by mature hedgerows and falls outside, but directly adjacent to, the built-up area boundary of the village. Whatfield Road is a narrow rural lane with no footway characterised by detached dwellings set on spacious plots, which vary in design, scale, architectural style and character. Of particular significance to the southern side of the road is The Chequers Public House, an attractive Grade II listed building recently restored and now converted to a single dwelling.

The effect of the proposed development on the settlement form of the village, the setting of an adjacent listed building (the Chequers Public House), and a designated important view

5. The development would lie directly adjacent to the built-up area boundary of the village with its own frontage onto Whatfield Road. Although it would project further into the surrounding countryside than the neighbouring Chequers Park mobile home site, it would not extend further than the adjacent commercial Nursery site or the Sawyers cul-de-sac accessed from Hadleigh Road. There were also other examples in the village where development projected into the countryside beyond single plot depth, namely Garrards Road, Windings Road and Mill Lane. As a consequence, it is my view that the boundary of the development would not be out of character with the settlement form of the village, and given its modest size, neither would it look out of proportion with the scale of the existing built-up area.
6. The Chequers Public House commands an extremely prominent position on Whatfield Road, particularly when approaching from the west. The adjacent undeveloped and open appeal site gives it an isolated appearance, which I consider to be of significant value to its setting and helps reveal the remnants of its important historic edge of settlement location. The development would obliterate this open setting and in so doing cause significant harm to the historic value, character and prominence of the listed building.
7. Furthermore, the development would also obscure an important view of the village designated in the Neighbourhood Plan³, which further reveals the isolated position of the listed building and rural character and historic evolution of the village. Whilst I recognise that intervening vegetation may partially restrict this view, it does not diminish its importance and in any event, I cannot be certain that it will be permanently retained.
8. The appellant states that the importance of the Chequers Public House as a listed building and its setting has already been significantly diminished by the adjacent Chequers Park mobile home site. However, this does not justify further significant harm to its remaining open setting and isolated character – on the contrary, this demonstrates to me that a line needs to be drawn before it is completely lost. In any event, the mobile homes are of a limited height and the Chequers Public House still retains a degree of prominence above them when viewed from the east. This would not be the case with the appeal scheme which has 2-storey houses fronting on Whatfield Road which are broadly level with the front building line of the Chequers, thereby almost completely obscuring its side elevation when approaching from the west.
9. I recognise that the appellant has stated that they would be willing to move development further away from the listed building. However, the appeal

³ Important View 10.

process should not be used to evolve a scheme and I can only consider the proposal on the basis of the submitted drawings and evidence.

10. In view of the above, I find that the development would be harmful to the character of the village in that it would not preserve the setting of the neighbouring listed building (The Chequers Public House) in accordance with S66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. As a consequence, the scheme would conflict with Policies CS11(i) and CS15(i) of the Core Strategy, Policy CN06 of the Local Plan⁴ and Policies EMST9, EMST11 and EMST12 of the Neighbourhood Plan, which collectively seek, amongst other things, to ensure (1) that new development is appropriate in character to its setting; (2) that heritage assets, their setting, historic views and important spaces are respected and preserved or enhanced; and (3) that development does not detract from important views from public vantage points.
11. For the same reasons, I also find that the scheme conflicts with the Council's Supplementary Planning Document on Core Strategy Policy CS11⁵, which provides guidance on its interpretation and application.

Whether the proposed development meets a locally identified housing need

12. Despite the Council having referred to Policy CS11(iv) in its second reason for refusal, this is not applicable to the proposal as it relates to Core Villages and not Hinterland Villages. However, Policy EMST1 of the Neighbourhood Plan is relevant in that it states that development outside the built-up area boundary will only be permitted where it can be demonstrated that there is an identified local need for the proposal.
13. Although the appellant states that the Council did not have an up-to-date 5-year housing land supply at the time the appeal was made, they do not dispute that it has since achieved this. Furthermore, despite the appellant stating that there is no sign of other housing sites being built out, there is no evidence before me to indicate that their delivery is in doubt or that they will not be delivered within a timeframe that accords with the Council's 5-year housing land supply figures.
14. The appellant has also referred to the 2018 Housing Delivery Test which showed an undersupply of housing, but this has now been superseded by the 2019 Housing Delivery Test result which reveals that the total number of homes delivered in the district exceeds that which was required.
15. The appellant states that a local needs survey was not requested at the pre-application stage. However, whilst I note the Appellant's frustrations regarding this, it has little bearing on the planning merits of the scheme before me and is a matter between the parties.
16. The appellant also states that for the purposes of the appeal they have relied on housing need information gathered and produced for the Neighbourhood Plan, on account of it being the most up to date information. However, despite the appeal site having been considered in the Neighbourhood Plan, it was determined that that there was no need to allocate it as sufficient housing has already been granted or allocated elsewhere⁶. Furthermore, the scheme also

⁴ Babergh Local Plan Alteration No. 2, Adopted June 2006.

⁵ Rural Development & Core Strategy Policy CS11, Supplementary Planning Document, adopted 8 August 2014.

⁶ Paragraph 8.12

fails to provide a minimum of 47% 1 and 2-bedroom homes as required by Policy EMST6 of the Neighbourhood Plan to ensure an appropriate local mix of housing.

17. There is no evidence before me which has been produced more recently than that examined in the Neighbourhood Plan of there being a local need for additional development of the scale before me or that the proposed mix of dwellings is more appropriate than that specified by local policy. As a consequence, I conclude that the scheme conflicts with Policy EMST1 and EMST6 of the Neighbourhood Plan, which collectively seek, amongst other things, to ensure that new residential development will only be permitted outside of built-up area boundaries where it can be satisfactorily demonstrated that there is a local need, and for housing development to meet the existing and future needs of the Neighbourhood Plan Area.

Other matters

18. Natural England has raised concerns in respect of the impact of the scheme on the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site and advised that a contribution to the emerging Suffolk Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) will be needed to mitigate this. The Council has sought to address this via its suggested condition 4. However, given that I am dismissing the development for other reasons, it has not been necessary for me to carry out an appropriate assessment of the scheme and consider the requested contribution and condition as it would not alter the outcome of the appeal.
19. I recognise the appellants' frustrations regarding the final decision being contrary to the officer recommendation and pre-application advice, but planning decisions are often finely balanced and not based on a 'black and white' set of rules, but varying 'shades of grey'. Council Members are not therefore obliged to follow the recommendations of professional officers, provided they have sound planning reasons and grounds not to do so.
20. I also note the appellant's concern that Council Members did not visit the site prior to making a decision. However, this is not a legal requirement and I am satisfied that an appropriately experienced and qualified planning officer would have been able to provide Members with an accurate description of the characteristics of the site and the impact of the proposal.

Planning balance

21. Although the Core Strategy and Local Plan are over 5 years old, Paragraph 213 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework. The Neighbourhood Plan was only recently made following examination and is fully up to date.
22. Policies CS11 and CS15 of the Core Strategy and Policy CN06 of the Local Plan are generally compliant with the Framework insofar as they relate to the main issues of this case. I have as a consequence attached significant weight to these policies and consider them to be up to date.

23. The appellant states that the scheme complies with the Framework⁷ which supports housing growth, but I am satisfied that sufficient provision has been made for this in the Neighbourhood Plan.
24. On the basis of the evidence and my observations on-site, it is my view that the scheme would cause a significant level of less-than substantial harm to the significance of the listed building (The Chequers Public House) as a designated heritage asset. As a consequence, I have weighed this harm against the public benefits of the proposal, including securing optimum viable use, in accordance with Paragraph 196 of the Framework. In carrying out this assessment, I have also given great weight to the conservation of the listed building in accordance with Paragraph 193 of the Framework.
25. Furthermore, in accordance with Section 66 (1) of the 1990 Planning (Listed Buildings and Conservation Areas) Act 1990 (see above), I have also given considerable importance and weight to the desirability of preserving the setting of the listed building when carrying out my balancing exercise.
26. I recognise that the scheme would result in a range of public benefits, namely;
- (a) the provision of 42 additional dwellings to increase the choice of local housing stock, of which 14 would be affordable; (b) a separate affordable housing financial contribution; (c) the appellant's willingness to deliver the site quickly and its subsequent contribution towards the Council's housing land supply; (d) enhanced landscaping to the site frontage; (e) new public open space; (f) a habitats site mitigation contribution; (g) future occupiers contributing to the vitality and viability of local shops, services, facilities, businesses and community organisations; (h) local employment during construction; and (i) a community infrastructure levy payment. However, it is my view that when considered collectively, these would be outweighed by the harm to the setting of the listed building. Similarly, I am also of the view that these public benefits would not outweigh the harm that would arise from undermining the spatial strategy of the recently made Neighbourhood Plan.
27. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.

Conclusion

28. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR

⁷ National Planning Policy Framework, Ministry for Housing, Communities and Local Government, February 2019.