



Appeal Decision

Site visit made on 2 June 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2020

Appeal Ref: APP/W3520/W/20/3245902

Land to the east of Vicarage Lane, Bramford, Ipswich IP8 4AE

- 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 & Mrs Reeder against the decision of Mid Suffolk District Council.
 - The application Ref DC/19/05068, dated 17 October 2019, was refused by notice dated 23 December 2019.
 - The development proposed is described as the "erection of a new dwelling with garage on land to the east of Vicarage Lane, Bramford".
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Decision

1. The appeal is dismissed.

Main Issues

2. The Council's decision notice cites two reasons for refusal, both of which refer to the impact of the development on the setting of the church of St Mary the Virgin (the church), which is a designated heritage asset. However, the second reason for refusal also makes reference to the development's curtilage and the effect that it would have within the locality.
3. Therefore, I consider the main issues to be the effect of the development on 1) the setting of a designated heritage asset and 2) the character and appearance of the area.

Reasons

Designated Heritage Asset

4. The appeal site forms a parcel of land that lies to the south of the church which is a Grade I listed building and a designated heritage asset. The proposal seeks to erect a single storey dwelling with an integral double garage on the site. The dwelling would be of a contemporary design with a mono-pitch slate covered roof and vertical timber cladding. Parking and turning areas would be provided to the front of the site with the remainder given over to a private garden that extends to the river Gipping to the east.
5. 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.

6. The Framework states that 'significance' derives not only from an asset's physical presence, but also from its setting and defines the setting of a heritage asset as the surroundings in which the heritage asset is experienced. The church sits within a grassed area of land that forms the cemetery and contains various headstones and vaults of people that have been buried within the grounds of the asset. To the north and west of the church are the built up areas of the village and contains groups of dwellings and other buildings. To the east lies the river Gipping and to the south is the appeal site and wooded areas leading on to the open countryside.
7. The church dates from the C13th with the majority of its curtilage extending to the south towards the appeal site. Although its list description confirms that the asset has had several alterations since initial construction, it nonetheless remains as a fine example of a medieval parish church, with its scale and form making the building a prominent landmark within the village. This reflects the assets status and origins, and its historical significance is greatly derived from its setting within a largely open and rural context to the south of the village, which includes the cemetery. During my visit I was able to experience the tranquillity and quiet dignity of the church and cemetery which adds to the assets significance which is of a high order and is reflected in its listing as a Grade I asset.
8. Although the boundaries to the site comprise mature trees and hedging, the appeal site itself has been cleared of vegetation and contained a single shipping container located close to a belt of trees that separate the site from the cemetery and church. Even though the belt of trees shields some views of the church, one can still see glimpses of the cemetery and church through gaps in the vegetation and especially from the access into the site. While the appeal site no longer has a direct visual relationship with the church as a result of the belt of trees, this is not a determinative factor in whether the appeal site forms part of the asset's setting. This is consistent with the findings of the Inspector that considered the appeal at Langton¹, who also found that, despite the presence of a belt of trees separating the two sites, the proposed dwelling at Langton would still encroach upon the setting of the church.
9. Moreover, experience in terms of setting has a much broader definition than just views or landscape value. The lack of development between the appeal site and the heritage asset reflects their historical association and whether or not the appeal site was glebe land associated with the church, I am not persuaded that it has materially changed over time to the extent that it no longer retains an important spatial relationship with the asset. Therefore, I found that one could still appreciate the setting of the asset from within the appeal site and to that end, while I accept that development has occurred to the north and west of the church, the land to the south has historically been rural and part of the wider countryside.
10. Notwithstanding the presence of the belt of trees between the church and the appeal site, the introduction of a dwelling on the site would nonetheless alter the way that the church and its cemetery is experienced. Although the proposed dwelling would be well designed and informed by the local vernacular, the development would be a distracting intrusion that would erode the tranquillity that forms an essential part of the asset's significance.

¹ APP/W3520/W/19/3219736 dated 12 June 2019

11. In addition, there is nothing before me to guarantee that the Council would apply a blanket Tree Preservation Order across the site. Moreover, even with such an Order, the current screening at the site could change over time and there is no guarantee that it, or any additional planting, would remain in perpetuity. That said, even with the current planting between the appeal site and the church, I am not persuaded the setting of the listed building, which includes the cemetery, would not be affected by the development.
12. I am conscious that paragraph 184 of the Framework states that heritage assets are an irreplaceable resource to be conserved in a manner appropriate to their significance. Furthermore, paragraph 193 of the Framework also requires that great weight should be given to the conservation of assets, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. The more important an asset, the greater weight should be afforded the assets conservation. This weighs heavily against the proposal.
13. Thus, the development would result in material harm to a designated heritage asset. However, this harm would be less than substantial. Accordingly, the Framework requires at paragraph 196 that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
14. Although the harm is less than substantial it should not be treated as a less than substantial objection to the proposal. The appellants advance the restoration of the land as a benefit arising from the development. However, this is not a public benefit that would outweigh the harm that I have identified above or the great weight that the Framework requires at paragraph 193 to be given to the conservation of heritage assets. Consequently, the development would not comply with paragraphs 196 and 200 of the Framework.
15. The development would result in material harm to the setting of the heritage asset. It would be in conflict with Policy CS 5 of the Mid Suffolk District Council Core Strategy Development Plan Document 2008 (the Core Strategy), Policies HB1, SB2 and H15 of the Mid Suffolk District Council Local Plan 1998 (the Local Plan), and the Framework which seek, amongst other things, to ensure that developments maintain and enhance the historic environment, protect the setting of listed buildings and have regard to the character of its setting.

Character and Appearance

16. While I accept that the proposed dwelling would be well designed and single storey, it would nonetheless introduce a suburban feature into an otherwise rural setting. Furthermore, a very large area of land would be given over to form the domestic curtilage of the dwelling. Although I acknowledge the intentions of the appellants to only use a "*very small portion*" of the curtilage for domestic purposes, and is willing to have any permitted development rights removed, this does not preclude the appellants from erecting domestic structures such as washing lines or lighting, albeit wildlife sensitive, on the land or using it for domestic cultivation and recreation. Such additional uses along with the dwelling itself would erode the rural qualities of the area and result in further harm to the setting of the heritage asset.

17. Thus, the development would be in conflict with Policies CS 5 of the Core Strategy and Policies SB2, GP1, H13, H15 and CL2 of the Local Plan, and the Framework which seek, amongst other things, to ensure that developments maintain or enhance the character and appearance of their surroundings and the environment and be appropriate to its setting with high standards of layout.

Other Matters

18. Although not a reason for refusal, the site lies within the 13km zone of influence of the Stour and Orwell Estuaries Special Protection Areas SPA which is a European site of nature conservation importance. It is established that any development resulting in a net increase in the number of dwellings, within the zone of influence and without avoidance measures, would be likely to have a significant effect on the SPA within the meaning of the Conservation of Habitats and Species Regulations 2010. This effect principally derives from identified recreational pressures on the SPA associated with additional residential development and atmospheric pollution on the SPA.
19. As the appeal is being dismissed on other substantive issues, it is not necessary to look at this matter in detail. Moreover, had I been minded to allow the appeal, I would have explored the necessity for undertaking an Appropriate Assessment and the requirement for any payments to off-set the impact of the development on the SPA.
20. The appellants have alluded to the agricultural use of the land and the ability to erect agricultural buildings without the need for planning permission. However, the appellants desire is for a dwelling on the site and not an agricultural building. Moreover, the detrimental impact of the proposed dwelling on the character and appearance of the area and the setting of the listed building would be appreciably greater than an agricultural building, which are generally perceived and accepted within rural locations.
21. With regard to noise and disturbance arising from an agricultural use, the appellants confirm that the appeal site was formerly a nursery and contained buildings for that use. Furthermore, there is nothing to suggest that the proposed agricultural use would be a large operation, resulting in significant levels of daily activity that would harm the living conditions of surrounding occupiers.
22. I acknowledge that the development would be a self-build scheme, close to the amenities within the village, that seeks to increase the supply of three bedroom properties, for which there is a demand. I also accept that the appellants intend to retire into the property to maintain the land associated with it, which includes biodiversity enhancements. While noting the benefits that would result in this respect, I do not consider that either individually or cumulatively they outweigh the harm identified above.
23. The site was the subject of pre-application advice which the appellant states did not give a clear indication that permission for a dwelling would not be supported by the Council. However, this does not alter my decision. I note that representations were made by the Parish Council and local residents, some of whom raise additional concerns. Nevertheless, given my findings on the main issues, it is not necessary to consider these matters in detail.

The Planning Balance and Conclusion

24. The appellant argues that the policies in the Framework are material considerations and due weight should be given to development plan policies according to their degree of consistency with the Framework. The appellants state that the policies most important for determining the application are out-of-date and refer to two appeal decisions² where Inspectors have taken this approach.
25. Therefore, the presumption in favour of sustainable development espoused at paragraph 11 d) of the Framework is engaged and permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Pursuant to footnote 6 of the Framework, this includes designated heritage assets. Given my findings in regard to the harm to the setting of the Grade I listed church, the Framework therefore provides a clear reason for refusing the proposal, and the presumption in favour of sustainable development does not apply.
26. Thus, for the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR

² APP/W3520/W/18/3194926 and APP/W3520/19/3223075