
Appeal Decision

Hearing Held on 9 September 2020

Site visit made on 9 September 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2020

Appeal Ref: APP/W3520/W/19/3239991

Land adjacent: Greenbanks, Upper Street, Baylham, Suffolk IP6 8JR

- 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 Max Short against the decision of Mid Suffolk District Council.
 - The application Ref DC/18/04977, dated 11 November 2018, was refused by notice dated 29 April 2019.
 - The development proposed is described as 'Erection of 4 affordable dwellings, access, landscaping and private drainage system'.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for an award of costs was made by Mr Max Short against Mid Suffolk District Council. This application will be the subject of a separate Decision.

Preliminary Matters

3. Both the Council and the appellant submitted late evidence prior to the hearing opening, which all parties taking part were made aware of. These submissions were not overly technical and were submitted in a timely manner and therefore no party was significantly prejudiced when I accepted them.
4. At the hearing I asked the appellant and Council to submit a draft of the condition they were recommending aimed at securing the occupation of the proposed houses by those with a local connection. The draft condition was submitted in accordance with the timetable I set out alongside a revised planning obligation, which the appellant had discussed with the Council.

Background and Main Issues

5. The Council confirmed at the outset of the hearing that it no longer wished to pursue its fourth reason for refusal following the submission of a planning obligation by the appellant. Accordingly, as they are no longer a point in dispute, I have not addressed the matters raised in the Council's fourth reason for refusal as a main issue.
6. After a lengthy discussion at the hearing the Council also confirmed that it no longer wished to defend its first reason for refusal. In summary, the Council is

now of the view that there are two conflicting definitions of what constitutes an affordable housing exception site in the development plan and that this conflict should be resolved by giving greater weight to the broader, more up to date definition in the CS¹, which supersedes the narrower approach in Policy H5 of the LP². The implication being that the appeal site could, in principle, be a suitable location for an exception scheme when applying Policy CS2 of the CS.

7. The Council also belatedly submitted that the appeal scheme would amount to an entry level exception site as defined in Paragraph 71 of the National Planning Policy Framework (the 'Framework') and therefore the in principle support provided by the Framework³ would, in this instance, be a material consideration that would outweigh any conflict with Policy CS2 of the CS or Policy H5 of the LP. Therefore, as this is also no longer a point in dispute, I have not considered the matters raised in the Council's first reason for refusal as a main issue.
8. Accordingly, the main issues in this appeal are:
 - Whether the appeal scheme would preserve the setting of the Grade II* listed building known as St Peter's Church; and
 - The effect of the proposed development on the character and appearance of the area, including Baylham Common.

Reasons

Whether the proposal would preserve the setting of St Peter's Church

9. St Peter's Church was listed in 1955 and is medieval in origin with elements probably dating from the 11th Century. The church was added to and altered in the 14th and 15th Centuries, including the addition of the tower. Some of these alterations were unusual, such as the cavetto-moulded eaves sprockets. The Church was then 'restored' in the 19th Century by a local architect. The building therefore derives much of its significance from its architectural value.
10. That said, the Church is positioned on a slightly elevated promontory with a vista out over a shallow valley to the south. This sitting was probably planned in order to give the building a commanding presence in the rural, predominantly agrarian landscape. This would have been important given the Church's central function in the rural community and its high status as a place of worship. Moreover, historic mapping/photography also demonstrates that the church sat in a reasonably isolated rural setting until recently in its history. As such, there is significant historical and evidential value in experiencing the church in a rural context and from being able to appreciate as fully as is possible its visual and spatial connectivity to the surrounding landscape.
11. The valley is cross by lanes and footpaths that converge on the church. When walking along the footpath adjacent to the appeal site it is still possible to gain an impression of how the church once stood in a sparsely occupied rural landscape and how generations of villagers would have viewed it. This sense of

¹ Mid Suffolk Core Strategy Development Plan Document 2008 (and the focussed Review in 2012)

² The Mid Suffolk Local Plan 1998

³ Subject to the effect of the proposal on the protection given to assets of particular importance, such as designated heritage assets.

- continuity provides communal value. The bucolic setting south of the Church also has a rural charm which, perhaps fortuitously, provides aesthetic value.
12. The construction of housing in Glebe Close, Church Lane and Church Knoll to the north and east has cumulatively eroded the extent to which the Church is spatially and visually experienced in an open rural landscape. However, when approaching the Church from the south or west it is still possible to gain a semblance of how it once sat in the landscape. This is particularly the case at Viewpoint 5 (as defined in the appellant's Landscape and Visual Impact Assessment - LVIA), where views of the Church are unimpeded to a significant extent, thus allowing it to effectively be seen in isolation within the rural landscape, save for an awkwardly sited hay barn. It is also possible to experience this sense of rural isolation when in the church yard looking south. What remains of the open rural aspect to the south and west of the listed building is therefore particularly important to its setting.
 13. Consequently, the significance/special interest of the listed building, in so far as it relates to this appeal, includes the rural setting of the Church and its long-standing relationship with open countryside, which is still possible to discern from the south and west. This is because these features, and the values derived from them, are important to the way the building is understood, experienced and appreciated.
 14. The erection of four dwellings at the appeal site would introduce additional built form and domestic paraphernalia into the rural southerly aspect of the Church. The buildings would be highly prominent in various views along the footpath adjacent to the appeal site, including the area in the vicinity of Maisie's Seat and Viewpoint 5. It would also be possible to see the proposed development from the Churchyard. These impacts would meaningfully diminish the open rural aspect to the south of the Church. The proposal would therefore seriously harm the setting and significance of the listed building.
 15. This harmful impact would not be mitigated through the provision of landscaping, which would not fully screen the houses and would take time to mature. Moreover, it cannot be assumed that the landscaping would remain *in situ* for the life of the development as it could die or be removed. The latter could occur if, like at Church Knoll, future occupants wished to establish a view.
 16. The four dwellings would have some pleasant design features including chimneys, plinths, porch hoods and cottage style windows. In some respects, they would echo Victorian cottage architecture. In many locations this approach can soften the impact of new housing by providing a traditional rural aesthetic. However, in this instance the properties would not have historic proportions due to the height and depth proposed. Therefore, the dwellings would fail to convincingly appear as modest agricultural workers cottages. Even if they did, there would still be an inherently harmful impact on the significance of the Church because the open southerly aspect is particularly important to its setting.
 17. The appeal scheme would represent a continuation of the linear character of the village, but this is not a point in its favour in this instance because it would do so in a way that would harm the setting of the listed building. The appeal scheme would be close to Church Knoll, which has a strident appearance in views from the south, but this does not justify further cumulative harm. Furthermore, the proposal would be directly to the south of the Church

whereas Church Knoll is not. Similarly, the presence of a very stark equestrian development west of the appeal site, which is further away from the Church than the appeal scheme would be and is not prominent in Viewpoint 5, does not justify the harm that would occur to the listed building's setting either.

18. The four houses would be set on land that is notably lower than the Churchyard and therefore the houses would be seen below the Church, as demonstrated by a CGI image submitted by the appellant. Accordingly, the appeal scheme would not directly block views of the church from the adjoining footpath. This siting would also enable the Church to retain a dominant presence in the wider landscape, including views from Circular Road. However, the housing would seriously alter the rural character of the site, which is prominent in the foreground of the church and important to its rural setting. The proposed development would also result in the Church being surrounded on three sides by housing. As such, the lower siting of the houses would not mitigate the harm that would otherwise occur to the local setting of the Church.
19. Historic England has provided guidance on the setting of heritage assets in GPA3⁴. This document suggests that because Church's are often tall structures, their setting is unlikely to be affected by small-scale development if it does not compete with their scale. However, an assessment of the significance of an individual listed building will involve a discrete and specific appraisal. In this instance, the specific circumstances before me indicate that the proposal would harm the setting of the listed building for the reasons given and therefore the general guidance in GPA3 is not determinative. Moreover, Historic England have objected to the proposal due to the impact it would have on the setting of the Church. Although the Inspector of Historic Buildings and Areas that gave this advice did not apparently visit the appeal site, their comments are nevertheless supported by what I observed.
20. The Council's Conservation Officer did not object to the proposal, being of the view it would not harm the setting of the Church. I do not share this view for the reasons already given. It is also a view unsupported by Historic England, the Suffolk Preservation Society, the Council's Planning Officer and the appellant and his historic buildings consultant, who all agree that the proposal would result in at least some harm. The appellant's Landscape Consultant (in the LVIA) also suggest the proposal would erode the scenic qualities of the setting of the church. This would harm those parts of the listed building's aesthetic value that are derived from its bucolic rural setting.
21. The topography of the site and the design and landscaping proposed would soften the impact of the appeal scheme. But the houses would still be very stark and prominent and therefore the overall impact on the setting and significance of the listed building would be greater than the very modest level suggested by the appellant's historic buildings consultant.
22. Overall, I conclude that the proposal would seriously harm the significance of the listed building given the importance of the open and rural southerly aspect to its setting. The proposal would therefore fail to preserve the setting of the St Peter's Church contrary to the expectations of the Act⁵. It would also be contrary to Policy HB1 of the LP, which requires particular attention to be given

⁴ The Setting of Heritage Assets – Historic Environment Good Practice Advice in Planning Note 3

⁵ The Planning (Listed Buildings and Conservation Areas) Act 1990

to protecting the setting of listed buildings. Although this policy does not incorporate the balanced approach to heritage decision making in Paragraph 196 of the Framework, it is nevertheless broadly consistent with the expectations set out in Paragraphs 193 and 194.

The effect on the character and appearance of the area

23. The appeal site is set towards the bottom of a shallow valley which is typical of the Rolling Valley Farmlands Landscape type as defined in the Joint Babergh and Mid Suffolk District Council Landscape Guidance 2015. The key characteristics and positive qualities of which include gentle valley sides, a rich mixture of woodland and arable fields and a sense of enclosure. These qualities are more evident in the landscape to the west of the village around the appeal site than to the east.
24. The landscape around Baylham is scenic, tranquil and reasonably intact when having regard to historic maps. As such, it is a valued landscape. Its local designation as part of a Special Landscape Area (SLA) is recognition of its quality and sensitivity. This is the case even though there have been some significant local detractors added to the landscape since the SLA was established, such as the proliferation of stark equestrian development and some stridently sited houses and buildings. The SLA is under review as part of the emerging Local Plan, but that does not alter the overall quality of the landscape or its standing as a valued landscape that should be protected.
25. The appeal site currently encompasses a small paddock, the northern boundary of which is with a small country lane and demarcated by a hedge. The remaining boundaries are otherwise open save for low level temporary fencing. As a result, the appeal site is visually contiguous with the surrounding paddocks. This affords the appeal site an undeveloped, rural and pastoral character that is clearly apparent in views from the south and from the lane. The appeal site therefore contributes positively to the value of the landscape.
26. The provision of housing, gardens, parking areas and domestic paraphernalia, such as fences and sheds, at the appeal site would significantly alter its rural pastoral character and erode the sense of rural tranquillity. It would result in a more built up and domestic appearance that would be clearly apparent and intrusive in the landscape, particularly when viewed from the adjacent footpath. Moreover, breaching the hedge in order to form tarmacked access points would be detrimental to the character of the rural lane.
27. However, the visual impact would be reasonably localised and additional planting would soften the form of the development. Breaching the hedgerow would be offset by the additional planting proposed. The use of appropriate high-quality materials could also have a softening effect. The housing would also have a linear character that would echo the grain of the village and would be viewed from the footpath in the context of Church Knoll and Greenbank. That said, the houses would be set apart from the village, being on the western side of the hay barn, and would not be viewed from the Church yard in the context of other domestic structures. In this respect the houses would be reasonably stark and appear as an intrusion into the countryside.
28. Overall, I broadly share most of the views of the appellant's landscape consultant in the LVIA, which is a well-constructed and balanced appraisal, that the proposal would have a minor adverse impact on landscape character and

that the visual impact would be medium adverse. The latter could drop to low adverse over time if the boundary vegetation is permitted to grow to maturity, but I have already set out my reservations in relying too much on landscape screening as a means of mitigating the harmful impacts of the proposal.

29. Limited information has been supplied regarding the history and extent of Baylham Common. It was apparently an historic feature in the landscape as an arable common focussed on the shallow valley that is skirted by Circular Road. However, there is little to distinguish it today from surrounding countryside and the Council's Landscape Guidance states that some former common arable land, such as Baylham Common, is known by name only. As such, the appeal scheme would not harm how this area is interpreted as a historic feature. This conclusion is consistent with that reached in a recent appeal decision⁶ and the Council has not adduced substantive evidence to justifying a different finding.
30. In conclusion, the appeal scheme would result in a net adverse impact on the landscape, but this impact would not be of a high order. Nevertheless, the adverse impact would be moderately harmful and therefore the proposal would be contrary to Policies CL2 of the LP and CS5 of the CS, which seek to protect and conserve landscape qualities and safeguard the landscape quality of the SLA. These aims are broadly consistent with Paragraph 170 of the Framework.

Other Matters

31. Various concerns have been raised by interested parties including reservations regarding highway safety. However, given my overall conclusion it has not been necessary for me to address these matters further. Similarly, given my overall conclusion that the appeal should fail, there would be no effect on any European Site/Special Protection Area and therefore it is also unnecessary to consider this matter further.
32. My findings are specific to the impacts and benefits the appeal scheme would have within the context of the unique setting of St Peter's Church. Accordingly, the Council's approval of other development elsewhere, including that consented under application reference DC/19/02401, is of very limited weight to my assessment. The Council's emerging Local Plan is still at a formative stage. From the evidence before me there is no certainty that the policies within it will be adopted in their current form and therefore it should be attributed very limited weight.

Heritage and Planning Balance

33. The harm that would occur to the setting of the listed building would be serious but not severe and therefore it would be 'less than substantial' within the meaning of the Framework. Paragraph 196 of the Framework requires such harm to be weighed against the public benefits of the proposal. The Framework states that great weight should be given to the conservation of designated heritage assets and the more important the asset the greater that weight should be. In this case the church is Grade II* listed and is therefore a more important asset.
34. The delivery of four entry level affordable homes would be a public benefit of the appeal scheme, particularly as no affordable housing has been built at the

⁶ APP/W3520/W/19/3243146

village in the last 50 years. The housing would be secured with a requirement that future occupants have a local connection to the area. This is a benefit that would be recycled in the future by requiring the initial discount to be passed on when the properties are sold. There is support in the Framework for the provision of affordable housing, including that to meet local needs, a point reinforced in a speech given by the Housing Minister in March this year and in a recent press release issued by the Ministry of Housing Communities and Local Government (dated 8 September 2020).

35. However, the appellant has not disputed figures suggesting that within three miles of Baylham there are around 238 affordable homes under construction with 178 granted planning permission. Some of these are apparently available with a 5% deposit and a minimum 40% equity share. This may well make them affordable to first time buyers currently residing in the village as an option for entering the housing market. Substantive evidence is not before me to demonstrate they would not be. In this context the delivery of the four affordable homes at Baylham would not be a significant benefit.
36. The Council confirmed that in the last year it had delivered around 130 affordable homes across the district, which modestly exceeds its target. Around half of these are for shared ownership and discounted market sale. This indicates a good rate of delivery that also includes some housing that would be suitable for those wishing to enter the housing market. However, the Council were unable to confirm to what extent the needs of first-time buyers and renters is being met in the district and the appellant has suggested that the needs of first-time buyers could be hidden, particularly at a local level. Thus, it is likely, from the evidence before me, that the specific needs of first-time buyers and renters, including those wishing to engage in a self-build project, are not being met. Accordingly, a modest scheme providing four entry level affordable homes would be a benefit of moderate weight.
37. The provision of four three-bedroom homes would boost housing land supply and choice. However, there is no dispute between the Council and the appellant that the Council are currently able to demonstrate a five-year housing land supply as required to by the Framework. The five-year housing land supply target is not a ceiling, but it presently being met is an indicator that the Council is significantly boosting the supply of housing and therefore, in this context, the delivery of four homes would be a modest benefit.
38. The construction and subsequent occupation of the properties would deliver modest economic benefits. It would also provide a limited boost to the vitality of the village. However, construction benefits would be short lived and substantive evidence is not before me that local services and facilities are failing for lack of patronage. Nor is there anything to suggest that village clubs, societies and organisations are in need of more members. Accordingly, the socio-economic benefits are of limited weight. Similarly, there is little to suggest the benefits to biodiversity would be more than modest. The financial contribution secured in the planning obligation would be mitigation and is not, therefore, a benefit of the proposal. It would be a neutral matter.
39. Thus, when giving considerable importance and weight to the special regard I must pay to preserving the setting of a Grade II* listed building⁷, I find that

⁷ See Section 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990

the serious harm that would occur from the proposal would not be outweighed by its cumulative public benefits.

40. Accordingly, there would be a conflict with Paragraph 194 of the Framework as harm to a designated heritage asset would not have clear and convincing justification. The development would therefore fail to satisfy the requirements of the Act, the Framework and the development plan.
41. Given my findings in respect of Paragraphs 193, 194 and 196 of the Framework, there are clear reasons for refusing the development. Consequently, it is unnecessary to consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when applying Paragraph 11 of the Framework. The proposal would also be at odds with Paragraph 71 of the Framework, which states that entry level housing should not compromise the protection given to designated heritage assets.
42. As the benefits of the proposal would not outweigh the harm to the setting of the listed building it follows that those benefits would not outweigh the totality of harm that has been identified either. This would be the case regardless of what weight I afford the conflict with Policies CS5 of the CS and CL2 of the LP.

Conclusion

43. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Graham Chamberlain
INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr Max Short LLB (Hons) LLM
Mr Leslie Short BA (Joint Hons)
MRICS MRTPI

Appellant
Artisan Planning Property Services

FOR THE LOCAL PLANNING AUTHORITY

Mr Daniel Cameron
Miss Louise Barker CIHN
Mr Vincent Pearce BA (Hons) MRTPI
Amelia Powell
Ms Sacha Tiller BA(Hons)
Katherine Hale

Mid Suffolk District Council
Mid Suffolk District Council
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INTERESTED PARTIES

Mr James Garner
Cllr John Field
James and Lorna Coathupe
Matthew Bell
Tim Richards
David Coathupe
Mrs Jo Clements

Documents Submitted After the Hearing

Email dated 11 September from Mr Leslie Short outlining a draft condition.
Email dated 11 September from the Council confirming agreement to the above.
Planning Obligation dated 14 September 2020.