



Appeal Decision

Site visit made on 24 November 2020

by **I A Dyer BSc (Eng) FCIHT**

an Inspector appointed by the Secretary of State

Decision date: 8 December 2020

Appeal Ref: APP/W3520/W/20/3255547

Land adjacent to The Manse, Fressingfield, IP21 5PZ

- 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 Davidson and the Trustees of Fressingfield Baptist Chapel against the decision of Mid Suffolk District Council.
 - The application Ref DC/19/05548, dated 16 January 2020, was refused by notice dated 3rd March 2020.
 - The development proposed is full planning permission for the erection of a contemporary, three-bedroom property (Class C3).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: -
 - The effect of the proposal on the character and appearance of the site and the surrounding area with particular reference to the Baptist Chapel, which is a Grade II Listed Building, (the LB), and: -
 - The effect of the proposal on the living conditions of occupiers of The Manse with particular reference to privacy.

Reasons

Character and appearance

3. The appeal site is an area of grassed open land, fronting Chapel Close and set behind a low wall and railings. It lies within the village of Fressingfield. Behind the site is a bungalow, known as The Manse. A mature hedge of moderate height lies on the boundary between the appeal site and The Manse. Chapel Close rises away from Cratfield Road and, towards the upper part of the street lie 1-1½ storey dwellings of a traditional design.
4. Adjacent to the site, on one side, lies the LB and its cemetery. On the other is a car park. Opposite the site, across Chapel Lane, lies the rear garden of a single storey dwelling facing onto Cratfield Road, and open fields. These spaces give the area a pleasant sense of openness and verdure and these are positive features contributing towards the character and appearance of the locality.
5. The Mid Suffolk Local Plan -1998- (the Local Plan), precedes the publication of the National Planning Policy Framework -2019- (the Framework). However,

- existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and due weight should be given to them, according to their degree of consistency with this Framework.
6. Policies GP1, H3, H13, H15, HB1 and HB8, of the Local Plan seek to ensure development does not unacceptably affect the character or appearance of its setting or the historic environment, including the setting of any heritage asset. These matters of design and conservation are important tenets of the Framework, set out in Sections 12 and 16, and with which these policies would broadly accord. I therefore attach significant weight to them.
 7. The listing description identifies part of the significance of the LB as deriving from its unusual plan, in the shape of an elongated hexagon. This plan form resembles a coffin and its setting adjacent to a cemetery is said to be symbolic of mortality. The LB and its cemetery lie within the Bedingfield Conservation Area (the CA).
 8. The proposal would introduce a building of modern design, with a substantial two storey element, into the site, close to the carriageway. The scale and position of the building would significantly reduce the sense of openness in this area of Chapel Close and the building would obstruct views from Chapel Close encompassing the LB and cemetery.
 9. Further, the proposal building would appear in views across Cratfield Road of the LB and its cemetery and, by virtue of its modern design, would be an incongruous element within the more traditional street scene. This would be further exacerbated by the position of the building on land slightly higher than the cemetery, emphasising the prominence of the site.
 10. I am mindful of the linkage of the cemetery setting of the LB to its design. The intrusion of the building into the setting of the LB and closure of views of it within its cemetery would adversely affect the way in which the LB is experienced from the public realm and, in this case, that would amount to material harm.
 11. Additionally, the reduction in openness of the area would, of itself, result in harm to the openness of the locality, which I have identified above as making an important positive contribution to the character and appearance of the area. The proposal would, therefore, fail to preserve or enhance the setting of the LB.
 12. The proposed building features a dual mono-pitched sedum roof design, seeking to reduce the massing of the building and contribute towards the sustainability of the proposal. However, the introduction of such a feature is, of itself, incongruous and out-of-keeping with the more traditional building designs of the vicinity.
 13. The appellant has suggested that the impact of the development could be mitigated by provision, through condition, of landscaping. Whilst planting could be provided by planning condition, I am not satisfied that such measures would be appropriate to mitigate the harm identified, as they would not mitigate the loss of views of the LB from the public realm and would, themselves, impact upon the setting whilst reducing openness.

14. I find that the development would cause material harm to the character and appearance of the site and the surrounding area and would fail to preserve or enhance the setting of the LB. The proposal would not, therefore, comply with the expectations of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would therefore be contrary to Policies GP1, H3, H13, H15, HB1 and HB8, of the Local Plan. For similar reasons it is contrary to the provisions of Sections 12 and 16 of the Framework.
15. The statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. As a consequence of its siting and screening effect, the appeal scheme would have a harmful impact on the setting of the listed building. However, the proposal would not lead to the loss of any part of the listed building or any of its special features. As such, whilst material, I find that the harm would be less than substantial. Paragraph 196 of the Framework directs that where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal.
16. The proposal would provide an additional dwelling in a sustainable location to supplement housing delivery and provide economic support to local businesses and services. These would be public benefits to which, because of the scale of the development, I attach limited weight.
17. It is proposed that the design of the new dwelling would be of a high quality, modern design incorporating various sustainable features, including a sedum roof. However, I am not persuaded on the basis of the evidence before me that the dwelling would be so outstanding or innovative in terms of design and level of sustainability as to represent the circumstances where the Framework considers that great weight should be afforded to such development. Further, the Framework requires that even in such cases the development must fit in with the overall form and layout of its surroundings and so I attach limited weight to this argument.
18. On the evidence before me I therefore conclude that the public benefit, in this case, has not been demonstrated to outweigh the less than substantial harm identified to the setting of the Grade II Listed Building.

Living conditions

19. The Manse lies on ground slightly above the appeal site and has a private garden to the rear, including a raised area, together with windows which would face the proposed dwelling. Currently these have an open outlook with no residential units close to them.
20. Policy H16 of the Local Plan seeks to protect existing residential amenity, including privacy. As such the policy is generally in accordance with the aims of those parts of the Framework which seek to create places with a high standard of amenity for existing and future users and I therefore attach significant weight to it.
21. The rear elevation of the proposal would include windows and a balcony facing towards The Manse, including windows on the second floor serving a bedroom. Anyone standing at the bedroom window or on the terrace of the proposed dwelling would, due to the difference in elevation of the plots and the height of the bedroom window and balcony on the proposal, be able to look over the

existing hedge and would both be clearly visible from the rear windows and amenity area of The Manse.

22. The existing hedge does provide some screening between the two properties, but this is insufficient to provide an effective screen given the relative heights of potential observers, which would leave occupiers of The Manse open to an increased degree of surveillance and awareness of the presence of persons at the bedroom window and on the balcony of the proposed dwelling.
23. Whilst there would be a degree of separation between the two dwellings the proposal would introduce a significant degree of intrusion to the occupants of The Manse when compared to the current situation, particularly in the rear garden.
24. I thus find that the proposal would result in an unacceptable increase in both surveillance and the perception of surveillance of the rear garden and the rear rooms of The Manse, with a corresponding loss of privacy to the occupants.
25. I therefore conclude that the development would result in harm to the living conditions of the occupiers of The Manse with regards to privacy. The development would, therefore, be contrary to the aims of Policy H16 of the Local Plan.

Conclusion

26. For the reasons given above the appeal is dismissed.

I Dyer

INSPECTOR