

Appeal Decision

Site visit made on 5 January 2021

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2021

Appeal Ref: APP/D3505/W/20/3257586

Lavenham Priory, Water Street, Lavenham CO10 9RW

- 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 Ms R Sayed against the decision of Babergh District Council.
 - The application Ref DC/19/04445, dated 20 September 2019, was refused by notice dated 12 February 2020.
 - The development proposed is erection of new detached dwelling with detached garage.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would preserve or enhance the character or appearance of the Lavenham Conservation Area, and the effect on the settings of nearby listed buildings. Given that the effects on these designated heritage assets is a single reason for refusal, I have considered them together rather than as separate issues.

Reasons

3. The appeal site is part of open land within the Lavenham Conservation Area to the rear of Lavenham Priory, a Grade I listed building, and neighbouring buildings with frontages on Water Street. This open, grassed area is bounded to the west by the rear gardens of properties on Church Street and Bear's Lane. To the south, beyond the conservation area boundary, is open countryside; a public footpath runs parallel with this boundary. The site includes a wooden storage shed, which is to be removed.
4. The main parties refer to a number of previous proposals for erection of a dwelling on the land to the rear of the Priory. In particular, my attention is drawn to the decision in an unsuccessful appeal for a single dwelling immediately to the west of the proposed site of the dwelling in this case¹. Given the relevance of that decision to the current appeal I have had regard to it and refer to it where appropriate.

¹ APP/D3505/A/10/2137310, dated 7 February 2011.

5. In considering the main issue I am particularly mindful of the statutory requirements for decision makers to have special regard to the desirability of preserving the setting of a listed building²; and that in exercising planning functions in conservation areas special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area³.
6. The Lavenham Conservation Area is focused on the core of the settlement and includes predominantly historic buildings, many of which are listed, in residential and commercial uses. The Conservation Area Appraisal (CAA) says that the quality of Lavenham's buildings is reflected in the majority of the High Street, Water Street and Market Place areas being Grade II or II*. As well as the Priory itself timber-framed buildings to the north of the site on Water Street include De Vere House and No 58, which have Grade I and II* listed status respectively. There is also a group of listed buildings to the west along Church Street, between its junctions with Water Street and Bear's Lane. Accordingly, the preponderance of listed buildings is of significance within this part of Lavenham, as it is more widely.
7. The CAA refers to the closely spaced parallel streets leading up to the Market Place resulting in most plots there having more development at their rears. In contrast to the '*more town-like urban atmosphere*' the CAA also notes the relationship of the historic core of Lavenham to the open countryside beyond. In particular, it says that the High Street to its west and Water Street to its south both have countryside at the rear of properties.
8. The 'L'-shaped area of land that includes the appeal site is distinctive in this context as it reflects a transition from the linear pattern of historic development of the surrounding streets to the open countryside to the south. While it adjoins the delineated formal rear garden of the Priory itself and those of neighbouring properties, it has an open, informal and semi-rural character that links it to the character of the open land beyond the conservation area boundary. In this regard I agree with the Inspector in the earlier appeal that this undeveloped space marks '*the transition from the built-up core of Lavenham to agricultural open land*'⁴. As such, this is a distinctive area, which has significance arising from the relationship between the conservation area and its wider setting.
9. I have had regard to the appellant's contention that the open land of which the appeal site is part is not significant in heritage terms, not least because it is not expressly referred to in the CAA, nor does it have any historic or land-use associations with the established plots, but was simply a small field associated with a former farm and is now part of the Priory's grounds. It is also not an area of open land identified for safeguarding in the Lavenham Neighbourhood Development Plan.
10. However, the fact that a CAA or the development plan does not explicitly mention a particular piece of land does not, simply by omission, diminish its potential significance; nor does that significance have to rely on any particular historic or other stated association. The site and wider area are part of the designated conservation area and, for the above reasons based on the appeal

² Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

³ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

⁴ Paragraph 23.

submissions and site inspection, and in accord with the Inspector's view in the earlier appeal, I find that it has significance as described above.

11. The proposal involves the erection of a low impact single storey eco-house, which would be served by a driveway running from the access to Priory Farm Court next to the Priory itself. The design and siting of the dwelling would aid its integration into the site, as a result of the topography with the lowest part of the open land being employed, the cut-in of the dwelling below ground level and the sedum roof. Moreover, the driveway would be cut-in below ground level.
12. In terms of the effect on the character of this part of the conservation area, the Inspector in the earlier appeal found that *'the proposal would represent an apparent departure from the tight-grained, street frontage pattern of development typical of the historic core of Lavenham, thereby undermining the integrity of the conservation area'*⁵. Despite the different location of the proposed dwelling in this case, I concur with this finding. In particular, the existence and use of both the dwelling and particularly the long, winding driveway with vehicles travelling across and parked in the open area would materially and harmfully alter the open, quiet and semi-rural character of the area as it currently exists.
13. The appellant refers to use of the existing historic track for access to the storage shed on the site. From the site inspection, there is little evidence of such regular use in terms of a marked or worn pathway leading to the shed. Furthermore, such use is not comparable with the type or regularity of use of a purpose-built driveway associated with a dwelling, which is likely to involve regular vehicular access by occupiers, visitors and for deliveries.
14. With regard to the conservation area's appearance, the CAA says that the footpath south of Water Street *'gives good views back into the medieval heart of the village, with the rears of the many listed buildings on Water Street visible against a backdrop of the rising ground of Lady, Barn and Shilling Streets to the north'*. The appellant disputes the consistency and accuracy of the maps in the CAA in terms of possible views of the site; and contends that the Lavenham Neighbourhood Development Plan does not identify such a view. However, the quoted text from the CAA is clear that views can be obtained back towards Water Street from this path.
15. At the time of the inspection, the extent of planting and natural fencing panels along the southern boundary meant that the site was screened from views from the adjacent footpath. I give some weight to the Council's contention that the permanence of such screening cannot be guaranteed in the long term compared to a permanent dwelling and driveway, which is likely to endure beyond the appellant's occupation of it and intended maintenance of the boundary planting and fencing. Furthermore, it would not be appropriate in my view to require further planting by condition where this could potentially obscure views of heritage assets recognised in the CAA.
16. Nonetheless, despite these findings, due to the proposed dwelling's siting and design as described above, and the fact that the principal foreground views

⁵ Paragraph 24.

described in the CAA are of the listed buildings on Water Street, the proposed dwelling would not readily be seen from views to the south. In reaching this view, I have had regard to the findings of the Inspector in the earlier appeal, which involved a larger dwelling on higher ground. In that case it was found that views of the Priory and other listed buildings would be maintained and so the settings of the listed buildings on Water Street would not be harmed⁶. For the reasons given, I reach the same view with regard to the effect on the appearance of the conservation area and the listed buildings' settings in views from the south.

17. The appeal site and wider area of open land are bounded to the north and west by dwellings and their back gardens. Despite the existing tree cover the occupants of a number of these properties, particularly those along Church Street and Bear's Lane will experience varied views from their rear windows and gardens of the open and undeveloped appearance of this part of the conservation area.
18. The change from open, undeveloped grassland of part of the area would be mitigated to some extent by the design of the dwelling and driveway. Nonetheless, despite the cutting-in of the driveway and dwelling, the use of both is likely to be apparent from a number of these properties. In particular, vehicle movements along the driveway, particularly at night with headlights on, would appear incongruous in the otherwise open, undeveloped setting. From the higher ground to the west, it is likely that it would also be possible to see illumination from the dwelling itself, which would be harmful in comparison to the currently undeveloped appearance of the area.
19. The rear garden boundary of the Grade I listed De Vere House is positioned close to the proposed location of the driveway and the dwelling itself. This boundary is currently screened to some extent by natural fencing and some vegetation. Despite this, the proximity of the driveway and dwelling to this property's garden would, in my view, inevitably and harmfully alter the way in which this part of the conservation area is experienced for the same reasons already given.
20. The appellant draws comparison with other nearby developments that are outside the settlement Built Up Area Boundary (BUAB); and some proposals for eco-homes apparently outside Lavenham, but also outside relevant BUABs. However, some such as the Quakers Yard development are further north, closer to the historic pattern of development. Moreover, this and the other nearby developments do not require the same form and extent of vehicular access in this sensitive setting. I am not aware of the details of other schemes referred to, particularly whether they are located in conservation areas, and so cannot make a direct comparison.
21. My attention is drawn to an example of a single dwelling approved in the conservation area at the Great House Hotel. While I accept that this reflects the fact that development can take place in a conservation area, it cannot be seen as a direct precedent for the appeal proposal given that I have considered this on its merits and found that it would be harmful in its own right.

⁶ Paragraph 25.

22. A broader point is made with regard to the suitability of the appeal site and wider area to accommodate development, including with regard to the findings of the Lavenham Landscape Character Assessment. I have, however, considered the proposal before me on its merits with regard to the specific circumstances of this site and the effects of the proposed development on the designated heritage assets.
23. It is also contended that the character and appearance of the conservation area is comprised of the predominant views from street frontages and other readily available views. However, determining the effect of development on a conservation area as a whole may involve assessing how the appeal site contributes to the conservation area and how the proposed development would relate to its immediate surroundings. It is possible, therefore, to conclude that harm to part of the conservation area would fail to preserve the whole of that area, which is the case here.
24. Given the above, I find that the proposal would fail to preserve the character and appearance of the Lavenham Conservation Area. The National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation⁷. Based on the above findings, I consider the harm to be less than substantial in this instance, but nevertheless of considerable importance and weight.
25. Under such circumstances, the Framework advises that this harm should be weighed against the public benefits of the proposal⁸. The appellant refers to a number of suggested benefits. The removal of the dilapidated storage shed would provide some limited benefits to the appearance of the conservation area, but the existence of this building is not comparable to the degree of harm found above. The provision of an additional, accessible, environmentally sustainable and well-designed dwelling must be balanced with the fact that its principal purpose relates to a private benefit with regard to occupation and use. Any economic benefits in its construction would be temporary, while support for local services from its use would be limited.
26. I note and have had full regard to the fact that the appellant is registered disabled. However, the appeal proposal is not the only option for addressing accessible housing and overall the suggested benefits put forward are predominantly private ones. Taken as whole, therefore, these are not sufficient to outweigh the harm that has been identified. The appellant suggests a number of conditions, particularly concerning landscaping. While I have had regard to these, they would not overcome the harm found in this case.
27. Accordingly, for all the reasons given, I conclude that the proposed development would not preserve the character or appearance of the Lavenham Conservation Area. Consequently, it is contrary to the following development plan policies: CN08 of the Babergh Local Plan (2006), which requires that proposals for the erection of new buildings in conservation areas should preserve or enhance the character of the area; CS11 of the Babergh Core Strategy (2014), concerning development in core villages, including

⁷ Paragraph 193.

⁸ Paragraph 196.

satisfactorily addressing the locational context of the village and proposal, particularly with regard to conservation areas and other designated areas; CS15 also of the Core Strategy, concerning the implementation of sustainable development, including that development proposals should respect heritage assets; and H1 of the Lavenham Neighbourhood Development Plan, which requires new residential development to be well-related to the existing pattern of development in Lavenham. Despite pre-dating the current version, these policies are consistent with the Framework. The proposal is also contrary to section 16 of the Framework.

28. Also for the reasons given, the proposal would not have a materially harmful effect on the settings of nearby listed buildings. As such, there is no conflict with Policy CN06 of the Local Plan, concerning development and listed buildings. Policy CS1 of the Core Strategy is less relevant to this case as it reflects the presumption in favour of sustainable development in the Framework. This applies where development accords with the development plan or where there are no relevant policies or relevant policies are out-of-date, none of which applies in this case for the reasons given above.

Other Matters

29. I have had regard to all the representations made by interested parties both for and against the proposal. I have considered the suggested benefits of the proposal included in the representations as part of the balancing exercise above. There are no additional matters raised in relation to the main issue in this appeal that would lead me to reach a different overall conclusion.

Conclusion

30. For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR