



Appeal Decision

Site Visit made on 19 February 2021

by Graham Chamberlain BA(Hons), MSC, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 March 2021

Appeal Ref: APP/X3540/W/19/3242738

Land South of Church Farm House, Church Road, Otley, Suffolk, IP6 9NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Kelvin Lait against the decision of East Suffolk Council.
 - The application Ref DC/19/0823/OUT, dated 13 March 2019, was refused by notice dated 20 June 2019.
 - The development proposed is described as 'Outline application for the erection of 7 residential dwellings and provision of an access road off Church Road Otley with all other matters reserved'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for future consideration. I have assessed the proposal on this basis and treated the application drawings as simply being an illustration of how the proposal could ultimately be configured. This includes the additional drawing submitted with the appeal that details a possible revised Option 2 layout. I have accepted this indicative drawing as it does not amend the proposal.
3. Since the Council issued its decision it has adopted The East Suffolk Council Suffolk Coastal Local Plan 2020 (LP) and the appeal site falls in the area covered by this document. This has superseded the previous development plan documents referred to in the reasons for refusal. It is incumbent upon me to base my decision upon the most up to date planning policy and this is what I have done. The appellant had an opportunity to address the change and confirmed that the site had been advanced for allocation in the LP but was discounted due to its relationship with Otley and the Church.

Main Issues

4. The main issues in this appeal are:
 - Whether the appeal site is a suitable location for the proposed development, with reference to the spatial strategy in the LP;
 - The effect of the proposed development on the character and appearance of the area, biodiversity and highway safety; and
 - Whether sufficient information has been submitted to assess whether the proposal would preserve the settings of St Marys Parish Church, a Grade II* listed building and Church House, a Grade II listed building.

Reasons

The spatial strategy

5. In order to indicate where development is likely to be supported as part of the overall spatial strategy in the LP as a matter of principle, settlement boundaries have been established around several settlements including Otley. The appeal site is located outside the defined settlement boundary of the village. Therefore, in accordance with Policy SCLP3.3, the appeal site is located within the countryside where new housing will be carefully managed.
6. Policy SCLP5.3 is concerned with housing in the countryside. It sets out the circumstances (listed (a)-(g) in a closed list) where residential development in the countryside will be supported, such as affordable housing, infilling in a cluster, replacement dwellings or rural workers accommodation. The policy also refers to other residential development being supportable if it would be consistent with policies on residential development in the countryside contained in the National Planning Policy Framework (the Framework). When having regard to the supporting text to Policy SCL5.3, I take this to mean affordable housing, entry level housing and those circumstances when isolated homes can be permitted as per Paragraphs 71, 77 and 79 of the Framework.
7. The evidence before me does not demonstrate that the proposal would be any of the types of development referred to in Policy SCL5.3. Thus, it would fail to gain support from both Policy SCLP3.3 and Policy SCL5.3. The corollary being that the appeal scheme would harmfully be at odds with the spatial strategy in the development plan and thus undermine the public interest of following a planning system that is genuinely plan led.

The effect on the character and appearance of the area

8. The appeal site was once a farmyard, as evidenced by the remaining structures including an open sided barn. It was then apparently used by a contractor. However, it is now heavily overgrown with a central meadow area. There is also a small woodland covering the southern portion of the site and that part of the site along the roadside. In many respects it has blended back into the landscape. This results in a bucolic appearance that is contiguous with the grass fields to the east and west. The appeal site therefore contributes positively to the visual amenity of the area and the verdant approach into the village along what appears to be a partially sunken tree lined lane. There are dwellings either side of the appeal site, but these are set in large generously landscaped plots. Overall, the area to the south of the village is rural in character and the appeal site contributes positively to this.
9. Regardless of the size and layout of the individual dwellings, the construction of the proposal would inevitably result in a significant deterioration in the verdant character of the site, due to an inevitable loss of a large amount of soft landscaping. The existing buildings are agricultural in character and are not significant detractors. Therefore, removing them would not mitigate for the harm caused by new housing, even if it had the character of traditional Suffolk buildings.
10. Establishing visibility splays, a wider highway access and footpath would be particularly damaging to the roadside banks and vegetation. Moreover, the presence of dwellings, hard surfaces and other domestic paraphernalia would

diminish in a meaningful way the verdant and rural character of the site and the pleasant approach and landscape setting of the village.

11. It is likely that the dwellings would have to be arranged in a cul-de-sac type configuration with houses in the position of Plots 5 and 6 backing onto to the road. Other properties would likely back onto the adjoining fields. This would be an untypical and insular suburban arrangement in this location and would appear out of place as a discordant suburban encroachment into an attractive rural setting. This would not be mitigated by new planting around the edge of the site because its longevity cannot be guaranteed, and the presence of the houses would still be apparent.
12. The harmful impacts identified above would occur even if the site layout retained a woodland area to the south and the houses were single storey. This is because of the impacts caused by the access and Plots 5 and 6 would require a lot of site clearance and would be visible from the road. There is also the risk that future occupants would wish to remove further boundary landscaping outside the 'ecological area' detailed on Option 2 to reduce the burden of maintenance, increase light, establish a view or erect fencing. Stark roadside fencing is in place elsewhere along Church Road but not to the extent that it justifies the appeal scheme.
13. In conclusion, the proposal would significantly harm the character and appearance of the area contrary to Policy SCLP11.1 of the LP, which seeks to secure developments that demonstrates a clear understanding of the key features of local character.

The effect on biodiversity

14. The appeal site includes several features that could support bats, breeding birds, amphibians and reptiles and other protected species. These include mature and semi-mature trees, open sided buildings, scrub, hedgerows, deadwood and a large pond. There are also ponds in the adjoining field and church yard. The appeal site as a habitat links in with nearby hedges, fields, and historic buildings such as the Church. The Council has also referred to sightings of protected species such as great crested newts and badgers within 2km of the site. Accordingly, and based on the information before me, there is a reasonable likelihood of protected species being present and affected by the development, particularly as the existing buildings would be demolished and landscaping removed.
15. The appellant has referred to an assessment by an ecologist, but this has not been submitted and therefore the findings are of limited weight. Moreover, the appellant suggests that surveys can be secured through a planning condition in the event the appeal was allowed. However, Circular 06/2005¹, states that ecological surveys should only be left to a planning condition in exceptional circumstances, which do not apply in this case.
16. Instead, it is necessary to identify the presence or otherwise of protected species before granting planning permission so that any impacts and potential mitigation can be identified and fully understood. With this in mind, I cannot be certain that the mitigation proposed by the appellant, being an area set aside for biodiversity, would be adequate. The absence of surveys is therefore a

¹ Biodiversity and Geological Conservation – see footnote 56 of the National Planning Policy Framework

significant omission. Without it, there is an unacceptable risk that the proposal could harm protected species. As such, I cannot be certain the development would protect biodiversity and thus adhere to Policy SCLP10.1 of the LP.

The effect on highway safety

17. The appeal site is located a short distance outside the village, where some everyday services and facilities are available, including a primary school. There is a pavement along part of the route that terminates at the church. Therefore, pedestrians walking to and from the proposed development would have to walk in the road for part of the way. Due to the presence of banks and roadside landscaping there are few adequate pedestrian refuges and forward visibility can be limited for motorists. The road appeared reasonably busy and my observations are supported by traffic data supplied by the County Council, which indicate that in 2011 a vehicle passed every 10 seconds in weekday peak hours (traffic has grown since then).
18. Due to the narrowness of the road, there would be little space for pedestrians if two cars were wishing to pass, which could be a frequent occurrence. Thus, walking along the road would not be safe for future occupants of the proposed development as there would be an unacceptable risk of them being hit by a vehicle. A safer alternative would be to drive the short distance into the village, but this would not promote sustainable transport. Thus, the appeal scheme would not provide a safe and suitable access for all. The appellant has speculated that a footpath could be provided but no details are before me. In any event, this could also have implications for the rural character of the road.
19. The position of the vehicular access is a reserved matter so precise details of the entrance point into the site are not before me. Two options have been proposed and both appear achievable with 90m visibility splays, although further details would be required at the reserved matters stage. As such, it is possible that an adequate vehicular access could be provided when considered in the narrow terms of highway safety. However, for reasons I have already gone into the provision of an access to the required standards would harm the character and appearance of the area due to the urbanising impact and the loss of landscaping and sections of the roadside bank.
20. In conclusion, without the provision of a footway, which is not part of the proposal, highway safety would be prejudiced. Accordingly, the proposal would be at odds with Policy SCLP7.1 of the LP, which seeks to secure development that is pedestrian friendly and does not reduce road safety.

Whether the settings of St Marys Church and Church House would be preserved

21. The Council are of the view that there is an absence of sufficient information describing the significance of the two listed buildings and how the proposal would affect their settings. Paragraph 189 of the Framework requires applicants to set out this information. The Council have not really articulated what threat the appeal scheme could pose to the setting of the listed buildings, but this is understandable in the absence of an appropriate heritage impact assessment.
22. It would have been helpful to know more about the history of the buildings in question and map regression could have explained how their settings have evolved. This information would have enabled an informed judgment to be made in respect of which heritage values the listed buildings have and to what

extent their settings contribute to building's significance. A visual assessment alone, undertaken without appropriate expertise, is inadequate in this instance as it has not explained the morphology of the area and may have missed important points about the buildings and their settings.

23. In this instance, the Church is Grade II* listed and is therefore is one of the most important buildings in the country. It currently has an open aspect to the west and is therefore experienced in the context of the rural landscape beyond the village. The proposed development would be visible from the church yard and would impinge into the rural westerly setting of the church. Based on the evidence supplied, it is difficult to judge whether the presence of the proposal, which would be greater than the existing barns, would harmfully erode the setting of the listed building. My initial view is that it would, but a Heritage Impact Assessment would help to inform such a judgment.
24. The appellant has directed me to the recent development of land formally occupied by Hubbard Refrigeration. This development currently has a stark presence in the backdrop of the Church, but it is currently unfinished, and it is unclear what was there beforehand. In any event, its presence, even if considered to be harmful, would not itself justify the further harm to the setting of the Church that may occur because of the proposal. Historic England did not raise any objections, but that does not mean the proposal is acceptable and their comments did not say the proposal would not be harmful.
25. Church House is a vernacular style dwelling and it seems to me that the open rural character of the appeal site is of some benefit to how it is experienced and appreciated. It therefore imperative that a proper assessment of the building and its setting is undertaken so that the impacts can be properly understood. Without such an assessment by a suitable expert it would be difficult to reach an informed judgment.
26. In conclusion, the appellant's submissions do not adequately address the significance of the listed buildings and the extent to which their settings contribute to this. To my mind there is a risk that the proposal could fail to preserve the setting of the listed buildings and therefore a Heritage Impact Assessment is needed to test this and calibrate the impact. Thus, in the absence of adequate information the proposal would be contrary to Policy SCLP11.3 and SCLP11.4, which require proportionate Heritage Impacts Assessments when a proposal has the potential to impact a heritage asset(s).

Other Matters

27. Given my overall conclusion that the appeal should fail, it would have no effect on any European Site/Special Protection Area and therefore it is unnecessary to consider this matter further. The Council has permitted housing outside of settlement boundaries elsewhere in its administrative area, including sites at Westerfield and Ufford. However, for the reasons given, the appeal site, when considered on its own merits, is not an appropriate location for the appeal scheme when considering the up to date development plan and the impacts I have identified.
28. The appeal scheme would deliver several benefits as it would be a windfall development near a key service centre and the facilities therein. It could therefore support the vitality of a rural community and the local economy through construction jobs and the spend of future occupants. Furthermore, the

proposal could provide bungalows, and this would support housing choice. However, the contribution from seven dwellings would not be of a high order in this respect.

29. Moreover, the evidence before me indicates the Council are currently able to demonstrate a five-year housing land supply and have a recently adopted local plan with a housing strategy that seeks to meet the area's housing requirement. This includes a housing allocation in Otley. This suppresses the benefits to housing delivery that would flow from the proposal. The appellant has suggested that two of the homes would be affordable housing, but there is no legal agreement before me that would secure them as such. Taken together, the proposal would have modest benefits that would not outweigh the cumulative harm that would otherwise occur and the subsequent conflict with the development plan, which is a matter of significant weight.

Conclusion

30. 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