



Appeal Decision

Site visit made on 25 October 2021

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2021

Appeal Ref: APP/D3503/W/21/3271431

Land North of Howe Lane, Cockfield, Suffolk

- 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 C. Shallow (David Hodge Farms) against the decision of Babergh District Council.
 - The application Ref DC/20/05849 dated 21 December 2020, was refused by notice dated 12 February 2021.
 - The development proposed is erection of 2 no. detached dwellings and associated garages (with access).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. This appeal is linked to an appeal against refusal of permission for a further two detached dwellings on land immediately adjacent to this appeal under reference APP/D3503/W/21/3271430. Site visits were undertaken at the same time but that appeal is the subject of a separate decision to ensure that they are considered as separate entities. Despite this it should be noted that both proposals were subject to the same refusal reasons and both the appellant and Council have utilised a single statement of case to cover the issues raised in both appeal submissions. As a result of this it is evident that text concerning policy and conceivably other matters will be largely common to both appeals.
3. The application was submitted as outline with all matters reserved except for access as per the application forms before me. I have determined the appeal on this basis and note the error with regards to the plans stated on the decision notice due to their inclusion of plans for the adjoining site. I confirm the appeal has been determined upon the basis of the correct plans following this correction by the appellant's agent.
4. Since the refusal of this application a revised National Planning Policy Framework (the Framework) has been published in July 2021. Notwithstanding this both the Council's statement and the appellant's final comments were received by the Inspectorate in September 2021 which is several weeks after the revised Framework came into force and was well publicised. In that regard I consider that both parties have had opportunity, if they wished, to provide commentary on the revised Framework within this appeal.

Main Issues

5. The main issues are the impact of the proposal upon i) the setting of Grade I listed Church of St Peter and whether any harm identified would be outweighed by the public benefits of the proposal and ii) the landscape and character of the area and village as a whole.

Reasons

Setting of Grade I listed Church of St Peter

6. The appeal site stands within part of a large agricultural field which benefits from existing access off Howe Lane, Cockfield. At the time of my site visit I noted that the proposal would be located opposite existing residential dwellings on the other side of the road. The appeal site would be spaced away from existing development to the North East due to the space which has been left for the adjoining proposal for a further two dwellings.
7. The nearest dwellings to the North East noted to be detached dwellings in good sized and spacious plots which results in low density development. There would be some spacing in between existing built form and the proposal within this appeal. To the North West and South West of the site there are no natural boundaries but the site is bound by an established field hedgerow along Howe Lane. At the time of my visit I stood in the existing access (which would be used by the proposal) and noted that the Grade I listed Church of St Peter is visible in views to the West from this point.
8. I note the Heritage Officer's comments, however, I do not find that the proposal would realistically delay the view of the church when approaching from the East along the road as stated. I find that the views of the church, from Howe Lane are already limited due to the presence of a well-established hedgerow along Howe Lane. The proposal seeks to use an existing access point and would have limited effect of the view of the church from this existing point. The upgraded access would likely increase views of the church from Howe Lane as is demonstrated by the appellant's aerial images. Matters such as vegetation cover (in terms of planting or hedgerow retention as appropriate) can, I find, be appropriately managed within reserved matters to the satisfaction of the Heritage Officer to manage views through and from the site.
9. Despite this I find that the proposal would start to encroach into a historically undeveloped open space between the church and Howe Lane which I find creates an awkward, squared off, boundary which does not present as natural due to cutting into the field compared to the adjoining development. I understand that the neighbouring development took place as a result of being existing residential curtilage which would be accompanied by an existing level of domestication within an existing boundary. This is not the case for the appeal proposal.
10. The appeal proposal would, by comparison, encroach relatively high density development into undeveloped agricultural land as noted by the Heritage Officer and I find that this would result in less than substantial harm to the setting of Grade I listed Church of St Peter by virtue of its siting and location. Due to this I find that the proposal would be contrary Babergh Local Plan 2006 (LP) Policy CN06 which requires that proposals within the setting of a listed building should harmonise with the existing building and its setting and respect

those features which contribute positively to the setting of a listed building including space and historic layout.

11. Babergh Core Strategy 2014 (CS) Policy CS15 is generally consistent with the Framework in terms of its overarching objectives but I note that it does fail to acknowledge the balancing exercises required by paragraphs 201 and 202 of the Framework. The policy is considered to be out-of-date with regard to heritage as outlined later within this decision letter. The Church of St Peter is Grade I listed, the highest listing which could be possibly afforded to a heritage asset because it is of exceptional national, architectural or historical importance. I have found that the proposal would lead to less than substantial harm to its significance and this harm should, in accordance with paragraph 202 of the Framework, be weighed against the public benefits of the proposal.
12. The Framework is also clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be) in accordance with paragraph 199. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
13. The proposal would supply two residential dwellings which would make a limited supply to the overall supply of housing in Babergh. There would be some economic benefits during construction, but these would be short term, and future occupiers may contribute to the local economy but as stated, with two dwellings proposed I afford these benefits limited weight. I do not find that the limited public benefits of two residential dwellings would outweigh the less than substantial harm found to the designated heritage asset which, as Grade I listed, is of great importance.

Landscape and character of the area

14. The setting of the appeal site has already been described in paragraph 6 of this decision letter. The site forms part of a large, open, field which I find to contribute positively to the rural character of the area. In relation to this issue I noted that, upon walking up to the existing access, there is an increase in ground level compared to the road. This is noted by the Council and objectors. Whether this is, or is not, 2m is not evidenced but it was a notable increase in site levels. I find that this would result in the proposed development being prominent from both the road but also the public footpath which runs around the edge of the field.
15. I note the comparisons drawn by the appellant between the appeal site and development opposite, however, as noted by the Council these were approved under differing policy and notwithstanding this, they do not cut an awkward section out into the edge of a large open field by comparison. Each case must be considered on its own merits. There would be a gap between the nearest adjoining development and this gap in itself would result in the proposal appearing detached and awkward within its site context.
16. I acknowledged that nothing elevates the site to the status of a valued landscape in terms of paragraph 174 a) of the Framework. It falls to consider the extent of the harm, rather than the fact that harm arises. I find that the field in question, within which the appeal site is located, is one which is of importance for its landscape and scenic value (which is closely aligned to its

position adjacent to/part of the setting for the Grade I listed church). I find the proposal would result in an awkward intrusion and encroachment into that open field and the extent of that harm would be moderate.

17. I am not convinced there is a design solution that would be acceptable relative to that harm. Whilst design, and finished slab level, fall within reserved matters it is still likely that the proposal would either be prominent or require a reduction in site levels to lower slab levels which in turn would further increase overall impact of the proposal through excavation and engineering works. I find the proposal would be prominent in the rural landscape and would result in a density of development in contrast to the generally larger plots found to the North East. The larger plots result in a much lower density which is a more sympathetic interaction between existing built form and the large open field on the edge of the village. I find the extent of that harm which would arise unacceptable due to the fact that I find that the proposal fails to respect the landscape or make a positive contribution to local character or the village as a whole.
18. The proposal would be contrary to LP Policy CN01 which requires proposals to pay attention to the scale, form and nature of adjacent development and the environment surrounding the site. As outlined throughout this decision letter CS Policy CS15 is, I find, out-of-date with regard to heritage but in the case of this second main issue the Council cite the policy specifically with regard to criteria i) and ii) only. These two criteria, seeking to protect, enhance, compensate or mitigate effects in relation to the landscape is consistent with the aims of the Framework. I find that the proposal, for the reasons outlined, results in landscape harm which would be unacceptable and the proposal would be contrary to CS Policy CS15 with regard to landscape matters.

Planning Balance

19. As noted above CS Policy CS15 is generally consistent with the Framework in terms of its overarching objectives but I note that it does fail to acknowledge the balancing exercises required by paragraphs 201 and 202 of the Framework. The Council specifically acknowledges, in their delegated report, that elements of CS Policy CS15 are not consistent with the Framework. CS Policy CS15 is, therefore, out-of-date for the purposes of the Framework. Conflict with CS Policy CS15 can, therefore, only attract moderate weight in terms of heritage which is key given that this policy is a policy most important for determining this appeal in relation to the first main issue.
20. As a result of the above I find that this requires that permission should be granted, unless the application of policies within the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole in accordance with paragraph 11 d) i) and ii) of the Framework. The appellant has submitted three appeal decisions where other Inspectors have also concluded the same approach is necessary in relation to CS Policy CS15, with specific regard to heritage, which supports my conclusion in relation to the approach to this element of that policy.
21. As noted in the procedural matters at the start of this decision letter this appeal is being determined at the same time as another appeal on adjacent land for a further two dwellings which would share the same access. I have no

explanation before me as to why the appellant chose to submit the two applications separately and simultaneously. Whilst the issues raised for each appeal are essentially the same it falls for me to have regard to the considerations that are material for each site, reaching separate conclusions for each site to avoid improper confusion between the two – each appeal should be determined as a separate entity. I raise this very specifically in the context of a planning balance where it falls to consider the delivery of two dwellings as per this appeal proposal alone and not the combination of the proposals.

22. The proposal would deliver two dwellings. This would make a limited and modest contribution to the overall supply and mix of housing in the area which is acknowledged to be in a moderately sustainable location. I afford this contribution of two dwellings limited weight. There would be some economic benefits during construction, but these would be short term, and future occupiers may contribute to the local economy but as stated, with two dwellings proposals similarly I afford these benefits limited weight.
23. The proposal would not comply with Local Plan policy with regard to landscape and character of the area. Most notably less than substantial harm has been found to the setting of a Grade I listed designated heritage asset which should be given great weight and I do not find the public benefits of two dwellings would outweigh the harm found to that asset. The proposal would not therefore fulfil the environmental objective of sustainable development. In addition the application of policies within the Framework that protect assets of particular importance (in this case the Grade I listed church as a designated heritage asset) provides further clear reason for refusing the development proposed.
24. Overall I find that the adverse impacts of the proposal are matters of significant weight against the grant of planning permission and the adverse impacts would significantly and demonstrably outweigh the limited benefits of two additional dwellings when assessed against the policies in the Framework taken as a whole.

Other Matters

25. I note that objectors raise concern with the location of the Eastern boundary of the site given that what is shown on the plan does not match the angled boundary found on the ground. As noted by the Council the appellant has chosen to create a boundary that does not form a common boundary with the adjacent property but this is not a reason to withhold planning permission as already noted.
26. The Council's refusal reasons were, ultimately, based upon the two main issues only. I have dealt with heritage concerns within the main body of this decision. Other matters raised including those relating to pedestrian safety and highway safety are noted, however, the Highway Authority as consultees raise no objection and I have no evidence before me to conclude differently. Construction traffic concerns could, had I found the proposal acceptable in other regards, have been controlled via a construction management plan condition.
27. The Council raise no refusal reason based upon privacy, daylight or overshadowing and from my site visit I have no evidence to conclude differently. Private views are not a planning consideration. There is no

evidence that the proposal would give rise to adverse biodiversity impacts and the loss of agricultural land on its own would not warrant refusal. The Council assess the site as reasonable sustainable and, based on their commentary, I have no reason to conclude differently. I have no evidence before me that the proposal would increase flood risk and/or exacerbate drainage issues elsewhere but notwithstanding this drainage would be dealt with within reserved matters with further controls through Building Regulations.

28. The personal land and property ownership matters of the appellant are not matters which fall for consideration within this appeal. Nor are, for market housing proposals, the values of the properties in question. Location outside of a development boundary is not in itself a reason for refusal as stated by the Council within their delegated report. There is no policy requirement for the dwellings to be social housing and whilst comments are noted regarding the NHS, I have no evidence before me to support these claims. Notwithstanding this I understand the proposals would be liable for the Community Infrastructure Levy which would contribute towards the infrastructure in the area as a result of the proposal.

Conclusion

29. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR