



Appeal Decision

Site Visit made on 16 November 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th January 2022

Appeal Ref: APP/W3520/W/21/3273841

Building Plot Adjacent to Magnolia, Fen Lane, Botesdale IP22 1DP

- 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 Mrs T Leeder against the decision of Mid Suffolk District Council.
 - The application Ref DC/20/03338, dated 31 July 2020, was refused by notice dated 4 November 2020.
 - The development proposed is described as a “proposed single storey dwelling”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form did not contain an address for the appeal site. Therefore, the address in the banner above is taken from the appellant’s appeal form and reflects that used on the Council’s decision notice.
3. The appellant has provided an amended plan¹ which revises the external appearance of the building. I have considered this plan under the principles established by the Courts in *Wheatcroft*² and am satisfied that it does not change the development to such a degree that to consider it would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal taking into account the amended plan.
4. Since the submission of the appellant’s appeal, the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Main Issue

5. The Council’s decision notice has two reasons for refusal relating to the effect of the development on the character and appearance of the area and the setting of the adjacent Botesdale Conservation Area (BCA). Therefore, with the above in mind, the main issue in this appeal is:
 - the effect of the proposed development on the character and appearance of the area and the setting of the BCA.

¹ E123/002 Rev G

² *Bernard Wheatcroft Ltd v SSE & Harborough DC* [1982] P&CR 233

Reasons

6. Although not within the BCA, the appeal site is within the setting of the designated heritage asset. Paragraph 199 of the Framework states that great weight should be given to the conservation of heritage assets and defines the setting of an asset at Annex 2, as the surroundings in which it is experienced. Therefore, in undertaking this duty, I have based my assessment on the evidence presented before me and the observations I made during my site visit.
7. Fen Lane contains a variety of size and style of dwelling, with some at the eastern end towards The Street, positioned close to one another, such as those adjacent and opposite the appeal site. Additionally, some properties are sited close to the road while others are set back and benefit from open garden areas to the front along with vehicle parking spaces. Thus, I find the significance of the BCA, in the context of Fen Lane, to be its historic layout and close-knit and generally residential character. However, development to the western end of Fen Lane, beyond the BCA and including the appeal site, is more dispersed and although it has a close relationship to The Street, this part of Fen Lane has a more open and verdant appearance.
8. The appeal site is a small area of undeveloped land that tapers towards the north-east, giving it a roughly teardrop shape, containing areas of unmanaged grass, trees, shrubs and other vegetation. The proposal seeks to clear the appeal site and erect a single storey, one bedroom dwelling. Although the proposed dwelling would be positioned to the front of the site, it would be set back sufficiently to allow parking areas and a garden forward of the building. A small private garden area would also be provided to the rear of the dwelling, along with a narrow strip of land to its eastern side, between the shared boundary with Willow Weavers.
9. The proposed dwelling would employ a mixture of materials such as horizontal weatherboarding and red bricks under a red pantile roof, examples of which can be found on other buildings in the vicinity of the appeal site and the wider area. Taken in isolation, the design of the proposal is uncomplicated and would result in a modest dwelling.
10. However, although on the edge of the BCA and the denser development that exists within, I find that the appeal site relates more to the semi-rural surroundings that exists beyond the BCA which displays a greater sense of spaciousness. It is evident that the BCA includes the denser development to the east, yet excludes the appeal site where development density reduces and the area has a more open and verdant character. Thus, I am not persuaded that the northern arm of Fen Lane represents the division between the denser development to the east and that which exists to the west.
11. Consequently, the introduction of a dwelling on the site, with such little room about the building and a narrowing private amenity area to its rear, would appear contrived and cramped within its plot. Whilst I accept that Willow Weavers and Rosewell are sited close to one another, they nonetheless form part of the denser development to the east. Furthermore, whether or not the site is considered an important open space and despite its current state, the appeal site nonetheless makes a positive contribution to the character of Fen Lane. The proposal would erode the openness of the area at this point, failing to have regard to its more spacious and semi-rural setting. This would result in harm to the character and appearance of the area.
12. Despite being outside of the BCA, the appeal site makes a positive contribution to the setting of the heritage asset due to its transitional function from built form to

the more open and semi-rural area beyond, and vice versa. Given the harm identified to the character and appearance of the area there would also be some limited harm to the setting of the BCA. In the context of the Framework, the level of harm I have identified is less than substantial. Paragraph 202 of the Framework states that where a development would lead to less than substantial harm to the significance of a designated heritage asset (such as the BCA), this harm should be weighed against the public benefits of the proposal.

13. The development would provide one additional dwelling to the Council's housing stock, alongside more general benefits to the local economy from construction and occupation of the dwelling and sustaining of local services. I attach moderate weight to these benefits. However, this would not be sufficient to overcome the harm to the significance of a designated heritage asset which the Framework advises carries great weight. As such I would not consider there are sufficient public benefits to outweigh the harm to the BCA.
14. Thus, the development would result in harm to the character and appearance of the area and the setting of the BCA. It would be in conflict with Policies GP1, HB8, H3, H13, H15 and H16 of the Mid Suffolk Local Plan 1998, Policies B&R14 and B&R15 of the Botesdale and Rickinghall Neighbourhood Plan 2020 and paragraphs 130, 199 and 202 of the Framework which seek, amongst other things, to ensure that developments maintain or enhance the character and appearance of their surroundings and the setting of conservation areas.

Other Matters

15. I note the decision at Palgrave³ confirming that a development adjacent to a conservation area need not result in harm to its setting. However, the Inspector confirmed that the development at Palgrave would not appear out of keeping with the street scene or the character and appearance of the area, which is not the case before me. In any event, I have considered this appeal on its own merits which is a fundamental principle that underpins the planning system.
16. The appellant also states that the proposed development would display a greater degree of on-site open space than the development of Glendale, which is located to the west of the appeal site. Whilst the appellant has provided drawings of the development at Glendale, it does not have the same characteristics as the appeal site, being roughly rectangular in shape and not displaying the cramped and harmful appearance that I have identified above. Moreover, the existence of other such developments elsewhere does not justify the harm I have identified above.
17. I note that representations were made by local residents, some of whom raise additional concerns. However, given my findings on the main issue, it is not necessary to consider these matters in detail.

Planning Balance and Conclusion

18. The Council state that as the settlement boundaries identified within Policy CS1 of the Mid Suffolk Core Strategy 2008 have not been updated for some time, it accepts that Policy CS1 does not fully align with the Framework and is out-of-date. Thus, the tilted balance at paragraph 11 of the Framework is engaged. In such circumstances, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.

³ APP/W3520/W/19/3243074

19. I acknowledge that there would be limited economic benefits resulting from the construction of the dwelling and that there may also be social benefits from the provision of an accessible dwelling for an aging population, assisting with the Council's need to boost the delivery of housing in the District. I also acknowledge that as a small windfall site it may be delivered quickly and that the site is well related to services and facilities in the area. Combined, given that the proposal is for a single dwelling, I would attach moderate weight to these benefits.
20. Moreover, I have found that the development would result in harm to the setting of the designated heritage asset and having regard to paragraph 11 d) i and footnote 7 of the Framework, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Consequently, the harm I have found is serious, and whether the policies that are most important for determining the application are out-of-date or not, that significantly and demonstrably outweighs the benefits of the scheme when assessed against the policies in the Framework taken as a whole. Therefore, the application of the tilted balance in paragraph 11 of the Framework does not indicate that planning permission should be granted.
21. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR