



Appeal Decision

Site visit made on 21 December 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd February 2022

Appeal Ref: APP/D3505/W/21/3276691

Land Off Hazel Shrub, Hazel Shrub, Bentley IP9 2DG

- 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 and Mrs Faiers against the decision of Babergh District Council.
 - The application Ref DC/21/01315, dated 4 March 2021, was refused by notice dated 5 May 2021.
 - The development proposed is described as the "erection of 1no. dwelling and garage with associated landscaping".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 issue most relevant to the appeal remains 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.
3. The Council's decision notice refers to insufficient land contamination information submitted to meet the requirements of its local validation list. However, the Council confirm in its written statement that this matter has since been resolved.

Main Issues

4. The main issues in this appeal are:
 - the effect of the development on the character and appearance of the area,
 - whether the location of the development is appropriate having regard to the development plan, and,
 - the effect of the development on the Stour and Orwell Estuaries Special Protection Area.

Reasons

Character and Appearance

5. The appeal site forms an open field that is bound by trees and hedging which, at the time of my visit, was mainly laid to grass. The area is rural in character

with a number of dwellings contained in small groups or dispersed across the landscape. The appeal site lies to the north of Hazel Shrub House and there are other dwellings in the vicinity. It also lies immediately adjacent to the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty (AONB), and thus, is located within its setting.

6. The proposal seeks to erect a detached dwelling and garage on the site, utilising the existing access off Hazel Shrub. The dwelling would be located centrally within the site with a paved access and parking area also provided. The remaining land within the appeal site would be given over to a garden area for the proposed dwelling.
7. I have had regard to paragraph 176 of the Framework, which states that, amongst other things, development within the setting of designated areas should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. Whilst the site may not benefit from the statutory duties afforded to AONBs, nonetheless its role in the setting of the AONB must be considered and as set out in the Framework, great weight should be given to conserving the landscape and scenic beauty.
8. Whilst other dwellings are in the vicinity of the appeal site, the area nonetheless has a distinct open and pastoral quality, reinforced by the presence of mature landscaping within this countryside setting. The appeal site contributes towards the setting of the AONB by virtue of its undeveloped and green nature within this verdant and rural area. The site also relates better to its rural surroundings to which it makes a positive contribution as an area of undeveloped land.
9. The proposed dwelling would suburbanise the site, eroding its rural qualities and would be clearly visible from Hazel Shrub. Furthermore, in addition to the impact of the dwelling and garage, it is also necessary to consider the visual impacts of the residential use such as the vehicle movements and parking associated with the development. Items such as fencing, domestic cultivation, garden furniture, external lighting and washing lines for the new dwelling would add to the suburbanising effect. The development would reduce the openness of the area and erode the rural character of the appeal site, and its valuable contribution as an undeveloped parcel of land within the setting of the AONB.
10. I have carefully considered the enhancements proposed as part of the development, along with the containment provided by existing features that would be supplemented by additional landscaping. However, as with all landscaping, it cannot be relied upon to become permanent and would take a very long time to mature. Moreover, the use of landscaping to shield inappropriate development is not good design as it just limits the immediate effect of it. Furthermore, although the site may have historically contained buildings, the effect of the proposed dwelling on the character and appearance of the area would be appreciably greater than the existing, dilapidated building that currently exists on the site.
11. Thus, the development would harm the character and appearance of the area and the setting of the AONB. It would be in conflict with Policies CN01, CR02 and HS28 of the Babergh District Council Local Plan 2006 (LP), Policies CS1, CS11 and CS15 of the Babergh District Council Core Strategy 2014 (CS) and paragraphs 130 and 176 of the Framework which seek, amongst other things,

to ensure that developments are high quality and protect and enhance the environment.

Location

12. The site lies to the south of Bentley where one can access services and public transport links to larger villages and towns that are further afield. Hazel Shrub itself is a narrow road which does not benefit from street lighting or footpaths. I accept that the development proposes a single dwelling and that car trips generated through its occupation are likely to be minimal. I also acknowledge that the Framework states that sustainable transport solutions will vary between urban and rural areas, which should be taken into account in decision making.
13. Although the Inspector considering the Holly Oak appeal¹ found at paragraph 21 that walking into Bentley would be possible via the public right of way that crosses the field to Link Lane, it is not unreasonable to assume that those with low mobility, with small children, or those carrying shopping are not going to walk or cycle to Bentley. Weather and seasonal changes are also likely to affect transport choices.
14. However, despite the issues walkers may face when using the footpath, it has been demonstrated that there are realistic opportunities to access public transport as an alternative to the private car. Thus, the development would not be in conflict with Policies CS1 and CS15 of the CS which seek, amongst other things, to minimise the need to travel by car by using walking, cycling and public transport.

Stour and Orwell Estuaries Special Protection Area

15. The development falls within the Zone of Influence for the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS). To ensure the requirements of the Conservation of Habitats and Species Regulations 2017 are met, the Council requires the collection of payments from relevant developments towards the mitigation measures set out in the RAMS on areas identified as the Stour and Orwell Estuaries Special Protection Area.
16. As the appeal is being dismissed on other substantive issues, it is not necessary to look at this matter in detail. Moreover, had I been minded to allow the appeal, I would have explored the necessity for undertaking an Appropriate Assessment and whether the payment provided by the appellant would off-set the impact of the development on the sites identified above.

Other Matters

17. Although I have been directed to other new dwellings that have been approved or constructed in the vicinity of the appeal site, these tend to be further away from the AONB and are concentrated adjacent to other buildings and dwellings. Thus, I do not find these sites directly comparable to the open field that forms the appeal site and one that lies immediately adjacent to the AONB. In any event, I have considered this appeal on its own merits which is a fundamental principle that underpins the planning system.

¹ APP/D3505/W/20/3249004

18. I acknowledge that taken in isolation, the design of the proposal is acceptable which would be constructed utilising modern building techniques to create a low environmental impact dwelling. I also acknowledge that the dwelling is for the appellant's son to live in. However, whilst noting the benefits that would result in this respect, I do not consider that either individually or cumulatively these matters outweigh the harm identified above.
19. There is a disagreement whether Policies of the CS are out-of-date with both parties providing appeal decisions to support their position. Should the policies that are the most important for determining the application be considered out-of-date, the tilted balance at paragraph 11 d) of the Framework would be engaged.
20. I acknowledge that there would be limited economic benefits resulting from the construction of the dwelling and as a small windfall development, it is likely to be built out relatively quickly. There may also be social benefits from the provision of a dwelling, assisting with the Council's need to boost the delivery of housing in the district. Combined, given that the proposal is for a single dwelling, I would attach moderate weight to these benefits.
21. However, good design and the impact of a development on the character and appearance of an area is recognised by the Framework. Accordingly, given my findings outlined above, the harm I have found is serious and the proposal would fail to meet the environmental dimension of the Framework. Consequently, whether the policies that are most important for determining the planning 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.
22. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR