



Appeal Decision

Site visit made on 13 September 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 October 2022

Appeal Ref: APP/W3520/W/21/3279560

The Bungalow, Church Road, Bacton IP14 4LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Ms Jane Ottaway against Mid Suffolk District Council.
 - The application Ref DC/20/05572, is dated 2 December 2020.
 - The development proposed is new dwelling on plot 1 as consented at outline reference: DC/19/00851, with dedicated access and separate access for plot 2.
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Decision

1. The appeal is dismissed and planning permission for new dwelling on plot 1 as consented at outline reference: DC/19/00851, with dedicated access and separate access for plot 2, is refused.

Procedural Matters

2. The planning application was initially considered by the Council's Development Control Committee on 28 April 2021, but that meeting was deferred. Members of the Committee held on 18 August 2021 resolved to defend the appeal on the grounds set out in the minutes to the meeting. This post-dates the lodging of the appeal, so I have determined this appeal on the basis of the Council's failure to determine the planning application within the statutory timescale. However, in defining the main issues set out below, I have had regard to these punitive reasons for refusal, in so far that they provide clarity as to why the Council would have refused planning permission had it been able to do so.

Main Issues

3. The main issue is the effect of the proposed development on the character and appearance of the site and its surroundings, including whether it would preserve the setting of the Church of St Mary, a Grade I listed building.

Reasons

Site, Surroundings and Setting

4. The appeal site concerns the most westerly extent of the garden of a single storey property situated to the southern side of Church Road. The site is bound by low hedges to the north and west and some small trees to the south. The eastern side is open to the remainder of the garden. There are footpaths along the front of the site and a short distance to the east, between Church Road and the houses to the south, accessed from Tailors Green. The Grade I listed Church of St Mary is located to the eastern side of the Green.

5. The Church probably dates from the 14th and 15th Centuries and its significance is derived from its architectural and historic interest. In particular, the use of flint and stone in its construction ensures that the architecture is typically ambitious and decorative. The flint is of irregular sizes and arrangement and limestone is used extensively in dressings of quoins, copings, banding, and door and window frames. The nave is long and buttressed to either side. The top of the bell tower is marked by embattled parapets with corner pinnacles and openings to its faces.
6. The church occupies extensive grounds and is enclosed by mature planting to Church Road and its east. The presence of this planting and that found within Tailors Green means views from the west, of the church and its tower, emerge but are likely to be more extensive when this planting is not in leaf. The site is in the foreground of these views from the west, along Church Road.
7. I am mindful of the Framework's definition of 'setting' as being the surroundings in which a heritage asset is experienced. In so far as is relevant to this appeal, the visibility of the church tower from the street and how it projects above and through the surrounding tree cover forms an integral part of the historic setting of the building, which contributes to its understanding and significance.
8. The form of built development within the context of the site is generally comprised of a mix of dwellings of varied architectural appearance and scale, including the single-storey property known as 'The Bungalow'. The majority of dwellings to the south of Church Road and Tailors Green are found beyond those at their frontages, so appear unassuming. This enables the church tower to dominate views from the west. The absence of taller built form in close proximity of the church and the presence of trees has therefore created close, contained views, dominated by church, which makes a significantly positive contribution to the character and appearance of the area.

Effect of the Proposal

9. The proposed dwelling would be to an L-shape, with the longer side facing Church Road and a wing off the southeast corner, at the rear. The ridge would run central to the front section and the rear wing, but the longer side would only incorporate a roof slope to the road. The rear would have a taller façade, with a small projecting eaves detail sat just below the ridge. Due to the solid appearance of the west façade and the extent of the dwelling encompassing this high eaves line at the rear, it would appear rather strident and unwieldy when viewed above the existing hedge planting to the western boundary and further west along Church Road. Unlike the unassuming houses in the foreground of the church, this element of the proposal would be a significant distraction in the foreground of views from the west toward the church and its tower, to detriment of its setting.
10. The roof form of the east end of the dwelling would be a conventional dual pitch, albeit with a flatter gradient than the adjacent bungalow, but the two properties would be aligned and the proposed ridge no taller. The extent of roof visible above the bungalow's roof slope would also be relatively minor and would not, of itself, obscure views of the church and its tower. Nevertheless, it would be a contributing element of the roof form to the western end of the building that I have adjudged to be harmful in views from that direction.

11. While the appearance of the front elevation of the proposal would include some modern materials and small gabled features, its overall composition would not be out of keeping with residential properties in the surrounding area. Similarly, the information submitted with the application seems to suggest differing approaches to the design, height, and materials of construction of boundary enclosures, but these are matters that could reasonably be controlled by a planning condition. Nonetheless, such matters would not alleviate the concerns outlined above.
12. While I do not subscribe to the notion that development that would be visually harmful would be acceptable if it can be hidden, the proposal would fill the majority of the width of the identified plot, with a small gap between the dwelling and western boundary. Space is shown for planting, but this would be unlikely to have matured enough in its initial years of development to soften the visual effect of the physical presence of the proposed development in its sensitive location.
13. The Council has referred to the outline planning permission¹ for a development relating to three dwellings within the land either side of The Bungalow, specifically a stipulation that the dwellings shall not exceed one-and-a-half storeys. However, the planning application, subject of this appeal, was submitted in full, not Reserved Matters. While the outline scheme is a material consideration, it does not directly affect the scheme before me, including the position of the access for the adjacent plot. These would be matters for the appellant and Council to consider, including any implications for access to either plot. The outline permission and more recent approved dwelling² on the adjacent plot have not therefore affected my ability to consider the appeal scheme before me on its own individual merits.
14. Although I have not been provided with details of the design of the other approved dwelling, it would be situated between the appeal site and bungalow, so the proposed dwelling would have a greater visual impact. Furthermore, the appellant indicates that the Council found that dwelling to be of a suitable design and I have arrived at an opposing view with the appeal scheme.

Public Benefits

15. The statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) is a matter of considerable importance and weight. Paragraph 197 of the National Planning Policy Framework (the Framework) states that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be taken into account in determining applications. Paragraph 199 of the Framework also advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation.
16. The proposal would be harmful to the setting of the Grade I listed Church of St Mary, which would have a harmful effect on its significance as a designated heritage asset. In my view the harm that I have identified would equate to less than substantial harm to its significance. In such circumstances, paragraph 202

¹ Planning Reference: DC/19/00851.

² Planning Reference: DC/21/04911.

of the Framework identifies that this harm should be weighed against the public benefits of proposals.

17. The proposal would be for a single dwelling on part a site that has recently been granted approval for three dwellings. While it may only maintain part of the contribution made by that permission to the supply of housing it would, nevertheless, be a benefit. There would be short-term benefits to the local and wider economy from direct and indirect employment associated with construction and future occupants would be likely to support local shops and services through expenditure. These would all constitute benefits in social and/or economic terms but, given the magnitude of the proposal, they would be afforded limited weight.
18. The proposed dwelling has been designed to allow solar gain to the living spaces situated at its rear. Although this is not quantified, it is likely to amount to an environmental benefit of limited weight.
19. Taking the above together, the public benefits that I have outlined would not justify allowing development that would be harmful to the setting of the Church of St Mary. In accordance with paragraphs 199 and 202 of the Framework, considered together, I therefore conclude that the public benefits do not outweigh the great weight to be given to the less than substantial harm that I have identified.
20. I note that the Council's Heritage Team did not raise any further concern regarding the proposal to that considered through the approved outline scheme but, nevertheless, identified harm. As part of my statutory duty, I have considered the entirety of the proposal afresh in light of the evidence before me and also find there would be harm caused to the setting of the listed building. However, I have concluded differently regarding the weight to harm and benefits in the balancing exercise above.

Conclusion on the Main Issue

21. Given the above, I conclude that the proposal would have a significantly harmful effect on the character and appearance of the site and its surroundings and would fail to preserve the setting of the Church of St Mary. This would be contrary to the requirements of the Act, paragraphs 130, 197 and 199 of the Framework; and would conflict with the design and heritage aims of Policies GP1, H13, H15 and HB1 of the Mid Suffolk Local Plan (Adopted September 1998) (LP) and Policy CS5 of the Mid Suffolk Local Development Framework Core Strategy Development Plan Document 2008 (CS).

Other Matters

22. The appeal property is near to Manor House Christian Rest Home, which is designated as a Grade II* listed building, and Tailors Cottages, a Grade II listed building. I have therefore had regard to the statutory duty referred to in the Act. Given the proximity and physical relationship of the proposal with these designated assets, their settings would be preserved and the proposal would not detract from them. Moreover, there is intervening development between the site and Tailors Cottages and the proposal is some distance east of the principal outlook south over countryside from the Manor House.

Planning Balance and Conclusion

23. The development plan for the area includes the LP and CS. While these both predate the current Framework, it is clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to its publication. Due weight should be given to them according to their consistency with the Framework.
24. Policy CS5 of the CS requires that all development will maintain and enhance the environment including the historic environment and retain local distinctiveness. This exceeds the abovementioned statutory duty and goes beyond what the Framework requires. The policy is therefore out-of-date, for the purposes of the Framework, and I attach moderate weight to the conflict of the proposal with this policy, which lessens the magnitude of that conflict.
25. Policies GP1, H13 and H15 of the LP are consistent with the aims for achieving well-designed places as set out in the Framework. In terms of LP Policy HB1, it is closely aligned with the aims of the Framework to conserve heritage assets such as listed buildings. Accordingly, these policies are up to date and I have afforded full weight to the conflict of the proposal with these policies.
26. I have already identified the benefits of the appeal scheme as part of the assessment of public benefits in undertaking the necessary balancing exercise in relation to the heritage asset.
27. The evidence before suggests that the proposal would not conflict with the development plan in respect of its location, ecology, parking provision within the site, risk of land contamination and to archaeological deposits. There would also not be harm caused to the living conditions of neighbouring occupiers or to highway safety from use of the proposed access. However, all these all amount to neutral factors that would neither weigh in favour nor against the appeal scheme.
28. In terms of harm, the proposed development would not comply with development plan policy in respect of the harm to the character and appearance of the site and its surroundings, including the setting of the Grade I listed building.
29. This leads me to an overall conclusion that the appeal scheme would not accord with the development plan, when considered as a whole, and I find that the adverse impact of the proposal is a matter of great weight against the grant of planning permission that outweighs the stated benefits.
30. The proposed development would be contrary to the development plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeal should be dismissed and planning permission is therefore refused for the appeal scheme.

Paul Thompson

INSPECTOR