



Appeal Decision

Site visit made on 27 September 2022

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2022

Appeal Ref: APP/W3520/W/21/3288571

Land to the rear of Holmwood, The Street, Walsham Le Willows

- 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 Tom Moriarty against the decision of Mid Suffolk District Council.
 - The application Ref DC/20/02434, dated 19 June 2020, was refused by notice dated 22 July 2021.
 - The development proposed is the construction of a single two-storey 4 bedroom dwelling including parking areas and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Although the planning, design and access statement submitted as part of the application states that the proposed site is outside the limits of the Conservation Area, appendix 1 of the appellant's statement indicates that the appeal site is partially located within the Walsham Le Willows Conservation Area, a designated heritage asset. The appellant's final comments also state that the appeal site may be within the Conservation Area.
3. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Whilst the proposed dwelling would appear to be outside of the boundary of the Conservation Area, the evidence before me suggests that part of the curtilage of the proposed dwelling would fall within it. Therefore, the statutory test above should be applied.

Main Issues

4. The main issues are:
 - whether the proposed development would be in an appropriate location for new housing with regard to the local development strategy,
 - the effect of the proposed development on the character and appearance of the surrounding area, the setting of the nearby listed buildings and whether it would preserve or enhance the character or appearance of the Walsham Le Willows Conservation Area,
 - the effect of the proposed development on highway safety,

- the effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings, in relation to privacy, outlook and disturbance, and
- the effect of the proposed development on biodiversity.

Reasons

Location

5. The appeal site is currently occupied by the rear section of Moriarty's café with a paved pedestrian access leading to an undeveloped and overgrown area of land to the rear of some of the properties fronting The Street. The Council indicate that the appeal site is located outside of the settlement boundary of Walsham Le Willows.
6. The reasons for refusal cite conflict with Policy CS1 and CS2 of the Mid Suffolk Core Strategy 2008 (the CS) which addresses settlement boundaries and the acceptable development outside of these. As the proposed development would not fall under any of the listed exceptions, it would be contrary to these policies. However, these policies take a more protective approach rather than the positive approach to appropriate development being taken within the National Planning Policy Framework (the Framework). Nevertheless, the protection and enhancement of the natural environment remains an important part of the environmental dimension of sustainable development set out in the Framework.
7. This is not an isolated site as it is located adjacent to the settlement boundary and the buildings within it. Therefore, paragraph 80 of the Framework is not applicable. However, paragraph 79 of the Framework highlights that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Whilst outside of the prescribed settlement boundary, the proposed dwelling would be in close proximity to all the services and facilities located within Walsham Le Willows, including a shop, a public house and a primary school. Furthermore, due to the location of the appeal site, these would be within easy walking distance of the proposed dwelling and therefore the future occupiers would not be reliant on the use of a car for their day to day needs.
8. Therefore, the proposed development would make a contribution to the vitality of this rural community through its contribution to local services and facilities within Walsham Le Willows, in line with the economic objectives of the Framework. Due to its close proximity to these services and facilities, the proposed development would contribute to the environmental objectives of the Framework. Furthermore, although the Council can demonstrate a five year housing land supply, the proposal would still provide one additional family dwelling to the local housing stock in line with the social objectives of the Framework. Although these benefits would be limited, due to its scale as a single dwelling, the proposed development would be considered sustainable development in line with paragraph 8 of the Framework.
9. Consequently, although located outside of the defined settlement boundary and contrary to Policies CS1 and CS2 of the CS, the proposed development would be in an appropriate location for new housing subject to a number of other factors which I will consider below. The Council also cite conflict with Policies

FC1 and FC1.1 of the Mid Suffolk Core Strategy Focused Review 2012 (the CSFR). These relate to the presumption in favour of sustainable development which I will cover later in this decision.

Character and Appearance

10. The appeal site is located in an area between the densely built form along The Street, which has a traditional linear appearance, and fields to the rear, which is more open and rural in appearance. There are several buildings located behind the main built form along The Street with a more sporadic layout. The proposed development would have limited visibility within the streetscene but would be highly visible from the surrounding properties.
11. Although set back from the linear development along The Street, the proposal would sit amongst other buildings to the rear and therefore would not be wholly out of keeping with the existing pattern of development. However the scale and design of the building, with a box like shape, prominent cladding and a first floor level which is larger than the ground floor level, would be overly large and bulky in appearance. This size and bulk would not be consistent with the surrounding form of development, which is largely comprised of small and simple buildings with a traditional appearance. It would therefore appear incongruous in its surroundings and would be a dominant addition to the current countryside village style character and appearance of the area.
12. As outlined previously, the appeal site is also partially located within the Walsham Le Willows Conservation Area, a designated heritage asset. Although limited information has been provided, from my observations on site it would appear that the significance of the Conservation Area relates to its historic nature, with a number of listed buildings within it, and its rural surroundings. As the appeal site is only partially located in the limits of the Conservation Area and is set behind the main section of built form along The Street, it makes a neutral contribution to its significance.
13. Although the proposed dwelling itself appears to be located outside of the Conservation Area, the proposed development would alter the nature of the entire appeal site from an undeveloped area of land to a residential plot. Therefore, the residential garden and any domestic paraphilia associated with the dwelling would likely be located within the boundaries of the Conservation Area. This would significantly alter the Conservation Area's rural surroundings to the rear of the built form along The Street, where the undeveloped nature contributes positively to its significance. As such, the proposed development would harm the character and appearance of the Conservation Area as a whole. Even if I were to treat this as development within the setting of a designated heritage asset, for the reasons stated previously, my findings would be the same.
14. The Council also indicate that there are a number of grade II listed buildings dotted throughout the Conservation Area and that the appeal site provides part of the setting and backdrop to these. These listed buildings have been identified as Willow Cottage, Clive Cottage, Sideways, The Tiled House, Thornfield, United Reformed Church, Village Hall and White House. Again, although limited information has been submitted regarding these buildings, it appears that their significance is derived, at least in part, from the antiquity of their structures and from their status as well preserved examples of vernacular buildings of their age and type. Their historic setting on The Street and within

the Walsham Le Willows Conservation Area and the rural surrounds contributes to how these assets are appreciated and this setting makes a positive contribution to the significance of these listed buildings.

15. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for the development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest. Although also located on The Street, these listed buildings are all some distance from the appeal site and the location of the proposed dwelling, with limited intervisibility between them. The proposed dwelling would be dramatically different in scale and appearance to the majority of these historic buildings, many of which are modest and traditional in size and appearance. However, due to the lack of visual connection between these listed buildings and the proposed dwelling, the proposal would not erode the existing character around these listed buildings. It would therefore preserve the setting and significance of these heritage assets.
16. Nevertheless, whilst the proposed development would not harm the setting of the nearby listed buildings, it would result in significant harm to the overall character and appearance of the surrounding area and would not preserve or enhance the character or appearance of Walsham Le Willows Conservation Area. Therefore, it would conflict with Policies GP1, H13, H15, H16 and HB8 of the LP and Policy CS5 of the CS. These policies collectively seek to ensure that proposals respect local distinctiveness, maintain or enhance the character and appearance of their surroundings and open spaces, with a scale and density appropriate to the site and consistency with the form of development in the area and priority given to protecting the character and appearance of Conservation Areas. The proposal would also be contrary to the Framework's general design objectives.
17. With regards to the Conservation Area, due to its location on the boundary, the harm found from the proposal is relatively small and therefore, having regard to the Framework, the harm to the significance of the Walsham Le Willows Conservation Area is less than substantial. The Framework requires, where there would be less than substantial harm, for it to be balanced against the public benefits of the scheme.
18. As detailed above, the proposed development would provide an additional dwelling in a sustainable location which would make a contribution to the vitality of the rural community through its contribution to local services and facilities within Walsham Le Willows. However, due to the scale of the proposed development as a single dwelling, this would be given limited weight as a public benefit. The appellant has indicated that the proposal would involve the redevelopment of brownfield land which eases the pressure to develop greenfield sites elsewhere in the area. However, I find no evidence to suggest that this is a previously developed site and therefore this is also given limited weight. No additional public benefits have been outlined by the appellant. As such, the public benefits of the scheme would not outweigh the less than substantial harm to the heritage asset previously identified.

Highway Safety

19. The proposed development would convert part of the existing café to provide access to the site from the drive between Moriarty's Café and the dwelling Clematis, along with providing a garage/cart lodge with car parking spaces for two vehicles. Although no size standards have been provided as part of this appeal, I consider that the size of the garage/cart lodge is sufficient to accommodate two vehicles and that two car parking spaces would adequately serve the four bedroom dwelling proposed. Therefore, the proposed development has adequate on-site space for car parking.
20. The Highways Authority did not object to the proposed development, however, they did recommend a condition stating that the use shall not commence until the areas within the site shown on Drawing No.02D for the purposes of manoeuvring and parking of vehicles has been provided and retained thereafter for no other purposes. The most recent version of this plan, Drawing No.02F, shows the car parking spaces within the site and the vehicle access and turning area within the access drive to the side of the site.
21. Policy T9 of the LP states that development proposals will normally be required to provide for the parking and manoeuvring of vehicles on the application site. As the area for manoeuvring vehicles into and out of the car parking spaces is outside of the appellant's ownership, it is not possible to guarantee that this area would be retained for such a use. Should this area be used for other purposes, such as additional car parking, the car parking spaces for the proposed dwelling would not be accessible and this would therefore force the future occupiers to park on the road.
22. Whilst there are no parking restrictions on the section of The Street closest to the appeal site, the road is relatively busy, being one of the main thoroughfares through Walsham Le Willows, and narrow in width with narrow footways either side of the road for pedestrians. Although vehicles would be unlikely to be travelling at excessive speeds in this location, due to the amount of traffic using the road and its constrained nature, additional on-road car parking pressures from the proposed development on this busy road would result in significant harm to highway safety for both vehicle users and pedestrians.
23. Furthermore, although the appellant has provided a plan showing that a fire engine could get within 45 metres of the proposed building, this is reliant on the use of the access drive to the side of the site. This access is narrow and would be difficult to access from The Street in a large vehicle due to the proximity of neighbouring buildings. I am not persuaded that this would provide easy access to the appeal site for a fire engine, thereby endangering public safety should this access be necessary.
24. As such, the proposed development would conflict with Policies T9 and T10 of the LP. These policies seek to ensure that development proposals adequately provide for the parking and manoeuvring of vehicles on the site having regard to the provision of safe access and egress. The proposal would also be contrary to the section of the Framework which seeks to ensure public and highway safety.

Living Conditions

25. Whilst the proposed development would introduce a large new dwelling to this backland location, it would be well set back from the existing properties

fronting The Street. Furthermore, the proposed fenestration serving the habitable rooms at first floor level would be located on the north elevation of the proposed dwelling only. Therefore, the proposed dwelling would not result in overlooking into the neighbouring properties on The Street or have an overbearing impact.

26. There would be one window on the eastern elevation of the proposed dwelling facing the buildings to the side of the appeal site, within Nuns Yard. However, as this would serve the hallway, it could be obscure glazed to prevent any overlooking. This could be secured by condition were planning permission to be granted.
27. The proposal would convert part of the existing café into parking/a garage for the proposed dwelling with access via the existing drive between Moriarty's Café and the dwelling Clematis. This would therefore increase both the vehicular and pedestrian use of this drive for access to the property. However, due to the scale of the development, as a single dwelling, it is not considered that these small number of movements would result in a significant disturbance to those living in close proximity to this drive.
28. Therefore, the proposed development would not harm the living conditions of the occupiers of the neighbouring dwellings. It would therefore comply with the parts of Policies H13 and H16 of the LP which seek to refuse permission for development that materially reduces the amenity and privacy of adjacent dwellings.

Biodiversity

29. The appellant has submitted a preliminary ecology appraisal as part of this appeal. The findings of this assessment state that the habitats on the site are of low ecological value and that there are no significant ecological constraints that would prevent the proposed works. Several recommendations have been made to mitigate the impacts of the proposed development on protected habitats and species which may be present and further enhance existing habitats and biodiversity on the appeal site. As these do not involve further surveys, unless the location of the works were to be altered, these recommendations could be secured by condition were planning permission to be granted.
30. Consequently, it has been sufficiently demonstrated that the proposed development would not harm biodiversity on the appeal site or within the surrounding area. Therefore, it would accord with the general ecological objectives of the Framework and paragraphs 98 and 99 of the government circular 06/2005.

Other Matters

31. The Council's concerns in relation to building safety are noted. However, this element would be covered by building control regulations once planning permission has been granted and therefore is not a material planning consideration.

Planning Balance

32. The appellant contends that the Council's important policies are out of date and therefore paragraph 11(d) of the Framework should be applied. While the

framework advocates granting planning permission where there are relevant out of date policies, this is unless, in accordance with paragraph 11(d)(i), the application of policies in this Framework that protect areas or assets of particular importance provide a clear reason for refusing the development. I consider that the 'less than substantial harm' identified to the Walsham Le Willows Conservation Area is such that the policies in the Framework relating to heritage assets provide that clear reason for refusing the development. Therefore, even if the Council's important policies were out of date, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposed development.

Conclusion

33. Whilst the proposed development would be in an appropriate location for new housing and would not harm the living conditions of the neighbouring occupiers, biodiversity, the setting of the nearby listed buildings, it would significantly harm the overall character and appearance of the surrounding area and highway safety and would not preserve or enhance the character or appearance of the Walsham Le Willows Conservation Area.
34. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and there are no other considerations, including the provisions of the Framework which would outweigh this finding. Therefore, the appeal should be dismissed.

E Grierson

INSPECTOR