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# Appeal Decision

Site visit made on 4 April 2023

**by M Ollerenshaw BSc (Hons) MTPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 May 2023**

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**Appeal Ref: APP/W3520/W/22/3299263**

**Land to the south of Church Road, Westhorpe, Suffolk IP14 4SU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by David Black and Son Limited against the decision of Mid Suffolk District Council.
  - The application Ref DC/22/00594, dated 2 February 2022, was refused by notice dated 1 April 2022.
  - The development proposed is "erection of 7 dwellings including 2 affordable homes".
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The planning application was made in outline with layout, scale, appearance and landscaping reserved. As such, I have regarded all elements of the drawings submitted as indicative apart from the access details.

## Main Issues

3. The main issues are:
  - whether the proposed development would be in a suitable location, having regard to access to services and facilities;
  - the effect of the proposal on the setting of Street Farmhouse, a Grade II listed building; and
  - the effect of the proposal on biodiversity, having particular regard to the impact upon Great Crested Newts (GCNs).

## Reasons

### *Suitable location*

4. Policy CS1 of the Mid Suffolk Core Strategy Development Plan Document (2008) (the Core Strategy) concerns the settlement hierarchy, and sets out that the majority of new development will be directed to the towns and key service centres, with some provision for meeting local housing needs in primary and secondary villages. Westhorpe is not one of the settlements listed and it is within the countryside for planning purposes where development will be restricted to particular types of development to support the rural economy, meet affordable housing, community needs and provide renewable energy.

5. The appeal site is an area of grassland on the southern side of Church Road opposite a row of residential properties and the village hall. Whilst the site is in countryside, its proximity to existing properties means that the proposed development would not be isolated for the purposes of paragraph 80 of the National Planning Policy Framework (the Framework).
6. Policy CS2 of the Core Strategy says that development in the countryside will be restricted to defined categories, none of which apply to the appeal proposal. Similarly, Policy H7 of the Mid Suffolk Local Plan (1998) (the Local Plan) says that outside settlement boundaries there will be strict control over proposals for new housing. While the proposal includes affordable housing, there is no indication that it would constitute a rural exception site.
7. Westhorpe has a village hall and a church but otherwise has very few facilities. There are a greater range of services and facilities in Bacton, such as a primary school, a doctor's surgery, a village store and a public house. However, this village is over 4km away by road. For much of their length the roads linking Westhorpe and Bacton are devoid of footways and streetlighting. Accordingly, walking or cycling from the site to those facilities is unlikely to be an attractive proposition, particularly during the hours of darkness or poor weather.
8. Although the appellant refers to the availability of bus stops relatively nearby providing access to Bacton and Stowmarket, the bus services appear to be relatively infrequent. I do not consider that they would provide a significant alternative to reliance on the private car. Consequently, the site offers little in the way of opportunities for sustainable alternatives to access jobs, services and facilities. The new dwellings would be likely to generate regular, frequent trips by private car to access even the most basic of services and facilities.
9. I accept that in the rural area the level of accessibility would be lower than in an urban area. Framework paragraph 105 recognises that sustainable transport solutions will vary between urban and rural areas. Paragraph 105 also sets out that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. The proposal would not be a significant development. Be that as it may, future residents of the development would be heavily car dependent. The poor level of accessibility makes the site an unsustainable location for the proposed development.
10. For the above reasons, I conclude that the proposed development would not be in a suitable location, having regard to access to services and facilities. Future occupiers of the proposal would not have adequate access to day to day services by an acceptable choice of modes of travel. Consequently, the proposal would conflict with Core Strategy Policies CS1 and CS2 and Local Plan saved Policy H7. It would also conflict with Policies FC1 and FC1.1 of the Mid Suffolk Local Development Framework Core Strategy Focused Review Adopted December (2012) (the CSFR) which seek to ensure that development proposals reflect the presumption in favour of sustainable development.

#### *Setting of the listed building*

11. The appeal site is located immediately to the west of Street Farmhouse, a Grade II listed building. The farmhouse is a detached timber and thatched, two storey property dating from the mid to late sixteenth century with later extensions and alterations. Based on the evidence, I consider that the

significance of the building is derived from its age, form, fabric and architectural features, together with its setting relative to the rural landscape.

12. As an area of open grassland adjacent to the listed building, the site contributes positively to the rural setting of the building and its overall significance. The proposed seven dwellings would necessarily occupy a large part of the site and diminish its rural character. Whilst only indicative, the submitted sketch site layout shows two new dwellings in the eastern corner of the site within close proximity of the boundary with the listed building. Given the size of the site and the proposed quantum of development, it is likely that dwellings would be situated in this part of the site close to the listed building.
13. There are trees and ancillary buildings between the site and the listed building. However, at the time of my visit glimpsed views from the site to the listed building were still possible in gaps in the tree cover, such that development on the site would be partially visible from the listed building. In my assessment, the proposal would significantly erode the site's open, rural character and diminish the rural setting of Street Farmhouse and the way in which the listed building is experienced.
14. I conclude that the proposal would have a harmful effect on the setting of the listed building. It would conflict with Core Strategy Policy CS5, Local Plan saved Policy HB1 and the Framework, where these seek to ensure that development conserves and enhances historic buildings and their settings.
15. The proposal would result in less than substantial harm to the setting and significance of the listed building. Nevertheless, this harm still carries great weight. Framework paragraph 202 states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use.
16. The development would offer potential benefits in terms of providing seven new dwellings, albeit there is no dispute that the Council can demonstrate a supply of housing land in excess of five years. Whilst a development of this scale would not be required to provide affordable housing, the proposal would provide two affordable units. However, there is no substantive evidence before me to demonstrate that these would fulfil a local housing need. This matter therefore carries limited weight in favour of the proposal. The proposal would also have economic benefits through employment opportunities during the construction phase of the development and Council tax revenue. Spending in the area by future occupants would contribute towards the local economy, including the vitality of local services in Bacton, though such support would be limited due to the location of the site some distance from that village. There is also the potential for a biodiversity net gain across the site.
17. Overall, given the relatively modest scale of the development, I attach only limited weight to these matters and conclude they do not outweigh the less than substantial harm that would be caused to the significance of the designated heritage asset.

### *Biodiversity*

18. The appellant states that the site consists of cultivated arable agricultural land which does not provide suitable habitat for protected species. However, at the

time of my site visit it was an area of overgrown grassland which appeared capable of providing a habitat for wildlife, particularly as there is a boundary hedgerow and trees, a ditch at the northern site boundary and a pond adjacent to the eastern boundary.

19. The Council says that the proposal lacks up to date ecological information. However, the submitted GCNs eDNA survey was carried out around nine months prior to the date of the planning application. The survey found that GCNs are not currently using the ditch or the pond and are likely to be absent from the site, but permission for a survey of the other ponds within 250 metres of the site boundary was not forthcoming. On that basis, notwithstanding the distance between the site and these other ponds and intervening hard surfaces, I consider that the value of the site for this protected species is unknown.
20. The ecology survey indicates the development would be suitable for Natural England's District Licensing Scheme to mitigate any impacts. However, no licensing for GCNs has been submitted with the application or the appeal. Guidance<sup>1</sup> is clear that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. It also states that the need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. I cannot be certain that a district licence would be likely to be issued in this instance.
21. For these reasons, I consider that it has not been satisfactorily demonstrated that the proposal would have an acceptable effect upon biodiversity, having particular regard to the impact upon GCNs. The proposal would fail to comply with Core Strategy Policy CS5, Local Plan saved Policy CL8 and the Framework which, amongst other things, seek to ensure that development protects and enhances biodiversity.

### **Other Matters**

22. Interested parties raise other objections to the proposal, including the effects on highway safety, the living conditions of neighbouring occupiers and flood risk. The Council have not raised objections in regard to these other matters and I have no reason to disagree with that assessment based on the evidence before me and my observations on site.
23. The Framework requires consideration of whether policies which are most important for determining the application are out of date. The most important policies are included in the Core Strategy and Local Plan, both of which pre-date the Framework. However, the Framework is clear that existing policies should not be considered out of date simply because they were adopted prior to the Framework's publication. Due weight should be given to them according to their degree of consistency with the Framework.
24. Policies CS1, CS2 and saved Policy H7 referred to above all place restrictions on development in the countryside outside settlement boundaries and these are not wholly consistent with the Framework, which only applies such

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<sup>1</sup> Paragraph 99 of ODPM Circular 06/2005

restrictions to isolated homes in the countryside. The test set down in CSFR Policy FC1 reflects that of the superseded 2012 Framework. Consequently, for the purposes of this appeal, these policies should be considered out of date and the weight to any conflict with them is diminished.

25. However, footnote 7 of the Framework indicates that the presumption in favour of sustainable development does not apply where the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Designated heritage assets are one such example and the proposal is contrary to the relevant policies of the Framework in regard to this matter. Given my findings with regard to the effect of the proposal on the setting of the designated heritage asset, there is a clear reason for refusing the proposal. The tilted balance set out in paragraph 11 of the Framework is therefore not engaged in this instance.

### **Conclusion**

26. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

*M Ollerenshaw*

INSPECTOR