



Appeal Decision

Site visit made on 20 June 2023

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State.

Decision date: 13th July 2023

Appeal Ref: APP/W3520/W/22/3309966

Land west of The Chestnuts, Framlingham Road, Laxfield IP13 8HD

- 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 Grinsted against the decision of Mid Suffolk Council.
 - The application Ref DC/22/00231, dated 14 January 2022, was refused by notice dated 5 July 2022.
 - The development proposed is described as the erection of a new single storey dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is commentary within Council's Statement of Case (SoC) where final comments have been received which has details of the Babergh and Mid Suffolk Joint Local Plan (BMSLP) which when adopted would replace the saved policies of the Mid Suffolk Local Plan. In my application of paragraph 48 of the National Planning Policy Framework (the Framework), whilst the BMSLP is not part of the adopted development plan, it is currently undergoing examination and has been subject to comments from the examining Inspector. I am also aware of comments from the appellant whereby there appears to be a number of unresolved objections to the plan. I am also mindful that the examining Inspector may wish to re-open the examination to hear further evidence and as such could result in further changes and additions to emerging policies and accompanying text. Based upon this, I will afford the BMSLP limited weight in this appeal decision.
3. In the appellant's Statement of Case (SoC) Appendix 8 there is a document called 'Flood Risk Data'¹ and accompanying plan and also a Flood Risk Assessment² (FRA) which according to the appellant has been submitted to provide further evidence to the matter involving flood risk. When judging this information in accordance with the 'Wheatcroft principles'³, I see no prejudice towards either party in accepting this information and will base my decision upon it.

¹ Flood Risk Data, By Rixon Architecture, Dated 21/10/2022, Drawing No 28592/801 Rev 0

² By Plandescil Ltd

³ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

Main Issues

4. The main issues are:

- Whether the proposal would preserve the settings of the surrounding listed buildings known as 'Chestnut Tree Farmhouse' (Grade II), and the character and appearance of the locality;
- Whether the proposal would provide a suitable site for development, having regard to its location in conjunction with the Housing Strategy of the area; and
- Whether the proposal is a suitable location for residential development, taking into account the risk from flooding.

Reasons

Listed Building considerations

5. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) prescribes a duty upon a decision maker to give special regard to the desirability of preserving the significance of a listed building or its setting. Additionally, Saved Mid Suffolk Local Plan (LP) Policy GP1 seeks to ensure development enhances the character and appearance of the surroundings, taking into account the scale, density of context of development; and LP Policy HB1 which seeks that particular attention is given to protecting the setting of listed buildings. The appeal site is also within the Laxfield Neighbourhood Plan (NP) Area where Policy LAX 7 seeks that proposals ensure the conservation and enhancement of designated heritage assets.
6. Both parties draw my attention to a previous refusal⁴ and planning appeal⁵ on the appeal site for a two storey dwelling which was also refused on heritage grounds and also dismissed on appeal. Given that there are a number of similarities between this appeal and the previous appeal, I will also treat the previous appeal as a material consideration to this determination.
7. The appeal site is a parcel of land with a small workshop building that lies to the west of Chestnut Tree Farmhouse (Grade II). Whilst the listing individually will have its own elements of significance and heritage value, the main contention in this appeal is with regards to whether the appeal site contributes to the significance and setting of this listing and the resultant effect (if any) as a result of the proposed development.
8. The farmhouse is believed to date from the sixteenth century, and contains alterations in the seventeenth and nineteenth centuries, and once contained a moat. As mentioned by both parties, over time, the encroachment of development to the north, east and south have eroded the rural aspect, particularly to the south on the opposite side of Framlingham Road where there is currently a larger development of 49 dwellings currently being erected. Despite this, the northern side of Framlingham Road has a more rural character and appearance, where there is an inherent historic relationship where the farmhouse is experienced together within the undeveloped rural context and countryside surrounding in a westerly direction. The undeveloped land and

⁴ Council Planning Ref: DC/20/02514, Decision Date 27 August 2020

⁵ APP/W3520/W/20/3264427, Dated 8 June 2021

spaces surrounding, particularly to the west contribute to an understanding of the former form and function of the historic building and how the farmhouse is experienced, reinforcing its rural location, identity and setting. This experience is particularly noticeable when travelling along Framlingham Road and the Public Right of Way with the appreciation of the historic building and the rural aspect surrounding. These are some of the important elements that make up the setting of this listed building and this setting is integral to the building's significance.

9. The appeal site is experienced as part of the undeveloped and open spaces surrounding the historic building which contributes to this significance and historic relationship as outlined previously. The development of the appeal site would introduce a residential use which would extend the building form to the west of The Chestnut Tree Farmhouse, creating a distraction from the rural feeling and experience in this location. Being positioned forward to the west, the proposed dwelling would essentially cut off the rural aspect and historic relationship of the farmhouse from its rural surroundings. The proposal bears no relationship to the existing layout, character and local distinctiveness of the area and would be a discordant form and layout within this undeveloped semi-rural environment that would erode the undeveloped spaces surrounding the listed building which is an important component to its setting.
10. I acknowledge the appellant's comments that the proposed building would be lower in height and less prominent, however the design approach would offer only some minor mitigation but would not alter the fundamental concern regarding the contribution that the site makes to the significance of the Listed Building. I also acknowledge that the appeal site is relatively screened from the surrounding buildings via vegetation along the boundaries, however this may change as a result of residential use and also does not change the interference with the historic relationship of the listed building and the spaces surrounding which takes into account both tangible and intangible considerations.
11. I note reference within the appellant's Statement of Case (SoC) with regards to a planning application⁶ for a dwelling that was approved and was also within the setting of a listed building. Each listing will have different levels of significance whereby setting will also contribute differently. It is clear that in this case the setting held a different contribution of significance as to this example appeal site. As such, the setting of a heritage asset is not the same as is currently for this appeal site. Whilst a dwelling may have been approved within the setting of a heritage asset, does not give justification that it is appropriate to develop a dwelling within the setting of this particular heritage asset. As such, this approval is not relevant to the specific aspects of this appeal.
12. Taking the above into account, the proposal would fail to preserve the setting of the Grade II listed Chestnut Tree Farmhouse, and would be contrary to LP Saved Policies HB1, GP1 and NP Policy LAX7 as described previously.
13. The proposal would also fail to preserve the setting of the listed building as required by S66 in accordance with the expectations of the PLCBA and the Framework at Paragraph 199 where great weight should be given to the asset's conservation ... irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance.

⁶ Council Planning Ref: DC/21/05042, Land at Sunnyside Barn

14. Although serious, the harm to the heritage asset in this case would be 'less than substantial,' within the meaning of the term in paragraph 202 of the National Planning Policy Framework (the Framework). Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 202 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
15. The public benefits of the scheme were outlined in the appellant's SoC which state that the development would deliver an additional dwelling, which would make a modest contribution to meeting housing need and be a small site which would be relatively quick to deliver. The dwelling would support the limited facilities of the village and those surrounding, as well as result in short term employment opportunities in the construction of the dwelling, and the socio-economic benefits and contribution to local expenditure from future occupiers. The dwelling also has environmental benefits in terms of its construction which seeks to have an environmentally and energy sensitive design with Passivhaus construction and a green roof, and energy efficiency improvements incorporated. The dwelling would also be in a location which is to the edge of the settlement and relatively sustainable. These factors weigh moderately in favour of the development. I note mention of net gains in biodiversity, however these would be mitigatory efforts to impact against the ecological harm caused by the erection of a dwelling, they are not considered benefits.
16. Overall, and in conclusion of this matter, the public benefits arising from the proposed development would not outweigh the harm I have identified and to which I accord considerable importance and weight. The scheme therefore conflicts with the Framework, as per paragraph 199, as described previously. The proposal would not therefore be made in accordance with the development plan.
17. I note that Mid Suffolk Core Strategy (CS) Saved Policies CS1, CS2 are referenced on the Decision Notice in relation to the reason for refusal regarding heritage assets. Both of these policies are related to settlement hierarchy and appropriate uses and are therefore not relevant to the consideration of this matter involving heritage assets.

Sustainability of site

18. The Council has utilised important housing strategy Saved CS Policies CS1 and CS2 as reasons why the proposal is inappropriate. Policy CS1 is an important housing policy which seeks to ensure development is situated in accordance to the settlement hierarchy, where Laxfield is a third tier 'Primary Village' some development may be directed. Additionally, the Policy seeks that development outside these areas is designated as open countryside will only be permitted to particular types of development that support the rural economy. The accompanying text seeks that the settlement is defined by the settlement boundary. Saved CS Policy CS2 is an important housing policy that relates to development within the countryside and countryside villages and seeks to restrict development to certain types of development, eg agriculture, recreation, extensions etc.

19. However, I also note that by virtue of the requirement of restrictions on growth outside settlement boundaries, there would be a direct conflict to paragraph 78 and 79 of the Framework which seek to encourage development of rural housing for new housing in settlements where they are able to support the facilities of another settlement. Whilst the settlement component of CS Saved Policy CS1 is in line with the Framework, the remainder of the policy which sets rigid requirements on the types of development outside of settlement boundaries is out of date. Similarly, Saved CS Policy CS2 also conflicts with the Framework due to the rigidity around uses which does not support rural housing in line with the Framework. Policy CS2 is too out of date when having regard to the direction of the Framework.
20. Another important Housing Strategy Policy is Saved Mid Suffolk Local Plan 1998 (LP) saved Policy H7 which seeks that development of housing would normally be part of existing settlements, and that there will be strict controls of housing outside settlement boundaries. As per the discussion above, there are elements of the policy such as directing new housing to existing settlements that would appear loosely to accord with the framework, whereby components of restriction regarding settlement boundaries not aligning with the direction of the Framework and would be out of date. I also note reference within the appeal documents to Mid Suffolk Core Strategy Focused Review (CSFR) Policies FC1 and FC1.1 which apply the presumption in favour of sustainable development where the Council will seek to grant permission without delay, unless material considerations indicate otherwise. These policies are made in accordance with the Framework.
21. Additionally, the NP Policy LAX1 seeks that development is focussed towards the settlement boundary unless development accords with national and strategic policies and is much more inline with the direction of travel of the Framework.
22. Paragraph 105 of the Framework also stresses the importance of provision of sustainable transport modes and travel choice. It also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making as per Paragraph 110 of the Framework.
23. In assessing the suitability of the proposed scheme in terms of its accessibility and reliance on private vehicle, the appeal site is not 'isolated' considering relevant case law⁷ as the site is located to the periphery of Laxfield at a similar distance from services to the large housing development opposite the road.
24. In terms of facilities, Laxfield has a church, public house, convenience store, school which can cater for the day to day needs of residents. Whilst there is a bus stop on the main street which can be accessed from a footpath from the appeal site, the frequency is very poor.
25. It is clear that future occupants would be dependant upon private vehicles to access the services of nearby villages, however it would not be such a long journey. Whilst there are little opportunities for public transport to access surrounding villages, in this particular location the addition of one dwelling would not add significantly to the journeys which already occur from this

⁷ Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Development Limited [2017].

location, with the housing development opposite a similar distance to the village centre.

26. Balanced against the identified conflict with out of date policies of the Development Plan the material considerations of the Framework in relation to the sustainability of the site would outweigh this conflict with Saved Policies CS1 and CS2. It is also noted that the scheme would be compliant with NP Policy LAX1. I afford the sustainability of the site moderate weight, however note that compliance of the Framework is only towards the sustainability policies, rather than read as a whole.

Flooding

27. Saved CS Policy CS4 seeks to adapt to climate change and seeks that development avoids areas of current and future flood risk. This Policy is made in line with the National Planning Practice Guidance (NPPG) and advice contained in the Council's Flood Risk Assessment (FRA) and the Framework. The policy requires that an appropriate Flood Risk Assessment is carried out and that it has been demonstrated that the development is designed to ensure that flood risk from all sources is acceptable in planning terms.
28. Additionally, Paragraph 167 of the Framework provides that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and where appropriate, applications should be supported by a site-specific FRA, with the application of the sequential and/or exception test, as applicable. I agree that the submission of a FRA that is proportionate to the nature of the scheme in line with the previously specified policies is the most appropriate approach to understanding the flood risk to the appeal site as a result of the proposal.
29. The appeal property is located within Flood Zone 1, however the Council notes that the site has risk for surface water flooding. Whilst I appreciate discussion of the mitigatory measures that can be applied to the site to make it resilient to flooding, the Framework requires a Sequential Test, whereby the appellant would need to demonstrate that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The FRA does not undertake this test, with the Council commenting that they have a 10.88 year housing land supply and that the NP has allocations that are able to take such a development and would be in an area with less risk to surface water flooding.
30. Taking the above into account, the absence of a Sequential Approach means that the proposal has not satisfied the sequential approach and therefore the appropriateness of the location is not considered preferable or appropriate as required by the Framework and would consequently fail CS Policy CS4.

Planning Balance

31. The proposal for a dwelling would be located in a sustainable location and would be in accordance with the housing strategy policies relevant to this location which I attach moderate weight. I also attach moderate weight to the benefits mentioned earlier which consist of economic, environmental and social benefits. However, these elements are outweighed by the lack of conformity with harm caused to the significance of a heritage asset, which I attach great weight to, as well as the non-conformance with development plan policies and

the framework that seeks to minimise development to areas subject to flood risk which I attach moderate weight. As such, when taken as a whole, there is a clear conflict with development plan policies as well as the policies of the Framework, taking into account material considerations.

Conclusion

32. For the reasons given above, I conclude that the appeal be dismissed.

J Somers

INSPECTOR