



Appeal Decision

Site visit made on 4 October 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th January 2024

Appeal Ref: APP/D3505/W/22/3313690

The Grange, The Street, Suffolk, Little Waldingfield, Suffolk CO10 0SG

- 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 Bernard Hood against the decision of Babergh District Council.
- The application Ref DC/22/01614, dated 24 March 2022, was refused by notice dated 22 June 2022.
- The development proposed is described as 'the key concept of these two new Eco Houses is to create a modern feel, which not only have contemporary features, but are environmentally friendly and thermally efficient. This is in line with the vision set out in the Little Waldingfield Plan. Meet the needs of the local community. Respect the high quality historic and natural environment. Embrace new technology.'

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Unilateral Undertaking (UU) dated 15 May 2023 pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) in relation to ecological mitigation has been submitted. I will return to this in due course.
3. Regulation 35 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) requires the Council to state clearly and precisely their full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision. It is not unusual for an officer report to refer to many policies and not refer to all in their reason for refusal. Nor is the Council under any obligation to cite legislation or the policies of the National Planning Policy Framework (the Framework) in its decision.
4. It is not within the scope of this appeal to determine if reason 1 meets the requirements of the DMPO or to set aside any reason for refusal. I have formulated my main issues on the basis of the evidence before me.
5. Since the Council's decision was issued, the Babergh and Mid Suffolk Joint Local Plan Part 1 (2023) (JLP) has been adopted, replacing Babergh Local Plan Alteration No.2 (2006) and Babergh Local Plan 2011-2031 Core Strategy & Policies (2014). I have sought the view of both parties on this, and have taken the comments received into account in reaching this decision.
6. On 19 December 2023, a revised Framework was published. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I consider that there is no requirement for me to seek further

submissions and I am satisfied that no party's interests have been prejudiced by my taking this approach. I will refer to the updated paragraph numbers in this decision.

Main Issues

7. The main issues are:

- whether the site is a suitable location for development with respect to the development strategy for the area and its effect on the character and appearance of the surrounding area;
- the effect of the proposed development on the setting of a nearby listed building;
- the effect of the proposed development on protected species; and
- the effect of the proposed development on a public right of way (PROW)

Reasons

Suitable Location

8. The JLP confirms that previous settlement boundaries have been carried forward. The site lies outwith the settlement boundary defined in the Little Waldingfield Neighbourhood Plan (2022) (NP). It is not within the scope of this appeal to reconsider the policies of the development plan. Evidence of land ownership was submitted with the application and the Council's report clearly demonstrates an understanding of the existing circumstances of the site. In any event, neither of these points demonstrate any misunderstanding on the part of the Council with respect to how it considered the proposal against the settlement boundary established through the NP.
9. Little Waldingfield has a strongly linear character, with development primarily taking place along the main routes of The Street and Church Road, and having a strong relationship to those thoroughfares. There are variances from this, at Grove Avenue, Wade Crescent and Croft Lea, however these do not fundamentally undermine the linear nature of the village. The dwellings and their plot sizes are varied, however this does not equate to an irregular pattern of development. Development along these main routes is generally one plot deep, and this is the prevailing pattern along this side of The Street, where the dwellings on Wade Crescent do not project beyond this depth of development.
10. The proposed development would sit well to the rear of the existing dwelling at The Grange, would have no functional relationship to The Street or reflect the predominantly linear pattern of development. It would extend the urban form into the countryside beyond that of the dwellings at Wade Crescent in a clear departure from the pattern of residential development that characterises Little Waldingfield.
11. The provision of facilities within Little Waldingfield, the ability to access them via the PROW network and its relationship to other settlements within the district has only a limited bearing on the relationship of the proposed development to the existing built form of the village. Even if I were to accept that the PROW has been mis-aligned, the proposed realignment would not change the relationship of the site to the built form of the settlement.

12. The exclusion of large farm buildings from the description of the character of the built form of the settlement is not an unreasonable one. Farming leads to specific land use requirements which would not justify residential development taking place in a way that was counter to the prevailing linear form that residential development takes in Little Waldingfield.
13. The site does not lie within an Area of Local Landscape Sensitivity as defined in NP Policy LWD 6, nor would it directly affect any of the important views identified in the NP. As a very modest development, there would not be a significant effect on the surrounding landscape character. There would be the loss of some distance of the existing hedgerow to allow for the proposed development and the passing place. Replanting could be secured by condition, and it is proposed to retain elements of the existing hedgerows which would help with integrating the development into the existing landscape. However, these would not overcome the harm to the character and appearance of the area I have identified above.
14. The glossary to the Framework confirms that the curtilage of developed land can fall within the definition of previously developed land (PDL), however it is also clear that it should not be assumed that the whole of the curtilage should be developed. I therefore attach limited weight to the fact the appeal site would meet the definition of PDL and as such would be in accordance with JLP Policy LP15 insofar as it seeks to prioritise PDL.
15. I have no reason to consider the site as anything other than a residential garden. Paragraph 16 of the Framework is clear that policies should avoid unnecessary duplication of policies, including those of the Framework. As NP Policy LWD 14 clearly sets out locally relevant criteria in relation to the development of gardens, there is no reason to consider this issue was not properly addressed during policy formulation.
16. The proposal is for a modern form of development in terms of its layout, form and materials. The Council has not set out any particular concerns with the design of the proposed dwellings in and of themselves. I have no reason to disagree that their modern, flat roof design would be acceptable. However, I do not consider the dwellings to be outstanding or innovative as they represent a modern form of residential development that is not uncommon. Furthermore, it would not fit in with the overall form and layout of their surroundings for the reasons I have set out above. The proposal would therefore not receive any particular support from paragraph 139 of the Framework, notwithstanding any environmental benefits from measures to make the dwellings more energy efficient. Although the site lies outside the settlement boundary, it would not be isolated for the purposes of paragraph 84 of the Framework. The exceptions contained within that paragraph, and consequently JLP Policy SP03, therefore would not be applicable to this proposal. Similarly, NP Policy LWD 1 also would not apply.
17. The proposed development would not be a suitable location for development with respect to the development strategy for the area and its effect on the character and appearance of the surrounding area. It would therefore be contrary to JLP Policies SP03 and LP24 and NP Policies LWD 1, LWD 2 and LWD 14 which taken together and insofar as they relate to this appeal, seek to direct development to within settlement boundaries and require development to have regard to key features and characteristics of the area.

Heritage Assets

18. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker, in considering whether to grant planning permission for 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 features of special architectural or historic interest.
19. The Grange is a Grade II listed building. Its significance as it relates to this appeal is derived from its historic and architectural interest as a 17 Century dwelling, historic fabric, and its relationship to The Street and the surrounding open countryside. The appeal site contributes to the understanding and appreciation of its significance by maintaining its open countryside setting to the rear. The proposal would introduce development into the currently open setting to the rear. This would be harmful to the significance of The Grange by partially severing it from its rural setting.
20. While there is other development, including some recently approved and under construction at the time of my site visit, these lie in the direction of the existing built form of the village. As a result, built development and its associated gardens form part of the setting of the listed building. As such, the presence of other new development would not alter my assessment on the effect of the proposed development on the setting of The Grange.
21. The reduced levels to the rear of the site do not detract from the setting. The presence of trees, or indeed any other landscaping, would not change the fact that there would be permanent built development introduced to the currently undeveloped setting that links the listed building to the surrounding agricultural land.
22. The appellant has suggested that the harm to the listed building would be reduced because it would not be more widely visible. However, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building can be gained. Listing descriptions are primarily for identified purposes and do not provide an exhaustive or complete description of the special interest.
23. This harm would be less than substantial. Paragraph 208 of the Framework sets out that in such circumstances, this harm should be weighed against the public benefits of the proposal. These benefits would be the contribution to the supply of housing, and the economic benefits associated with this during the construction and occupation stages of the development, including support to the services within the village. There would also be environmental benefits from the buildings performing to a higher efficiency standard than the building regulations. However, these benefits would be limited due to the small scale of the development and the considerable housing land supply that the Council can demonstrate. Paragraph 205 of the Framework confirms that great weight should be given to the asset's conservation. Consequently, the limited public benefits of the proposal would not outweigh this harm. The development would not set any standard for subsequent development in the village and this would not be a public benefit of the proposed development.
24. The Council have briefly referred to the effect of the proposed development on Park House opposite the entrance to the site and to the Little Waldingfield Conservation Area. If I were minded to allow the appeal, these may merit

further consideration. However, as I have concluded that the appeal should in any case be dismissed, I have not pursued these matters further.

25. The proposed development would have an adverse effect on the setting of a nearby listed building. It would therefore be contrary to s66(1) of the Act, JLP Policy LP19 and Section 16 of the Framework which, taken together and insofar as they relate to this appeal, require special regard to be had to preserving the setting of the listed building and for any less than substantial harm to be outweighed by the public benefits of the proposed development.

Protected Species

26. Circular 06/2005¹ at paragraph 99 advises that, with regard to species protected by law, "It is essential that the presence or otherwise, and the extent that they may be affected by the proposed development, is established before the planning permission is granted....". The circular allows for surveys post-permission in exceptional circumstances.
27. The appellant's own evidence, in the form of the Preliminary Ecological Appraisal recommended further surveys were necessary with respect to bats, great crested newts and reptiles. I have no reason to dispute these findings. There is no substantive evidence to justify the appellant's assertions as to why these surveys may no longer be necessary or would be disproportionate to the development proposed.
28. The fact that the site is small, undesignated, surrounded by open land where the appellant could provide mitigation, their previous actions with respect to the environment and the fact the appellant is not a large company are not uncommon to many development proposals. The cost of the surveys is a matter for the developer. Consequently these are not exceptional circumstances which would justify deferring the recommended surveys until after permission has been granted. It therefore would not be appropriate for mitigation measures to be secured by condition, legal agreement or on trust. It has therefore not been necessary for me to consider the content of the submitted UU further.
29. I cannot be certain that the proposed development would not have an adverse effect on protected species. It would therefore be contrary to JLP Policy LP16 which confirms that development that would have an adverse effect on species protected by legislation will not be permitted.

Public Right of Way

30. There is conflicting evidence before me as to the views of the County Council with respect to the public right of way. However, the most recent evidence from the appellant would appear to suggest they no longer have an objection to the proposed development with respect to its effect on the PROW.
31. At my site visit, I observed the PROW was enclosed to an extent by the gardens, and that further enclosure could take place without the need for planning permission. The proposed development makes provision for a route to be retained. Furthermore, there are other statutory provisions with respect to

¹ ODPM Circular 06/2005 Biodiversity and geological conservation – statutory obligations and their impact within the planning system

the PROW which would provide additional protection and the necessity to comply with these would not be removed by the grant of planning permission.

32. Given the existing degree of enclosure and location of the PROW, I consider it to be unlikely that the introduction of a right angle bend would have an adverse effect on the safety of users of the PROW. Nor would the changes over such a short distance make the route significantly less attractive to walkers. It appears that there is vehicular use of the PROW at present, and the additional use generated by two dwellings, along a straight path, would not have a significantly adverse effect on the use of the PROW.
33. I therefore conclude that the proposed development would have an acceptable effect on the PROW. It would therefore be in accordance with JLP Policy LP24 which requires development to be designed for health and prioritise movements by foot.

Other Matters

34. There would be a benefit from the delivery of two additional dwellings which would go towards addressing the shortfall in housing land identified in JLP Policy SP01 over the plan period. I attach limited weight to this given the small scale of the development proposed and the extent of housing land supply that the Council can demonstrate. No additional weight would be added to this from the appellant's personal desire to bring the development forward.
35. I have no reason to dispute that the proposed development would meet the requirements for accessible and adaptable dwellings under Part M4(2) of the Building Regulations. As both dwellings would meet this standard, provision would be in excess of that required by JLP Policy LP24. This also weighs in support of the proposal.
36. There is a bus stop within Little Waldingfield providing access to public transport to larger settlements within the district. I do not have substantive details of the frequency of the service. However, this would not overcome the harms that I have identified above. No concerns have been identified in relation to flood risk and drainage. However, these amount to a lack of harm therefore these matters would be neutral factors.
37. JLP Policy LP16 requires a minimum 10% increase for biodiversity. I note the appellant accepts this requirement and that it could be secured by a legal agreement. However, as I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further.
38. Pre-application advice is not binding on the Council. Nor is there any requirement for the Council to consult with any other body for the purposes of providing pre-application advice. Any deficiencies in that advice would not overcome the harms I have identified, nor my conclusion, which is based on the planning merits of the proposal before me.

Conclusion

39. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight, including the policies of the Framework, to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR